



Local Development Plan 2030

Draft Plan Strategy Consultation Report – Consideration of Issues Raised in Representations and Counter Representations

December 2020

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Introduction to Topics

- 1.1 The 2011 Planning Act states that a council must not submit a plan to the Department (in this case, the Department for Infrastructure) unless it has complied with the requirements of the Local Development Plan Regulations (LDP Regulations) and unless it thinks that the Plan is ready for Independent Examination (IE). In other words, the Council considers the plan to be sound. The tests of soundness include procedural, consistency, and coherence and effectiveness tests as set out in Development Plan Practice Note (DPPN) 6: Soundness.
- 1.2 Regulation 20(2)(g) of the LDP Regulations requires a council to prepare a statement setting out the number and a summary of the main issues raised in representations and counter representations submitted in accordance with Regulation 16(2) and Regulation 18(2) of the LDP Regulations, respectively. The examination guidance 'Procedures for Independent Examination of Local development Plans' (April 2017, PAC) requests the Council to 'set out its views on the main issues identified, perhaps in a series of topic papers, as well as its comments on all representations' when submitting the plan. DPPN 10 Submitting Development Plan Documents for Independent Examination suggests this can also be in the form of a consultation report.
- 1.3 This report is therefore arranged by chapters/topic headings e.g. Housing in Settlements, as set out in the Draft Plan Strategy. Separate chapters are provided for General Issues, Assessments and a Summary of Counter Representations. Under each chapter/topic heading, each draft policy is set out in full followed by the reference number of each representation and representative's name. As people were given the option not to have their name published, 'Private Individual' is used where the name is not to be disclosed. A response to each issue is provided followed by a conclusion at the end of each policy which summarises the Council's consideration. Some consider the Plan sound, others consider that modifications to specific policies and proposals are needed to make it sound, and others consider the Plan to be unsound. There are some representations that support the Plan and others that oppose the policies.
- 1.4 In the majority of instances, the Council's view is that the policy is considered to be sound and no change is proposed. However, in a number of cases, the Council has determined that a proposed change is required.
- 1.5 DPPN 10 provides for two main types of change:
 - (1) Minor Changes: These are minor editing changes for factual correction which do not need public consultation, and which would not affect the soundness of the plan.
 - (2) Focussed changes: These are limited changes made only in exceptional circumstances in order to deal with unforeseen issues and address

impacts upon the soundness of the plan. They must be consulted upon prior to the submission of the plan for examination.

In addition to these, the Council has identified a number of other changes which, in our view, are considered to represent logical and rational amendments to a policy or policy clarification in response to representations received during the consultation period. They are not minor changes and they are not in response to addressing 'soundness' issues. Whilst the changes in many cases may be important and significant, they are not required to make the plan sound.

- 1.6 In summary, a total of 322 representations were received from statutory consultees, interest groups, organisations or individuals, the majority of which raised an issue which the Council considered to require further consideration or explanation, or specifically identified the plan as being unsound. Further to discussion with the Planning Appeals Commission the Council have not assumed a soundness test in the absence of any being cited within a representation. In order to allow for full consideration of the impact of identical or similar individual issues relating to a policy area these have been grouped together identifying 652 main issues. It should also be noted that of the 322 representations received, 187 that are generic in nature i.e. multiple signed copies of two separate submissions. In the small number of instances where these representations raised further issues within the body of text, these have been identified within the spreadsheet and form part of the consideration of main issues within this paper. For ease of reference these groups are listed in their fullness in tables 8 and 9 on page 421 and have been footnoted as ⁴ (DPS 054/xx et al) and ⁸ (DPS 029/xx et al) throughout the paper.
- 1.7 In a limited number of instances, the Officer view has been to delete a policy having concluded that other policies in the draft Plan Strategy will adequately address its requirements. Some factual information such as to reflect the new Housing Growth Indicators, has also been updated.
- 1.8 Following the guidance of DPPN 10, and to ensure that those interested persons who made representations were not disadvantaged, the Council consulted on all the proposed changes (including focussed changes and minor changes) from 16 July to 11 September 2020. However, the consultation was paused following the discovery that the original Schedule of Proposed Changes did not accurately reflect the agreed position of the Council, particularly in relation to policies MIN04 - Unconventional Hydrocarbon Extraction, FLD03 – Sustainable Drainage Systems, RE01 – Renewable and Low Carbon Energy Generation and HOU17 – Affordable Housing in the Countryside. As a result, the consultation was re-run from 8 October to 3 December 2020 with an updated Schedule which reflected all the changes agreed with Councillors. At the conclusion of that exercise, the Council received 27 comments. These are submitted along with this Consultation Report and the Schedule of Proposed Changes for consideration at Independent Examination.

The Spatial Growth Strategy/Strategic Planning Policies

Strategic Objectives - Table 1, Pages 27-29	
<p>Objective 4 - Provide for 5,190 new homes by 2030 across a range of housing types and tenures capable of meeting the needs of all sections of the community at locations accessible to existing and new community (including education) services, employment, leisure and recreational facilities.</p> <p>Objective 7 - Promote sustainable economic development and growth by facilitating the creation of 4,875 new jobs by 2030 and providing a sufficient supply of economic development land through a range and choice of sites, taking into account accessibility by public transport and active travel modes.</p>	
<p><i>Ref:</i> DPS/062/01 DPS/115/02, 04 DPS/116/01 DPS/126/01 DPS/244/01-02</p>	<p><i>Representative (Main Issue):</i> Carroll O'Dolan (3) NIHE (Support) Canavan Associates (Support) T White (3) Newpark Homes (1,2)</p>
<p><i>Main Issue 1:</i> Plan Strategy Objective 4 is not sound as it is not reasonably flexible to enable it to deal with changing circumstances (Test CE4) and it is not based on robust evidence (Test CE2). The projected housing growth of 5,190 underestimates the housing need for the district over the plan period. Suggests revision to provide 5,878 new homes by 2030 (DPS/244/01).</p>	
<p><i>Response:</i> This issue is linked to the Strategic Allocation and Management of Housing Supply (SP03) and is considered to be adequately addressed under Main Issue 9 of that section below. The Council's view is that there is no justification for changing the objective.</p>	
<p><i>Main Issue 2:</i> Plan Strategy Objective 7 is not sound as it is not reasonably flexible to enable it to deal with changing circumstances (test CE4) and it is not based on robust evidence (test CE2). The creation of 4,875 jobs has been calculated based on the level of jobs required to sustain a projected housing growth of 5,190 homes over the plan period and therefore would not be adequate to sustain growth based on 5,878 home in the district over the plan period. Suggests revising the job creation figure upwards to 5,520 jobs in line with the suggested revised housing growth figure (above) (DPS/244/02).</p>	
<p><i>Response:</i> This issue is linked to the Strategic Allocation and Management of Housing Supply (SP03) and is considered to be adequately addressed under Main Issue 9 of that</p>	

section below. Furthermore, as stated in Section 5 of the Background Paper on Employment, Industry and Business, the figure of 4,875 jobs is derived from taking a per annum average of the estimated 4,231 additional jobs created during the period 2001 and 2013 (Census of Employment, DETI). This equates to an average of 325 jobs per annum over the period, giving 4,875 (Model 3). This is much higher than the resulting figure taken from Model 2 which used a methodology based on economic activity, unemployment rates and the latest (2016-based) NISRA population projections. That resulted in only 1,854 jobs being created. So, the figure of 4,875 is considered to be more than sufficient and the 90 hectares this translates to in land area will provide flexibility and choice over the plan period and enable adjustments to be made to changing economic circumstances.

There is no justification for changing the objective.

Main Issue 3:

Given that human health protection is a key element in sustaining any economic process, considers that the wording ‘and public health’ should be added in after the word ‘environment’ in Objective 15. The objective would then read ‘Sustainably manage and safeguard where appropriate our natural resources including minerals and water, protecting the environment and public health and providing sustainable services including effective and sustainable waste management to meet population needs’ (DPS/062/01), DPS/126/01).

Response:

The Council has no objection to the inclusion of the suggested wording.

Conclusions:

The objectives are sound, but it is suggested that Strategic Policy Objective 15 is amended to include words ‘and public health’.

Draft Strategic Policy – SP01 – Furthering Sustainable Development

The Council will permit development proposals which further sustainable development and promote measures to mitigate and adapt to climate change, and which accord with the Local Development Plan and other material considerations.

<i>Ref:</i> DPS/022/03 DPS/065/01 DPS/115/03 DPS/245/01 DPS/277/01	<i>Representative: (Main Issue)</i> RSPB (1) Private Individual (Support) NIHE (Support) Retail NI (2) National Trust (1)
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Main Issue 1:

The proposed wording has failed to comply with both the demonstrable harms test and precautionary principle as contained within the SPPS. It should be amended to replicate the precise wording of Paragraph 5.72 of the

SPPS in order to be more effective and comply with the SPPS. The exact wording of Paragraph 3.9 of the SPPS should be included within the justification and amplification below Policy SP02 (DPS/022/03, 277/01).

Response:

Paragraph 5.72 of SPPS states: “Planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases the planning authority has power to refuse planning permission. Grounds for refusal will be clear, precise and give a full explanation of why the proposal is unacceptable.”

In regard to the above, the suggested amended wording provided by representation DPS/277 is as follows:

“The Council will permit development proposals which further sustainable development and promote measures to mitigate and adapt to climate change, and which have regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases, planning permission should be refused”.

The exact wording of paragraph 3.9 in the SPPS, is “In formulating policies and plans and in determining planning applications, planning authorities will also be guided by the precautionary approach that, where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest.”

The Council accepts that the amended wording of the policy as indicated above is more consistent with the wording in paragraph 5.72 of the SPPS. However, in relation to paragraph 3.9, the view is that it would be more appropriate if placed within paragraph 1.3 of Part Two, Section 1.0 Introduction and with the removal of ‘In formulating policies and plans’.

Main Issue 2:

The policy is not coherent. It should be revised to simply 'Sustainable Development'. If the proposal constitutes Sustainable Development, then there would be no requirement to promote mitigation unless it was to address specific impacts derived from the development (DPS/245/01).

Response:

The policy as titled is as stated in the SPPS and reflects the role of the planning system in furthering sustainable development in the long-term public interest. It is also stated in the SPPS that a central challenge in furthering sustainable development is mitigating and adapting to climate change. Climate change adaptation is therefore intrinsically linked to furthering sustainable development and it is important to refer to this within the policy.

There is no need for policy clarification as sufficient explanation has been provided in the preceding paragraphs 5.14 to 5.17.

Conclusions:
 The draft policy as written is sound. However, if the Commissioner is so minded, the wording could be improved by the following minor contextual change (shown in italics):

1) The Council will permit development proposals which further sustainable development and promote measures to mitigate and adapt to climate change, and which *have regard to the Local Development Plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases, planning permission should be refused.*

In addition, the following text “*in determining planning applications, planning authorities will also be guided by the precautionary approach that, where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest*” should be inserted into paragraph 1.3 of Part two, Section 1.0 Introduction.

Draft Strategic Policy – SP02 – Settlement	
<p>The Settlement Hierarchy as set out below and amplified in Tables 2 and 3 will be used in determining the scale of development appropriate to a particular location:</p>	
Settlement Type	Description
Main Towns	Focal point for employment, shopping, housing, leisure, cultural and social facilities
Local Towns	Smaller towns providing a small range of goods, services, leisure and cultural facilities.
Villages	Local service centres which provide for opportunities for housing, employment and community/leisure facilities appropriate to their scale and character.
Small Settlements	Settlements with few or minimal facilities and infrastructure.
<i>Ref:</i>	<i>Representative (Main Issue Number):</i>
DPS/012/01	Private Individuals (1)
DPS/013/01	Private Individuals (1)
DPS/014/01	Private Individuals (1)
DPS/015/01	Private Individuals (1)
DPS/016/01	Private Individuals (1)
DPS/017/01	Private Individuals (1)
DPS/018/01	Private Individuals (1)
DPS/019/01	Private Individuals (1)
DPS/020/01	Private Individuals (1)
DPS/023/01	Camphill Community Clanabogan (2)
DPS/026/01	Private Individual (3)
DPS/027/01	B McCullagh (3)

DPS/050/04	Coa Community Group (1)
DPS/057/01	Private Individual (1)
DPS/058/01	Private Individual (1)
DPS/059/01	Private Individual (1)
DPS/068/01	Mary McCullagh (3)
DPS/075/01	Private Individual (1)
DPS/115/05	NIHE (Support)
DPS/128/01	N Irvine (1)
DPS/134/02	Cllr S Greene (1)
DPS/134/01-02	Cllr S Greene (4)
DPS/193/01	Private Individual (1)
DPS/227/01	Private Individual (1)
DPS/228/01	Private Individual (1)
DPS/229/01	Private Individual (1)
DPS/244/03-04	Newpark Homes (Support)
DPS/264/01	Cllr J Feely (1)
DPS/265/01	Jemma Dolan MLA (1)
DPS/267/01;09	Cllr B McCaffrey (1,4,5)
DPS/269/01	Cooneen Community Development Association (1)
DPS/292/01	Boho Community Association (1)
DPS/294/01	Derrygannon Community Association (1)

Main Issue 1:

This policy was formulated without having fully taken account of submissions detailing the need to retain the DRC designation in the draft Plan Strategy. DRCs should be included and any DRC with sufficient facilities and infrastructure should be upgraded to Small Settlement Classification.

The eleven DRCs as identified in the Fermanagh Area Plan should be identified and named in the local development plan.

Boho should be identified as a settlement/identified on maps as a DRC. DPS/012/01, 013/01, 016/01, 017/01, 018/01, 019/01, 020/01, 50/04, 057/01, 058/01, 059/01, 075/01, 134/02, 193/01, 227/01, 228/01, 229/01, 264/01, 265/01, 267/01, 269/01, 292/01, 294/01.

Response:

The original purpose of DRCs was to provide scope for some additional residential development either at the focal points or in the surrounding townlands. Within these areas, it was accepted that the rural character and traditional settlement pattern was one of individual houses scattered throughout the countryside together with cluster around a focal point. Given the extensive townlands which comprised the DRCs, applications for single dwellings were assessed as any other part of the countryside. As such, the traditional settlement pattern remains one of individual houses scattered throughout the countryside.

Within the FAP each of the DRCs are identified as including a number of townlands. The extent of each DRC in hectares and the number of townlands included within them are listed below:

Aghadrumsee - 375 ha across 8 townlands.
Aghakillymaud - 375 ha across 2 townlands
Boho - 1249ha across 17 townlands
Cashel - 485ha across 2 townlands
Coa - 575ha across 3 townlands
Cooneen - 505ha across 2 townlands
Corraney - 527ha across 7 townlands
Derrygannon - 730ha across 6 townlands
Knocks - 269ha across 5 townlands
Mullaghdundun - 560 ha across 11 townlands
Mulleek - 514ha across 3 townlands (excluding those parts of Ballymagahran within the Lough Shore Policy Area).

To provide context to these figures, Enniskillen and Omagh extend to 1301 ha and 1640 ha respectively. It is also noted that the townlands within Boho and Mullaghdundun are contiguous and together constitute 1809 ha.

The consideration of each of the DRCs as potential small settlements is set out within the Appendix 10 of the Countryside Assessment. A description of each of the DRCs is provided. This concluded that the extent of the DRCs and the dispersed rural nature of the development within them does not meet with the definition of a small settlement as set out within the DPS:

“Typically, a small settlement contains a number of single, private occupied dwellings and small housing groups (either private or public) Most contain social facilities and services including a sewage treatment works. They provide additional choice for residential location and help to retain and strengthen rural communities.”

The dispersed rural settlement pattern within the DRCs has been maintained with minimal consolidation or clustering of existing focal points. Most development within the DRCs is dispersed along surrounding roads and lanes.

The importance of sustaining rural communities has been recognised within the plan through policy RCA 01 – Rural Community Areas. Existing DRCs have expressed the concerns that they will not be eligible to apply for funding/grant aid if they are no longer identified within the plan or part of the settlement hierarchy. However, DRCs were never part of the settlement hierarchy, nor is applicability for funding a planning matter. Following a report to Councillors on the representations made to the Preferred Options Paper and subsequent workshops to allow discussion of related matters, the council made the decision that a consistent, district wide approach to development in the countryside should be taken as the Omagh Area Plan did not designate any DRCs. Further, there is no available evidence to support the continued designation of DRCs nor is their designation provided for in the SPPS.

Boho, the largest of the DRCs identified under the Fermanagh Area Plan, comprises 17 townlands extending north of Mullaghdundun DRC, north of Belcoo. It covers an expansive area which extends to 1249 hectares. Enniskillen, the nearest of the two main towns within the District, covers an area of 1301 hectares. Designation of this large rural area as a small settlement would not be in line with the definition set out within the Draft Plan Strategy.

Main Issue 2:

Camphill Community Clanabogan is a small settlement and should be included within the Settlement Hierarchy as part of Clanabogan Small Settlement. DPS/023/01

Response:

As described in the representation, Camphill Community Clanabogan (CCC) provides domiciliary care, day and work opportunities for adults with learning disabilities and complex needs. The unique facility is set within a working farm environment for 30 adults with care and support needs alongside a number of local employees and volunteers. The Spatial Growth Strategy is in keeping with the RDS, where the focus of population and economic growth should be within the main towns whilst sustaining the role of small towns, villages and small settlements and rural communities outside settlements. Small settlements sit at the bottom of the settlement hierarchy and are expected to provide only limited opportunities for new development. Clanabogan is a small settlement comprised of six separate nodes or clusters and many of these nodes have experienced significant housing development over the years. With the focus on growth in the towns, it is not appropriate to add to or enlarge an existing small settlement within which there is still remaining capacity. Whilst recognising the sustainable ethos of the community and its unique provision of social care, it is not considered that CCC is a small settlement and, contrary to the view of CCC, its exclusion from Clanabogan small settlement would not seriously hamper its capacity to evolve and adapt to changing societal needs. To date, its location outside a settlement does not appear to have hindered its development.

Main Issue 3:

Killyclogher should be identified as a village/suburban village. DPS/026/01, 027/01, 068/01

Response to Main Issue 3:

The representations received describe Killyclogher as having a unique sense of identity as a village with which its residents identify. Whilst it is acknowledged that the grouping of St. Mary's Church, Killyclogher Parish Hall, St Mary's Primary School and local retail units are identifiable locally as "Killyclogher" and provide important local services, the continuous built form extending from Omagh is contiguous with this area and is therefore indistinguishable from it. It is noted that this unique sense of identity referred to by the writer exists within the context of Killyclogher having historically been included within the settlement of Omagh as designated under the Omagh Area Plan. This identity is associated with places and establishments, such as sporting clubs, which are not impacted upon by the settlement limit of Omagh. There are other areas within the settlement of Omagh town for which separate identities exist for local communities.

The representation also asserts that Killyclogher has a growing community of people from rural areas choosing it, as an urban village, in which to live. This statement is not supported by any specific evidence; nor is there an urban village

tier within the settlement hierarchy for the District. It should be noted that any additional housing and resulting growth in population in this area is a result of the housing lands allocated to the settlement of Omagh as a main town, under the existing Omagh Area Plan.

Main Issue 4:

Requests that Aghadrumsee is classed as a small settlement. DPS/134/01, 267/01

Response:

The Council may be minded to consider the inclusion of the easterly node of Aghadrumsee as a small settlement. This reflects the extent and mix of development existing within the node. However, it would not be appropriate to include the westerly node of Aghadrumsee. In doing so, any proposed settlement limit would be drawn immediately adjacent to existing built form and uses. The allocation of housing to Aghadrumsee would also be reflective of its status as a small settlement.

As acknowledged within Appendix 10 of the Countryside Assessment, Aghadrumsee (West) does not contain any residential element which is contiguous with other existing development whilst Aghadrumsee (East) does contain some housing.

Appendix 10 of the Countryside Assessment acknowledged the nucleation, including housing, at the node at Aghadrumsee (East).

The designation of Aghadrumsee East as a small settlement would result in a settlement limit limited to the existing extent of built form; no additional lands would be included. If designated, the remaining area of Aghadrumsee would not be recognised as a Rural Community Area due to its proximity to the new settlement and in response to the representations made to the DPS. Furthermore, any allocation of housing to the new settlement would be limited to one or two dwellings as the allocation of the HGI to the small settlements will be more thinly distributed given that these settlements sit at the bottom of the settlement hierarchy in recognition of their limited size, role and facilities. Equality issues may also arise in defining Aghadrumsee East and not West.

Main Issue 5:

Requests that Clough is classed as a small settlement. DPS/267/01

Response:

As detailed within Appendix 10 of the Countryside Assessment the focal point for "Clough" is Holy Trinity Church and Church Hall located at the 'T' junction along Clough Road. There are 4 no. dwellings, 3 within a terrace, in the immediate vicinity of the 'T' junction. There is no WWTW. Given its limited size and absence of WWTW, it does not meet the description of a small settlement.

Conclusions:

The Council's approach to the classification of settlements in the settlement hierarchy is considered to be sound. Whilst Aghadrumsee East could potentially be designated as a small settlement, equality issues are likely to arise if the westerly node is excluded.

The identification of Rural Community Areas based on recognised focal points of DRCs is considered to be a more pragmatic planning approach rather than formal designation of DRCs as small settlements.

Draft Strategic Policy – SP03 - Strategic Allocation and Management of Housing Supply

The Plan Strategy will make provision for at least 4,000 new homes within our settlements in the period 2017-2030.

(a) Main and Local Towns

The following will be taken into account when determining the amount of land to allocate for housing:

- The number of houses built within the individual settlements between 1st March 2012 and 31st March 2017.
- The number of permissions (commitments) within the individual settlement.
- An allowance for windfall housing sites.

Managing the Housing Supply

In order to manage the housing supply over the plan period, zoned housing land within the main towns and local towns will be released in two phases. Phase 1 will include committed housing sites with extant planning permissions or sites which are under development. Phase 1 sites should be sufficient to meet future housing need over the Plan period in the majority of settlements.

A criteria-based approach to selecting sites for each phase will be undertaken. The selection criteria will take account of a number of factors including Urban Capacity Study; Accessibility Analysis; the prioritisation of brownfield land within the Urban Footprint; topography; flooding and other constraints to development.

The sites will be identified within the Local Policies Plan along with the key site requirements to guide their development. Sites will only be allocated where it can be shown that they can accommodate at least 10 dwellings.

Phase 2 or Reserve Sites

Where it is evident that the number of permissions (commitments) significantly exceeds the future housing need for the plan period within a settlement the following approach will be taken in the LPP:

- (i) Housing sites will be identified for allocation beyond the plan period i.e. beyond 2030. These will only be released at an earlier time within the plan period (i.e. before 2030) where it is evident through either monitoring or the re-appraisal of future housing need that these housing sites will be required. The exact criteria and mechanism for how these sites could be released will be outlined within the LPP.

- (ii) Development proposals for housing on unallocated 'greenfield sites' that are within the Settlement Limits will not be supported as they would undermine the strategy. This will also apply to development proposals for the renewal of existing and lapsed planning permissions (i.e. existing commitments) on 'greenfield sites'.

(b) Villages and Small Settlements

Within the Villages and Small Settlements, Housing Policy Areas (HPAs) may be identified in the LPP. These will indicate where most new housing within these settlements will be located. The HPAs will be identified following a detailed analysis and character appraisal of the settlement and will focus on providing housing in locations where it is most likely to integrate into the character of the settlement. The HPAs will also be commensurate with the scale of, and the future housing need of, the individual settlement.

<p><i>Ref:</i> DPS/001/01 DPS/022/04 DPS/051/09 DPS/108/01 DPS/109/01 DPS/115/06;-07 DPS128/01 DPS/133/02 DPS/244/05;06; 10 DPS/251/01 DPS/317/01 - 06 DPS/317/72; 102</p>	<p><i>Representative (Main Issue Number):</i> Private Individual (site specific) (12) RSPB (7, 8) Declan McAleer MLA (13) Barry McNally (13) Orfhlaith Begley MP (13) NIHE (15, 16) N Irvine (12) J Carrigan (site specific) (14) Newpark Homes (site specific) (9, 10) NI Water (11) DfI Strategic Planning Directorate (1, 2, 3, 4, 5, 6) DfI Transport Planning & Modelling Unit (17)</p>
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Main Issue 1:
The allocation to the main towns is not consistent with the Spatial Growth Strategy objective to strengthen the role of the Hubs. Reference is made to the analysis presented in the Housing Paper (October 2018) which indicates that 895 units were completed in the countryside in the period 2012-2017. This leaves a balance of 537 dwellings for the remainder of the plan period. DPS/317/01

Response:
 In 2011, approximately 41% of households were in the countryside compared to 33% in the two main towns. Between the Census years 2001 and 2011, the countryside experienced a 25% increase in the number of households, compared to a 0.75% decrease in the number of households in Enniskillen and a 3.0% increase in Omagh. This significant differential is largely an outcome of the unusually high volume of approvals for rural single dwellings pre-2006/07. Recognising that this growth has been to the disadvantage of the main towns, the allocation of 23% to the countryside and 47% to the main towns represents a fair and balanced response to strengthening the two hubs whilst sustaining our rural community. Moreover, the allocation to the countryside is in keeping with the average rate of approvals since 2012.

As outlined in the Updated Housing Paper (Nov 2019), an analysis of the completions in the countryside for the years 2012-2019 indicates that 59% (763) of the 1296 completions originated from applications approved under the current policy context (i.e. PPS21 and its predecessor, draft PPS14). Whilst acknowledging that 1296 dwellings were completed since April 2012, our view is that those which pre-date the current policy context should not count towards the overall HGI allocation to the countryside as they are a legacy of a time when policies were more relaxed under PSRNI and a reflection of the high number of applications made prior to the introduction of draft PPS14 in 2006/07. They are not a true reflection of the rate of approvals and completions experienced under current policies since 2012.

Main Issue 2:

The overall approach in the draft Plan Strategy, with a number of draft policies potentially providing additional development opportunities in the countryside, is not supportive of the objective to develop the role of hubs as the main focus for new housing. DPS/317/02

Response:

As articulated through the Community Plan, a key challenge for the Council is to ensure the continued vitality and sustainability of our rural communities and this includes the 46% of the population living in the open countryside. The Council considers that the policy approach for new houses in the countryside should respond to the needs of both the farming and non-farming community.

It is a fact that our rural communities are not solely comprised of farm dwellers and there is a significant non-farming resident population. Some of them provide valuable services and industries which serve the farming community. Many have a strong social connection and identity with their local area. Whilst it is not possible to provide a breakdown of the actual number of households in the countryside which are farm dwellings, an estimation can be made by using the statistics on the number of farms which is gathered annually through the Agricultural Census for Northern Ireland. In June 2018, the number of farms recorded for the District was 5,094. As farms are allocated based on the postcode of the farmer's main dwelling, it can be assumed that there are at least 5,094 farm dwellings. This would represent at least a third of all households if applied to the number of households in the countryside in 2011 (16,931).

The SPPS states in relation to Development in the Countryside that policy approaches to new development should reflect differences within the region, be sensitive to local needs and be sensitive to environmental issues including the ability of settlements and landscapes to absorb development (para.6.64). This is consistent with the RDS. It is implicit that on the one hand, the character, appearance and amenity of the countryside must be respected and protected. On the other hand, some development must be permitted in furtherance of the goal of sustaining a strong and vibrant rural community.

Our Council area is the largest in Northern Ireland in terms of land mass and the smallest in terms of population, with a housing density of 16.8 houses per square

kilometre, the lowest of the council areas (see Table 1 below). We have a diverse range of landscapes, many of which are capable of absorbing new development without detriment to its rural character and therefore it could be argued that there is more capacity in our District than within other areas. Our development pressure analysis for the countryside also suggests that whilst there are pockets of concentration of development and also areas which limit opportunities for dwellings due to the landscape character (e.g. upland areas, bogland), the pattern of development remains predominantly dispersed.

Table 1 – Housing Density per square kilometre – by Districts in NI

District	Density (Houses per km ²)	RANK
Antrim and Newtownabbey	101.7	3
Ards and North Down	152.5	1
Armagh, Banbridge and Craigavon	61.7	4
Causeway Coast and Glens	31.8	8
Derry and Strabane	48.8	6
Fermanagh and Omagh	16.8	10
Lisburn and Castlereagh	114.7	2
Mid and East Antrim	56.2	5
Mid-Ulster	28.8	9
Newry, Mourne and Down	42.0	7
AVERAGE	65.5	

Notes:

1. Belfast excluded
2. ONS - Standard Area Measurements (2016) for Administrative Areas in the UK - ARCHLHECT (Land only measurements (excl. inland water) in hectares) <http://tinyurl.com/yxbpk9mq>
3. LPS - NI Housing Stats 15-16 Table T1.2 <https://www.communities-ni.gov.uk/publications/northern-ireland-housing-statistics-2015-16>

An analysis of the policy basis for approvals for houses in the countryside during the period 2012/13 to 2018/19 has also indicated that some 85% were for farm dwellings with almost 11%, arising from infill opportunities and the remainder from sites within existing clusters, conversions and personal circumstances (see Table 6.1 of the Updated Housing Paper (Nov 2019)). This clearly demonstrates that only a small proportion of approvals for houses in the countryside are for non-farming rural dwellers. Whilst sites for dwellings on farms can be sold off to non-farming dwellers, anecdotal evidence would suggest that this practice is in decline, further limiting the opportunities for the non-farm dweller to obtain a site for a dwelling.

It is therefore the Council's view that in order to sustain a strong and vibrant rural community, the Council needs to bring forward policies which can provide additional opportunities for non-farming rural dwellers whilst still keeping within the spirit of the SPPS to re-use, cluster and consolidate.

The Council's specific response to the concerns raised in relation to the additional opportunities being created by draft policies HOU10, 11, 13 and 14, is as follows:

Draft Policy HOU10 Replacement of Other Rural Buildings

As outlined above, dwellings yielded through conversions make up a very small percentage of the rural approvals in our District. Draft policy HE09 provides for conversion/re-use of locally important or vernacular buildings and conversion of these will always be the preferred choice for them unless demonstrated that they are not suitable for conversion or capable of re-use. There are, however, other non-vernacular-type rural buildings which may be suitable for replacement as a dwelling. Such buildings are already a visual commitment in the countryside and their replacement is more beneficial in sustainable development terms. However, a number of types of buildings are not suitable for replacement which have been incorporated into the draft policy as exclusions (i) to (iv). This means that the opportunities for replacement under this policy are likely to be quite limited.

Draft Policy HOU11 Redevelopment of a former site for dwelling

There are examples throughout our district of former dwellings which no longer have the essential characteristics to meet the normal tests for a replacement dwelling under HOU09. However, in some instances they occupy mature sites with established boundaries and have sufficient structure remaining which is a clear visual entity in the countryside. Given the specific criteria which must be met with this policy, it is unlikely to generate a significant number of applications. In addition, Draft Policy NE03 (Other Habitats, Species or Features of Natural Heritage importance) will need to be taken into consideration when assessing such sites and in some circumstances, this may limit or prohibit potential development opportunities. Therefore, as with HOU10, this policy is not expected to lead to an excessive number of application sites over the course of the plan period.

Draft Policy HOU13 Dwelling in association with the keeping and breeding of horses for commercial purposes.

Currently under CTY 10 Dwellings on Farms in PPS 21, a proposal for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will also be assessed under the criteria set out within it. However, the Planning Appeals Commission in an appeal decision 2016/A0233 for a Dwelling on a farm pointed out that the keeping and breeding of horses for commercial purposes is a non-agricultural activity for which the proper term is an equine business. In light of this, and in addition to the fact that DfI did not challenge this decision, thereby indicating they had no issue with this approach, the Council considered this activity should be given its own separate policy and excluded from draft policy HOU12 Dwelling on a Farm Business. *(Note: the SPPS does not make any mention of dwellings associated with equine activity).* The criteria remain the same as applied under CTY 10 and so this is not viewed as a new policy which would lead to additional development opportunities.

Draft Policy HOU14 Rounding Off and Infilling

This policy takes account of the SPPS by accommodating both clustering and infilling opportunities.

It is recognised that the provisions for infill dwellings alongside the current settlement pattern has the potential to give rise to a large number of road-frontage sites which can have a detrimental impact on rural character.

Compared to the current tests in Policy CTY 8 of PPS 21, the test for an infill under HOU14 is such that the site is a small gap suitable to accommodate one dwelling

rather than two as required in Policy CTY 8. There is also a subtle difference in the Council's policy in that whilst a gap must be within a substantial and continuous built up frontage which is a line of at least 3 buildings, each of the three buildings must be within their own defined curtilage. There is also greater reliance on the visual test rather than a common frontage. This was the intent behind the policy as originally drafted. However, the Council has since resolved to change their position on infill and this is discussed in the Housing in the Countryside section of the Consultation Report.

'Rounding off' is a form of clustering which hitherto has presented few opportunities for new dwellings in the district. However, rather than the 4 buildings (3 of which must be dwellings) advocated in CTY 2a, the Council's draft policy refers to a minimum number of 3 buildings. As acknowledged in the response to Main Issue 8 to draft Policy HOU14 within the Housing in the Countryside Paper, the reduction from 4 to 3 buildings and the removal of the requirement that 3 of the 4 must be dwellings, could lead to the creation of more opportunities for additional dwellings in the countryside than intended and therefore this aspect of the policy should be amended.

Proposed changes to the wording of Policy HOU14 are set out in the Housing in the Countryside section of this Consultation Report. Policies HOU10, HOU11 and HOU13 discussed above are unlikely to generate numbers far in excess of the HGI allocation. The HGI is not to be viewed as a cap on development. With annual monitoring, the operational effectiveness of the policies will be kept under review with the opportunity of a full review at the end of the first 5 years from the plan's adoption.

Main Issue 3:

In apportioning significantly fewer units to main and local towns than those already approved within these settlements, the Growth Strategy appears not to account for, or reflect, the true extent of the housing growth committed through extant planning approvals. DPS/317/03

Response:

Although the Council area does have an oversupply of committed housing, much of this supply is not being translated into 'builds' on the ground as indicated in our Annual Housing Monitor 2018-19. Taking Enniskillen as an example (as this town was raised in relation to this issue), a total of 153 houses were completed in the period 2015-2019 which is an average of 38 dwellings per year (see Table 2.1, Appendix 2 of the Updated Housing Paper (Nov 2019)). If this average number of completions were to continue over the plan period in Enniskillen, the total figure would be 570. This is lower than the allocated 693 in the dPS (as revised to reflect the HGI 2016-2030 (Sept 2019)). Housing growth should not be a matter of just reflecting extant planning approvals. The phasing approach to managing the housing supply is the response for sustainable growth.

Main Issue 4:

An Urban Capacity Study (UCS) should be undertaken which will also inform a windfall allowance and the sustainable approach to housing development

proposed through the phased release of housing land. Clarification is also sought on the use of the wording 'at least' within SP03 and that the third criteria of (a) in the policy would suggest the strategic allocation has been made in the absence of windfall allowance. DPS/317/04

Response:

The Council has completed an Urban Capacity Study and updated the Housing Audit and Windfall Assessment (see Updated Housing Paper (Nov 2019)). These establish a windfall allowance for each of the main and local towns. The windfall allowance is based on the past record of permissions on unzoned Brownfield land within the Urban Footprint and this is in line with the definition contained in the SPPS and at para 22 of DfI's response. At the time of publication of the dPS, a UCS and Windfall Assessment had not been undertaken but as set out under SP03 (a), the amount of land to be allocated for housing will be informed by three criteria including an allowance for windfall housing sites.

Otherwise, an allowance for Windfall will be applied at the Local Policies Plan stage and when it would be determined if there is any need to allocate Phase 1 sites or identify Housing Policy Areas (i.e. is there any residual need after allowing for existing commitments and for Brownfield "Windfall").

The use of the wording 'at least' is in hindsight unnecessary and so the Council recommends that it should be removed.

Main Issue 5:

The supporting housing paper identifies 'hard and soft' commitments which together exceed housing need in all main and local towns. Clarification is sought on the meaning of the phrase 'permissions (commitments)' within SP03 where these significantly exceed housing need within a settlement. Clarification of the relationship of Greenfield sites to Whiteland within settlements would also be welcomed. DPS/317/05

Response:

Committed sites are commonly regarded as approved housing sites developed in full or in part and sites with planning permission for housing. The Housing Land Studies (Nov 2019) provides more detail on how sites have been categorised as Commitments for the purposes of the Housing Audit. In response to other issues raised in regard to the alignment of this policy with HOU01, SP03 has been amended and the sentence containing the phrase 'permissions (commitments)' has been removed.

When referring to Greenfield sites, these are generally sites situated outside the urban footprint which are undeveloped. Whiteland is commonly understood to be unzoned land within the limit of development. These may be areas within the urban footprint or they may coincide with areas of Greenfield outside the urban footprint. It is noted that the Updated Housing Paper, the dPS, and the SPPS do not refer to 'Whiteland'.

Main Issue 6:

It would have been preferable to have indicated at draft Plan Strategy stage the overall housing provision to settlements in order to establish a framework for more detailed housing requirements in the Local Policies Plan. DPS/317/06

Response:

The Council acknowledges that it would have been more beneficial to have included the housing provision across each settlement. It has therefore provided this information within the Updated Housing Paper (Nov 2019) (see Table 2.2 Appendix 2).

A table providing the detailed breakdown for all Villages and Small Settlements could be provided as an Appendix to the dPS.

Main Issue 7:

There is concern that the lack of an allowance for windfall at the village and small settlements tier could contribute to an over allocation of housing for the council area. DPS/022/04

Response:

As referred to above, the Council has undertaken an Urban Capacity Study as required by the SPPS and an updated Housing Audit and Windfall Assessment. Part of this study involved making an allowance for windfall housing. An urban capacity study is only required for settlements of over 5,000 population e.g. Enniskillen and Omagh but because we also have 5 local towns where housing land is zoned, these are also included within the study. As regards the villages and small settlements, land for housing is not usually zoned but an indication of where housing may be located could be provided through the use of Housing Policy Areas (HPAs). For the main and local towns, in line with revised wording for SP03, land will be allocated for housing and/or phased at the Local Policies Plan stage. Similarly, the need for any HPAs, and the identification of these, will be at the LPP stage.

As a result of the Urban Capacity Study and the updated Housing Audit and Windfall Assessment, a table has been provided indicating the allocation of housing to each settlement within each settlement tier, the number of houses built to date, the number remaining through commitments, and for the towns, an indication of windfall allowance (see Updated Housing Paper (Nov 2019)). For villages and small settlements, the number of commitments and potential on land remaining (subject to any physical constraints) will be taken into account when considering whether to identify HPAs. In addition to housing, land within villages and small settlements will also be required for small scale industrial and business use, recreation, community etc.

Main Issue 8:

It is unclear if the 4,000 homes referred to in draft Policy SP03 includes an allocation to the countryside. Further clarification on the numeric and spatial allocation of housing to all settlement tiers including the countryside is required. DPS/022/04

Response:

The figure for 4,000 homes referenced in draft Policy SP03 is for settlements only as explained in the opening statement “The Plan Strategy will make provision for at least 4,000 new homes within our settlements in the period 2017-2030.” This figure takes into account completions of houses in settlements since 2012 and up until April 2017.

However, since the publication of the DPS, a revised HGI figure was issued in September 2019 and to cover the period 2016 to 2030. Therefore, the figure will be updated to cover the period 2019-2030. The revised figure is 2,608 (see Updated Housing Paper (Nov 19) Table C).

The allocation to the countryside was 23% of 5,190, that is 1,193 (or 1,433, if applied to the HGI figure of 6,230 for the period 2012-2030). To reflect the new HGI it is now 23% of 4,300, that is 989, if applied to the new HGI figure for the period 2016-2030.

Main Issue 9:

The evidence base for the housing allocation of 5,190 is flawed and argues that there would be a significant shortfall of 688 dwellings based on the HGI figure. The figure should instead be 5,878 based on the combined build rate over the period 1998-2013. DPS/244/05

Response:

As noted above, a Housing Growth Indicator was issued by government in September 2019 (and as an update from May 2016) and covers a 15 year period.

The housing allocation as explained in paragraph 6.22 is based on Housing Growth Indicators issued by central government in May 2016. The text and figures will be updated to reflect this change. The HGI provide estimates of future housing need in Northern Ireland and for each of the 11 local government districts. The figures used household projections produced by NISRA based on (then) current population/household formation trends.

The Council is confident in the methodology used for calculating the HGIs and that it relied on a sound information base provided by NISRA. The latest household projections are 2016-based and continue to show slow growth for Fermanagh and Omagh District. The number of households is predicted to increase from 42,856 in 2016 to 46,244 by 2030, an increase of 3,388 dwellings. These figures take account of a rise in the number of people living in smaller households. The figure of 4,300 is therefore more than ample for meeting future housing needs and there is no logical argument to rely on build rates for 1998-2013. A review of building completions rates between 2012 and 2019 (See Table E of the Updated Housing Paper (Nov 2019)) shows 2,288 completions (average of 326 per year). If building rates continue at a similar level over the remaining of the plan period this would result in likely completions of 4,890 dwellings. This is within an acceptable range of the HGI and therefore supports the use of this figure.

Additionally, given the oversupply of housing in many of our settlements, the Plan has the flexibility to adjust to changing economic and demographic circumstances.

Main Issue 10:

The policy is too restrictive and inflexible as the approach to the development of greenfield sites could restrict the supply of suitable housing within the towns and inflate house prices where there is increased demand. The exception where the future housing need and demand exceeds the number of permissions is flawed as it assumes that all planning permissions will be built out. A phased approach to the release of land could prevent other, more suitable and viable sites from being developed. The policy should be omitted. The submission includes a request for subject lands at Dooish Road, Dromore to be included within the settlement limits of Dromore. DPS/244/06/10

Response:

It is the Council's view that the Plan does have flexibility to adjust to changing circumstances and that the approach set out in this policy is in response to local circumstances whereby there is a significant over-supply of land for housing within the settlements and on greenfield sites as shown in the Housing Audit (April 2019). The purpose of draft policy SP03 is to manage this housing supply in a sustainable manner by identifying Phase 1 and Phase 2 sites or Housing Policy Areas. Policy HOU01, as amended, complements the SP03 by dealing with applications for housing on 'Windfall' sites (be they Brownfield or Greenfield). It is acknowledged that a significant proportion of housing will be delivered on greenfield sites due to existing commitments. However, policy HOU01 does provide an exception to allow development on unzoned greenfield land where it is evident that the future housing need exceeds the number of existing commitments and there is no evidence of this housing need being met through sites zoned for housing.

It is further recognised that there are some inconsistencies between SP03 and HOU01 (see Housing in Settlements paper) which need to be addressed and to ensure that the terminology across both policies is aligned. This is set out below under the Conclusions heading and should be read in conjunction with the conclusions for HOU01 set out in the Housing in Settlements paper.

The main thrust of this issue which is also linked to Issue 5 above, is to seek the inclusion of land at Dooish Road, Dromore. Given our level of commitments in Dromore, it is likely that many sites will be allocated as either Phase 1 or Phase 2 land and there is unlikely to be a requirement for additional land to be included within the settlement limits. The criteria for selecting sites for each phase is set out in SP03.

Main Issue 11:

The Housing Evaluation Framework within the RDS details the need to carry out a Resource Test to identify physical infrastructure such as water waste and sewerage, including spare capacity as part of the Councils assessment of the potential location for new housing. There are concerns relating to housing growth in smaller villages or small settlements which are predicted to grow, and which may have capacity constraints. More detailed consideration in the Plan must be given to this potential for growth as wastewater system capacity (treatment works and sewer networks) should

be a key consideration when zoning land for development. In addition, information on wastewater treatment system capacity constraints has not been adequately represented in the Plan. DPS/251/01

Allocation of land for housing should clearly take account of existing infrastructure for the requirement for infrastructure that developers will be expected to deliver to facilitate development. The Department has concerns regarding the statement that the two main settlements in the Council Area possess the required infrastructure for housing growth. Depending on the land chosen for housing this may not be the case and indeed some existing zonings with the two main settlements may require infrastructure upgrades to facilitate housing. DPS/317/102

Response:

As part of the preparation of the Preferred Options Paper, the Council undertook a Strategic Evaluation of Settlements based on the Housing Evaluation Framework (Paper 12). This paper (dated November 2015) acknowledged at the time that 6 settlements currently had no capacity and were not identified for an upgrade in the business plan 2015/2021. These were:

- Loughmacrory
- Garrison
- Ederney
- Belleek
- Edenderry
- Church Hill

The latest information on wastewater treatment capacity was not provided to the Local Development Plan team in two consecutive years, despite being requested on a number of occasions. When it was received (following publication of the draft PS), the only significant differences in the information was that Edenderry had now changed status and was listed for an upgrade in 2015-21 and Mounfield was identified as having no capacity.

The Council will take account of the wastewater system capacity (treatment works and sewer networks) when considering the allocation and management of land for housing. We will work with NI Water as we progress our LDP and in preparation of the Local Policies Plan.

Main Issue 12:

A request for land to be included within the settlement limits of Belleek. (DPS/001/01)

A request for land to be included within the settlement limits of Maguiresbridge (DPS128/01)

Response:

A request has been made to include land off Kesh Road within the settlement limits of Belleek. The argument is made that the lands in question would be an extension outwards to the same line of the existing town boundary and would result in no negative impact to public views. Currently, the developer cannot

develop these lands although planning permission has been secured for two sites along the road frontage.

The respondent has not offered any other evidence in relation to the Draft Plan Strategy such as housing supply, in support of his representation. The site-specific nature of the representation is such that it should only be considered at the Local Policies Plan stage. However, given that the number of commitments for dwellings in Belleek is in excess of the housing allocation for the settlement, it is unlikely that additional land will be required in Belleek.

A request has been made to include land adjacent to Station Park Maguiresbridge, demand for additional housing was submitted, these will be considered at Draft local policy plan stage however it is noted background housing paper provides detail of zoned housing land and commitments within the district.

Main Issue 13:

There is a lack of housing in the FODC area and that the proposed allocation for future dwellings in its entirety does not appear adequate. In particular, the projected need for only 28 dwellings for Carrickmore town (compared to Irvinestown 151 and Fintona 97) is inadequate and does not reflect balanced development. Such a low projection could actually stunt the growth of Carrickmore as a town and important service centre. The housing projection for Carrickmore should be raised substantially to at least 70 dwellings. DPS/051/09, 108/01, 109/01

Response:

There is no evidence to support the view that there is a lack of housing in the Fermanagh and Omagh District. The most recent figures gathered for the updated Housing Audit continue to indicate that there is an oversupply of housing (through zoned land and commitments) across all settlements.

No substantial evidence has been provided to support an increase in the allocation number from 28 to 70. The allocation of houses to each settlement is based on its share of households at the time of the 2011 Census (see Updated Housing Paper, Nov 2019). Carrickmore had the smallest number of households of the 5 local towns and actually had fewer than some of the villages. The allocation provided in the dPS is an indicative figure only and will be subject to further refinement for the Local Policies Plan including the use of weighting factors such as range of facilities, service role and infrastructure capacity (e.g. waste-water system capacity). This may result in a slight increase to the final allocated figure.

Main Issue 14:

There is not ample land within Enniskillen, in line with the aim of focusing housing growth in the two main settlements in the council area as per 6.23 'Strategic Allocation of Land for Housing'. Suggests that a modification to the dPS could include a reassessment of the Sligo Road area of town, as it is contended that there is insufficient provision of lands available to cater for future housing provision. Suggests that an extension to the boundary adjacent to H9, Scaffog Avenue, is a 'natural extension' to the limits. DPS/133/02

Response:

The substance of this issue is that whilst there is sufficient land in Enniskillen to meet future housing needs, much of this has remained undeveloped due to unsuitable topography and ground conditions rendering it financially unfeasible. Reference is made to the distribution of sites (taken from the Housing Monitor Map 2018) to the north/north east of the town and which shows very little focus on the south-west corridor, particularly the Sligo Road. A submission was made (dated 3rd May 2018) seeking lands adjacent to H9 Scaffog Avenue, Sligo Road to be considered in the LDP and it is argued that this land could cater for current and future demand as it has existing infrastructure and services compared to existing land which is unsuitable due to topography and lack of services.

The selection of housing sites for Phase 1 or Phase 2 land will be assessed at the Local Policies Plan stage taking into account a range of criteria as outlined in draft SP03. This will also assist in determining whether there is any need for additional sites.

Main Issue 15:

Objects to the % split amongst the main towns, small towns, villages, and small settlements and the countryside as is currently proposed. Whilst affirming support for sustaining rural communities, a much higher proportion should be allocated to main towns, local towns, villages and small settlements rather than open countryside. The reasons given include erosion of character in countryside, contribution to social isolation, pollution through private car journeys, environmental impacts due to septic tank proliferation. Residential development should primarily occur within settlement limits where there is good access to public transport, walking and cycling facilities. DPS/115/06

Response:

The Council considers that the allocations to the countryside, main towns, small towns, villages and small settlements represent a fair and balanced response to the local characteristics of our District. We have allocated the majority of the HGI (77%) to our towns, villages and small settlements compared to 23% to the countryside. If we had relied on the share of households in 2011, we would be allocating almost 41% to the countryside. However, we have taken account of the RDS and allocated the majority of housing to our main towns with small increases to our other settlements in recognition that more sustainable patterns of development can be achieved within settlements. To meet the needs of rural dwellers in the countryside who comprise 46% of our District's population, we have allocated 23% which reflects recent trends in planning approvals and completions and is aimed at 'sustaining' our rural population.

Main Issue 16:

Considers that clarification is required on the term 'committed' and 'uncommitted' housing sites. If Phase 1 land includes committed sites this would make it difficult to deliver affordable housing. Seeks inclusion in the LPP for uncommitted sites which are classified as Phase 1 and inclusion of affordable housing need as one of the criteria for release of land in Phase 2.

Welcomes further discussion to examine the potential for 'soft commitments' to accommodate affordable housing. DPS/115/07

Response:

Committed sites are commonly regarded as approved housing sites developed in full or in part and sites with planning permission for housing. Uncommitted sites do not have any planning history. In our Housing paper, we refer to commitments in two categories. Hard commitments are sites with planning permission and are 'shovel ready' i.e. have no constraints. Soft commitments are sites with a zoning with no permission or a planning application which has not yet been determined. The sites are otherwise unconstrained and could potentially be available for development. Given these definitions, it is technically correct to refer to 'soft commitments' as uncommitted sites.

The Council acknowledges that the policy as written does not provide for the release of land for affordable housing where a need is identified. To address this, it is proposed that the delivery of affordable housing will be a consideration when identifying sites and when they will be available for development. Additionally, HOU01 (as amended) makes provision for two exceptions on unzoned greenfield land within the settlement limits of a main or local town. The second of these is where it is demonstrated within the HNA that there is an unmet need for Affordable Housing which cannot be met through any existing commitments or on sites zoned for housing.

Main Issue 17:

The spatial growth strategy which directs a substantial proportion of housing to the Countryside where there is generally limited, or no public transport does not apply the principles of integrated land-use and transport. The use of Accessibility Analyses which identifies where public transport services operate, should be a key element in selecting which areas are identified for growth. The Council needs to demonstrate that the principle of the integration of land use and transport is given appropriate consideration in the identification of their settlement strategy and housing allocations. DPS/317/72; 317/102

Response:

DfI Transport Planning and Modelling Unit's concern is that the spatial growth strategy, which directs a substantial proportion of housing to the Countryside where there is generally limited or no public transport, does not apply the principles of integrated land-use and transport. They also refer to the use of Accessibility Analyses which identifies where public transport services operate, and that this should be a key element in selecting which areas are identified for growth. The settlement strategy as identified in the PS is the outcome of a Strategic Settlement Evaluation (Paper 12) and which reclassified a number of villages as small settlements, in recognition of their size and limited services/functions. The housing allocations across the settlement hierarchy are indicative at this stage and will be subjected to further refinement, including the use of Accessibility Analyses, when preparing the Local Policies Plan.

Conclusions:

In terms of the Growth Strategy, the Council's allocation of housing across the settlement hierarchy is sound.

However, to improve clarity and understanding of the policy, the Council would suggest a number of minor contextual changes to both the policy and policy clarification and to ensure that the policy aligns with policy HOU01. Therefore, if the Commissioner is so minded to consider at IE, the proposed amendments are as follows:

- Title changed to include "...in our Settlements" to clarify that this does not apply to housing in the countryside; Delete "at least" from first line as it is irrelevant to the effectiveness of the policy;
- Update overall housing need figure and timeframe in first line to cover period 2019 to 2030 and to account for updated position;
- Re-structure of part (a) of policy, including deleting criteria (ii), to ensure the policy clearly outlines the matters taken into account when determining whether Phase 1 sites need to be identified, and if so, whether a site is Phase 1 or Phase 2. Deleting criteria (ii) avoids any overlap with policy HOU01 which focuses on Windfall sites in our settlements only and which includes provision for windfall on greenfield;
- Additional text to part (b) of the policy to clarify that HPAs will only be identified where "...after committed housing sites with extant planning permissions or sites which are under development have been taken into account".

The re-worded policy is as follows:

Draft Strategic Policy SP03 – Strategic Allocation and Management of Housing Supply in our Settlements

The Plan Strategy will make provision for 2,608 new homes within our settlements in the period 2019-2030.

(a) Main and Local Towns

To manage the housing supply over the plan period, zoned housing land within the main towns and local towns will be released in two phases. A criteria-based approach to selecting sites for each phase will be undertaken. The selection criteria will take account of several factors including; Accessibility Analysis; the prioritisation of brownfield land within the Urban Footprint; the ability to deliver affordable housing where a need exists; topography; flooding and other constraints to development including wastewater network and treatment capacity. Sites will only be allocated where it can be shown that they can accommodate at least 10 dwellings.

The Phase 1 and Phase 2 sites will be identified within the Local Policies Plan along with the key site requirements to guide their development. Until such time that the Local Policies Plan is adopted land will be zoned for housing as indicated within the Fermanagh Area Plan and the Omagh Area Plan.

Phase 1 Sites

Once committed housing sites with extant planning permissions or sites which are under development have been taken into account, Phase 1 sites will be identified to meet any remaining future housing need over the Plan period (i.e. before 2030).

Phase 2 Sites

Phase 2 Sites will be identified for allocation beyond the plan period (i.e. after 2030). These will only be released at an earlier time within the plan period (i.e. before 2030) where it is evident through either monitoring or the re-appraisal of future housing need that these housing sites will be required to meet housing need within the plan period. The exact criteria and mechanism for how these sites could be released will be outlined within the Local Policies Plan.

(b) Villages and Small Settlements

Within the Villages and Small Settlements, Housing Policy Areas (HPAs) may be identified in the LPP. These will indicate where most new housing within these settlements will be located. The HPAs will be identified following a detailed analysis and character appraisal of the settlement and will focus on providing housing in locations where it is most likely to integrate into the character of the settlement. The HPAs will also be commensurate with the scale of, and the future housing need of, the individual settlement and after committed housing sites with extant planning permissions or sites which are under development have been taken into account.

Draft Strategic Policy – SP04 - Strategic Allocation of Land for Industry and Business

The Plan Strategy will make allocations of circa 90 hectares of industry and business land within the Council area in support of business and industry and to help facilitate the provision of new jobs. This will include new and carried forward undeveloped zoned industry and business land. The total allocation of industry and business land will be distributed between the two main towns and five local towns as follows:

Settlement	Area (hectares)
Omagh	42.00
Enniskillen	30.00
Lisnaskea	6.30
Irvinestown	4.88
Fintona	2.46
Dromore	1.96
Carrickmore	2.22

The strategy of providing zoned business and industry land will be complemented by one of protecting existing industry and business sites.

<i>Ref:</i>	<i>Representative (Main Issue Number):</i>
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DPS/115/08 DPS/247/01, 02	NIHE (Support) Provincial Developments Ltd (Site Specific) (1, 2)
<p><i>Main Issue 1:</i> The need to rezone land and include new zoned land should not be based on physical constraints such as flooding. Decisions should be based on a full and proper understanding of market requirements for each sector the Council wishes to attract/promote. Seeks rezoning of zoned industrial land located between Drumnakilly Road, Farmhill Road and Deverney Road, Omagh. DPS/247/01</p>	
<p><i>Response:</i> The draft strategic policy seeks to ensure that circa 90 hectares of land are allocated for industry and business use in the LDP. It is acknowledged in the Plan Strategy (paragraph 6.27) that some existing zonings are affected by flood risk and will need to be replaced. This is just one example of the factors that would be taken into account. In identifying new sites to be zoned or retaining existing sites, other factors to be considered, as suggested in the SPPS (6.92), include accessibility by all members of the community, connectivity with the transportation system (particularly public transport), the availability of adequate infrastructure, the specialised needs of specific economic activities, potential environmental impacts and compatibility with nearby use. Identifying opportunities for mixed use development would also be undertaken.</p> <p>The submission seeks the rezoning of land at Arvalee which has remained undeveloped since the adoption of the Omagh Area 1987-2002. An assessment of all existing undeveloped zoned industrial land will be undertaken as part of the preparation of the Local Policies Plan and taking into the factors listed above.</p>	
<p><i>Main Issue 2:</i> There is more land zoned (187.67ha) and remaining (103.08) than the highest quantum of land required under the 3 models in the Background Paper. Simply transposing previously zoned land into the new LDP is not 'sound'. DPS/247/02</p>	
<p><i>Response:</i> There is no intention of 'simply transposing previously zoned land' into the new LDP. The RDS provides an Employment Land Evaluation Framework to enable planning authorities to identify robust and defensible portfolios of both strategic and locally important employment sites in their development plans. This includes an initial assessment of the 'fitness for purpose' including the environmental implications of the existing employment land portfolio. This is principally in order to identify the 'best' employment sites to be retained and protected and identifying sites that should clearly be released for other uses. This is referred to in paragraph 5.17 of the Background Paper. This is the process which will be undertaken to determine if any existing zoned industrial land would be better released to alternative uses. This would be carried out in combination of the factors identified in 6.92 of the SPPS as referred to above.</p>	
<p><i>Conclusions:</i></p>	

The draft policy as written is sound.

Paragraphs 6.29 – 6.33 – Transportation	
<i>Ref:</i> DPS/317/69	<i>Representative (Main Issue):</i> DfI Transport Planning and Modelling Unit (TPMU) (1)
<p><i>Main Issue 1:</i> TPMU acknowledge the fact that the Plan Strategy has been published in advance of the LTS and this has clearly presented a difficulty for the Council however the Council have had knowledge of the key messages and objectives within the LTS and therefore should have been able to more fully ‘have regard’ to this. Highlights that the LDP Plan Strategy should be consistent with the objectives and measures contained in the LTS and notes the absence of a strategic policy in relation to transport. Such a policy should be developed in conjunction with the Department for Infrastructure and should be added to the LDP Plan Strategy. DPS/317/69</p>	
<p><i>Response to Main Issue 1:</i> Due to the decision by DfI not to publish a Local Transport Strategy, the Council does not consider it necessary to provide a detailed response to this issue. Moreover, it is the Council’s understanding that the LTS was intended to support, and to be consistent with, the LDP Plan Strategy taking into account the characteristics of the council area. However, in regard to the content of the section on transportation contained in paragraphs 6.29 to 6.33, the Council would advise that this was agreed with DfI Transport Planning and Modelling Unit prior to publication of the draft Plan Strategy. TPMU also provided amendments to the text which were incorporated into the published version.</p> <p>In regard to the suggestion for a strategic policy relating to transport, the Council considers that this would not be appropriate to introduce post draft PS publication as the public would not have been afforded an opportunity to make comment on it.</p>	
<p><i>Conclusions:</i> In light of the decision by DfI not to publish a Local Transport Strategy, references to Local Transport Strategy and LTS will be removed from the Plan Strategy. The LTS will be replaced by a Local Transport Study.</p>	

Development and Design

Development and Design - Context and Justification	
2.1.	The high quality of our environment, both historic and natural, makes an important contribution to our sense of place, history and cultural identity. Our Council area has a rich and diverse archaeological and built heritage as well as distinctive and unique landscapes which play an important role in supporting our local economy. It is therefore particularly important that the unique character of the district is protected through the application of consistent design principles.
2.2.	Good design should ensure that new development is visually attractive, responsive to local character, helps promote healthy communities and creates buildings which are durable, adaptable and function well within the surrounding area to create a safe and accessible environment. Good design goes beyond visual appearance and the architecture of individual buildings, but through place-making improves connections between people and places and should integrate new development into the natural, built and historic environment. This reflects the SPPS and the benefits of good design and place making which can create more successful places to live, bring communities together and attract business investment. The SPPS also refers to the need for LDP policies “to promote or reinforce local distinctiveness”.
2.3.	Good design applies across the whole Council area from our towns, villages and small settlements to our countryside which is home to many of our people. Whilst it is important that we can continue to provide development opportunities for those who live and work there, it is equally important that we ensure that the character and quality of new development in our countryside is sited, designed and integrated into its surroundings and maintains its rural character. In keeping with the SPPS, our policy approach for development in the countryside is to cluster, consolidate and group new development with existing established buildings.
<i>Ref:</i> DPS/317/99	<i>Representative: (Main Issue)</i> Department for Infrastructure (DfI) (1)
<p><i>Main Issue 1:</i> There should be reference to the relevant transport policies as they can have a positive impact on supporting good design and place making. Having ‘read across’ from these policies will ensure a consistency of approach. (DPS/317/99)</p>	
<p><i>Response:</i> It is accepted that transportation policies have the potential to impact on supporting good design and place-making however making specific reference to transport policies would require specific reference to all other policy areas.</p>	

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.

Conclusions: No changes are proposed in response to the issues raised.

Draft Policy DE01 - General Amenity Requirements

The Council will not support development proposals where they would unacceptably affect the amenities of the area or the residential amenity of nearby properties, including the impact of: -

- i) overlooking and/or loss of privacy;
- ii) dominance or overshadowing;
- iii) odour, noise, vibration or other forms of disturbance;
- iv) forms of pollution; and
- v) general disturbance.

Ref:
DPS/115/09
DPS/317/31, 93

Representative: (Main Issue)
Northern Ireland Housing Executive (Support)
Department for Infrastructure (DfI) (1, 2)

Main Issue 1:
Additional criteria may have made this more comprehensive. For example, visual amenity and road safety considerations would contribute to the character and quality of places. Clarification on the use of ‘amenities’ welcome. (DPS317/31)

Response:
DfI have stated that additional criteria, e.g. visual amenity and road safety would make the policy more comprehensive. DE01 states that the Council will not support development proposals where they would unacceptably affect the amenities of the area or residential amenity of nearby properties, including...”. Whilst linked to some of the criteria in DE02 it is not considered to replicate it.

With regards to visual amenity, it is considered that DE02 acts to positively enhance visual amenity overall. However, it is agreed that it would be appropriate to include reference to both road safety and visual amenity within DE01.

DE02 Criterion (i) are sited and designed so as not to have an *adverse impact* on public safety is clarified further at paragraph 2.11 which states that it is important to promote sustainable modes of transport whilst seeking to ensure that road safety is maintained and that there is safe and efficient movement of traffic. It could be asserted that the test within DE02 criteria (i) is more stringent (not to have an adverse impact) than DE01 (unacceptably affect).

Para 2.3 of the SPPS sets out that “The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest.” Whilst the policy is considered sound it may improve the robustness of the policy by including the reference to existing use of land and buildings.

Para 2.4 of the DPS sets out that amenity is generally defined as a positive element or elements that contribute to the overall character or enjoyment of an area. This definition allows that amenity can be viewed as a single positive element or a number of positive elements.

It is suggested that the policy wording be amended to read as follows:

“The Council will not support development proposals where they would unacceptably affect:

1. the amenity of the area including the residential amenity of nearby properties; and
2. the existing use of land and buildings, public safety (including road safety) and visual amenity that ought to be protected in the public interest.

These include...”

Main Issue 2:

No reference to the submission of a design and access statement. (DPS 317/93)

Response:

The Planning (General Development Procedure) Order (Northern Ireland) 2015 and the Planning Listed Building Regulations (N. Ireland) 2015 detail the statutory requirement for the provision of a Design and Access statement. As a legal requirement it is not necessary to detail within policy.

However, it may be of benefit to include a reference within the Context and Justification for Development and Design.

Conclusions: The policy is considered to be sound. However, if the Commissioner is so minded, the following minor amendments are suggested in order to more closely reflect the SPPS:-

1. Reword the opening sentence to policy DE01 to “The Council will not support development proposals where they would unacceptably affect: 1) the amenity of the area including the residential amenity of nearby properties or sensitive receptors; and 2) the existing use of land and buildings, public safety - including road safety- and visual amenity that ought to be protected in the public interest. These include :-
 - vi) overlooking and/or loss of privacy;
 - vii) dominance or overshadowing;
 - viii) odour, noise, vibration or other forms of disturbance;
 - ix) forms of pollution; and
 - x) general disturbance.”

2. In order to make reference to Design and Access statement requirements, amend paragraph 2.2 of the Context and Justification to read “Good design should ensure that new development is visually attractive, responsive to local character, helps promote healthy communities and creates buildings which are durable, adaptable and function well within the surrounding area to create a safe and accessible environment. Good design goes beyond visual appearance and the architecture of individual buildings, but through place-making improves connections between people and places and should integrate new development into the natural, built and historic environment. This reflects the SPPS and the benefits of good design and place making which can create more successful places to live, bring communities together and attract business investment. *This process can be supported by the development of Design and Access Statements.* The SPPS also refers to the need for LDP policies “to promote or reinforce local distinctiveness”.

Draft Policy DE02 - Design Quality

The Council will support development proposals which demonstrate a high-quality built environment in relation to:

- i) architectural style, use of materials and detailed design features;
- ii) siting, layout, orientation and density; and,
- iii) height, scale, size, form, massing and proportion.

And which:

- a) create or enhance a sense of local identity and distinctiveness;
- b) integrate sustainable modes of transport including walking and cycling and minimise the impact of car parking;
- c) protect and enhance features and assets of the natural and historic environment and landscape;
- d) are accessible to all and incorporate design measures to provide adaptable accommodation and reduce social exclusion, the risk of crime, and the fear of crime;
- e) protect and retain any established rights of way, permissive paths and other important access routes;
- f) protect and provide sufficient and usable open space and link to and integrate with green and blue infrastructure where possible;
- g) provide new tree planting in-keeping with the character of the area and to allow the integration of the development within the surrounding area;
- h) are energy and resource efficient and minimise their impact on the environment; and
- i) are sited and designed so as not to have an adverse impact on public safety.

Account must be taken of 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside and Living Places Urban Stewardship and Design Guide.	
<i>Ref:</i> DPS/115/10 DPS/248/04 DPS/317/32,100	<i>Representative: (Main Issue)</i> NIHE (support) Department for Economy (Minerals Branch) (3) Department for Infrastructure- Transport NI (1, 2)
<i>Main Issue 1:</i> DfI have suggested new wording should be inserted in order to promote more effective integration between land use planning and transport and to support convenient access to public transport. (DPS/317/32)	
<i>Response:</i> The criterion within DE02 incorporates the wide-ranging considerations to be taken into account when seeking to bring forward a high-quality built environment including transport considerations such as supporting convenient access to public transport. These are considered to be addressed in criterion ii), b), d), e), f) and i). Transport planning has also been referenced a number of times within the policy clarification. It is not considered necessary to place any more emphasis on roads/transportation within the policy. However, it is considered that the final sentence of paragraph 2.11 should be amended (as shown in italics) to read as follows: "The Council recognises that the importance of ensuring that all new developments <i>within our settlements</i> are well connected to existing public transport, cycling and walking routes, <i>as well as providing facilities such as cycle parking and shower facilities to facilitate those using sustainable modes of transport.</i> " (It should be noted that there is a typographical error in 2.11 as published with 'walking and cycling routes' missing from the original text) In response to issues raised in relation to policy TR01(Main Issue 2) of the Transportation topic paper, it is proposed to include the above reference to facilities such as cycle parking and shower facilities.	
<i>Main Issue 2:</i> The Department also suggest that Creating Places should be added to the final paragraph of DE02 as they consider it to provide technical clarity as a design guide for footway/road layouts for development. (DPS/317/100)	
<i>Response:</i> Creating Places: Achieving Quality in Residential Environments is referenced in paragraph 2.15 of the DPS as supplementary guidance and is to be taken account of in respect of residential developments in line with the Department's intent at the time of the publication of the document.	
<i>Main Issue 3:</i> DPS does not include consideration of potential hazards for land stability as outlined in PSU10 which states: "account will be taken of land instability which would affect the development site or would as a result of development pose a potential threat to neighbouring areas." DfE clarify the areas this would include: abandoned mines; areas susceptible to landslip; and areas of	

compressible ground. Areas of soft alluvium and peat are classified as compressible ground. Cite that there are 27 abandoned mines in the District, mostly within the greater Belleek area.

Suggests that criterion (i) should provide clarification outlining public safety in the context of land stability to promote sustainable management of the built environment and safeguard against potential subsidence and the effects of instability. (DPS/248/04)

Response:

Policy MIN6 of the Planning Strategy for Rural Northern Ireland states that proposals to extract minerals by underground methods, careful consideration will be paid to the effect such development will have on the stability of surface lands directly above and surrounding the mine areas. In addition, MIN 6 also states that proposals to develop surface lands directly above or surround areas from which minerals have been or are being extracted by underground methods will be carefully considered in relation to the attendant risks. The SPPS is silent on this matter.

Belfast DPS references instability as a matter for consideration with regards to waste management. It is noted that the DfE did not respond to the Belfast City Council Draft Plan Strategy and as such have not identified this as an issue with them.

Mid Ulster DPS includes draft policy MIN6: Mines, Shafts and Adits Applications to develop surface lands directly above or surrounding areas from which minerals have been or are being extracted by underground methods will not normally accord with the Plan unless it has been demonstrated that there are no health and safety risks due to land instability. DfE have not made further comment in respect of stability in responding to Mid Ulster Council's DPS.

DE01 and DE02 address amenity and public safety which could be relied upon to address any issues in relation to land instability with additional text added to the policy clarification of DE01 under criterion iii) or v) as well as Criterion i) of DE02.

It is considered by the Council that in addition to citing public safety within **DE01**, additional policy clarification (shown in italics) should be provided at the end of paragraph 2.5 (part2) as follows: "In assessing planning applications, the basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposals would unacceptably affect amenities and the existing use of land and buildings, public safety or visual amenity, that ought to be protected in the public interest. *Public safety is considered to include matters such as roads safety and land stability.*"

Conclusions: If the Commissioner is so minded, a number of minor amendments are recommended in order to more fully reflect the provisions of the SPPS. These are as follows: -

1. Paragraph 2.11 should be amended to “The Council recognises that the importance of ensuring that all new developments within our settlements are well connected to existing public transport, cycling and walking routes, as well as providing facilities such as cycle parking and shower facilities to facilitate those using sustainable modes of transport.”
2. Add to end of paragraph 2.5 of DE01 “Public safety is considered to include matters such as roads safety and land stability”.

Draft Policy DE03 - Sustaining Rural Communities

Outside Special Countryside Areas (SCAs), the Council will support a range of types of development in the countryside which sustain rural communities while protecting and improving the environment. Details of these are set out below.

All proposals for development in the countryside must comply with the following Development and Design policies: -

- DE04 – Integration and Design of Buildings in the Countryside
- DE05 – Rural Character
- DE06 – The Setting of Settlements

Housing Development

Planning permission will be granted for an individual dwelling house in the countryside under one of the following policies:

- HOU09 – Rural Replacement Dwellings
- HOU10 – Replacement of Other Rural Buildings
- HOU11 – Redevelopment of Former site for Dwelling
- HOU12 – Dwelling on a farm business
- HOU13 - Dwelling in association with the keeping and breeding of horses for commercial purposes
- HOU14 – Rounding off and infilling
- HOU15 – Dwelling to serve an existing non-agricultural business
- HOU16 – Personal and Domestic Circumstances

Planning permission will also be granted in the countryside for:

- the provision of social and affordable housing in accordance with Policy HOU17;
- a residential caravan or mobile home in accordance with Policy HOU18;
- the conversion of a listed building to residential accommodation in accordance with Policy HE03;
- the reuse of an existing unlisted locally important building or vernacular building in accordance with Policy HE09;
- an extension to a dwelling house in accordance with HOU05;
- the provision of self-contained accommodation under HOU08;
- Traveller Accommodation where this is in accordance with Policy HOU04.

Non-Residential Development

Planning permission will be granted for non-residential development in the countryside in the following cases:

- industry and business uses in accordance with Policy IB04 and RCA01
- farm diversification proposals in accordance with Policy IB05
- agricultural and forestry development in accordance with Policy IB06
- outdoor sport and recreational uses in accordance with Policies OSR03 and OSR07
- tourism development in accordance with Policies TOU02, TOU03 and TOU04
- minerals development in accordance with Policies MIN01 to MIN04
- renewable energy projects in accordance with Policy RE01
- a necessary community facility in accordance with Policies CF01 and RCA01
- a waste management facility in accordance with Policies WM01 and WM04
- telecommunications, other utilities and non-mains sewerage provision in accordance with Policies PU01- PU04
- the reuse of an existing unlisted locally important building or vernacular building in accordance with Policies HE09 and IB04

Other types of development will only be permitted in accordance with other policies in the LDP.

All development proposals for buildings in the countryside must cluster, consolidate and group new development with existing established buildings.

<p><i>Ref:</i> DPS/022/43 DPS/050/01 DPS/061/01 DPS/115/11 DPS/119/01 DPS/123/01 DPS/124/01 DPS/127/02 DPS/236/01 DPS/237/01 DPS/269/01 DPS/292/01 DPS/294/02 DPS/317/33, 101</p>	<p><i>Representative (Main Issue)</i> RSPB (1) Coa Community Group (2) B Rasdale (2) NIHE (Support) Cashel Community Association (2) Aughakillymaude Community Association (2) Boho Women's Group (2) M Maguire (2) Fermanagh Rural Community Network (2) Killyfole and District Development Association (2) Cooneen/Coonian Community Development Association (2) Boho Community Association (2) Private Individual (2) Department for Infrastructure (3,)</p>
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Main Issue 1:
Recommends the inclusion of draft policies HOU05 to HOU07 to the list of policies to which DE03 applies. (DPS/022/43)

Response:

<p>Policy HOU05 is already referenced within the policy. Policy HOU06 and HOU07 do not apply to development in the Countryside and as such there is no need to reference within DE03.</p>
<p>Main Issue 2: The representations have listed this policy under the “relevant policy” on the representations form, however no specific comment has been made in respect of the detail of draft policy DE03. (DPS/050/01, DPS/061/02, DPS/119/01, DPS/123/04DPS/124/04, DPS/127/02, DPS/236/01, DPS/237/01, DPS/269/01, DPS/292/02, DPS/294/02)</p>
<p><i>Response:</i> No comment.</p>
<p>Main Issue 3: Dfl notes that all development in the countryside must comply with DE04, DE05 and DE06 which take account of the SPPS and largely reflect the SPPS. Notes that the DPS introduces a number of new policies not provided for in the SPPS and comments that these new policies, in combination with existing opportunities may impact on the overall objectives of the DPS as discussed in strategic response. (DPS/317/33)</p>
<p><i>Response:</i> These matters have been addressed within the Spatial Growth Strategy and Housing in the Countryside topic papers.</p>
<p>Main Issue 4: No consideration has been given to the accessibility of locations. (DPS/317/101)</p>
<p>The detail of DE03 replicates CTY1 of PPS 21 and references the Councils version of existing policies within Planning Policy statements and within the SPPS, alongside a number of additional policies.</p>
<p><i>Conclusions:</i> It is proposed that OSR03 be deleted from the dPS as the tests included within it are found in other policies elsewhere within the plan. As such the reference to OSR03 in the 4th bullet point of Non-Residential Development should be deleted. Additional to this, TR03 Provision of Park and Ride and Park and Share carparks should be added to the Non-residential Development section of the policy.</p>

<p>Draft Policy DE04 - Integration and Design of Development in the Countryside</p>
<p>The Council will support proposals for development in the countryside, including replacement buildings, where it can be demonstrated that:</p> <ul style="list-style-type: none"> a) the proposed site has the capacity to absorb the building without adverse impact on visual amenity;

- b) it can be visually integrated into the surrounding landscape through the use and retention of established boundaries and landscaping and does not rely on new substantial landscaping for integration;
- c) the design of the building is of an appropriate scale and massing for the site and the locality;
- d) it will not result in a prominent or obtrusive feature in the landscape, including skyline or top of slope/ridge locations, when assessed from critical views; and
- e) it does not rely on significant and/or inappropriate earth works for integration.

All development proposals in the countryside must demonstrate how account has been taken of 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.'

<p><i>Ref:</i> DPS/115/12 DPS/141/01 DPS/317/134</p>	<p><i>Representative: (Main Issue)</i> Northern Ireland Housing Executive (Support) D O' Neill (1) Department for Infrastructure (2)</p>
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Main Issue 1:
Substantial overreach by the Council. Policy adds further visual tests to be applied to all developments in the rural area from the public road and private lanes. Currently houses on a farm achieve integration by visually linking or grouping with the farm group under CTY10. Policy will add a series of tests that will further restrict development in the rural area. Planners seek to retain the ability to control development by inserting additional tests making rural applications (dwellings on a farm) subject to their professional opinion. This should be curtailed as it inevitably will lead to a stricter policy. (DPS/141/01)

Response:
 The policy approach taken by the Council in respect of DE04 and DE05 reflects the SPPS. Para 4.30 of the SPPS states that: "All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, including the natural topography, and to meet other planning policy and environmental considerations, including the policy approach to cluster, consolidate and group new development with existing established buildings. This is further emphasised in the SPPS under the Regional Strategic Policy for Development in the Countryside at paragraphs 6.69-6.71.

The SPPS clarifies at para 1.12 that any conflict between the SPPS and any policy retained under Transitional Arrangements that "Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS." The position taken within the DPS does not bring forward a stricter policy.

Main Issue 2:
Notes that DE04, DE05 and DE06 take account of the SPPS and largely reflect the SPPS. (DPS/317/134)

<i>Response:</i> No comment.
<i>Conclusions:</i> No changes are proposed in response to the issues raised.

Draft Policy DE05 - Rural Character	
A development proposal in the countryside will be permitted where it does not cause detrimental change to, or further erode, the rural character of an area and would meet the following criteria:	
<ul style="list-style-type: none"> a) it is not unduly prominent in the landscape; b) it does not result in a suburban style build-up of development when considered with existing and approved buildings; c) it respects the traditional pattern of settlement exhibited in that area; and d) it does not create or add to a ribbon of development. 	
<i>Ref:</i> DPS/238/02 DPS/317/134	<i>Representative: (Main Issue)</i> Private Individual (sound) Department for Infrastructure (1)
Main Issue 1: Notes that DE04, DE05 and DE06 take account of the SPPS and largely reflect the SPPS. (DPS/317/134)	
<i>Response:</i> No comment.	
<i>Conclusions:</i> No changes are proposed in response to the issues raised.	

Draft Policy DE06 - The Setting of Settlements	
The Council will not support development proposals, outside of existing settlement limits, which mar the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl will not be permitted.	
<i>Ref:</i> DPS/108/04	<i>Representative: (Main Issue)</i> B Mc Nally (1)
Main Issue 1: Disagrees with the rigid nature of the policy which leaves no room to assess the application under own merits. Concern relates to the lack of available land within settlement limits -where it is available, it is too expensive. Allows	

for no natural growth of settlements. It is very unlikely over the span of several decades that a settlement will remain the same size and policy seems to introduce a very rigid restriction for the future development of settlements. (DPS/108/04)

Response:

The policy approach is in line with that in the SPSS at paragraph 6.71 which states that: "Development in the countryside must not mar the distinction between a settlement and the surrounding countryside or result in urban sprawl."

The role of the settlement limit is twofold: to provide a focus for development and to contain development within the limit so as to maintain a distinction between the urban area and the surrounding countryside.

There will be a review of the Plan at 5 years.

Conclusions: No changes are proposed in response to the issues raised.

Draft Policy DE07 - Advertisements

The Council will give consent for the display of an advertisement where:
 (a) it does not detract from the character and amenity of the area; and
 (b) it does not prejudice public safety.

Signs outside the curtilage of an existing business in the countryside will not be permitted unless they are directional signs.

The guidance set out in Appendix 1 for different categories of outdoor advertisement will be taken into account in assessing proposals.

<i>Ref:</i> DPS/051/02 DPS/109/02 DPS/317/34	<i>Representative: (Main Issue)</i> McAleer MLA (1) Begley MP (1) Department for Infrastructure (2,3)
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Main Issue 1:

Appreciates that advertisements should not detract from the character of an area nor compromise public safety. Proposal to prohibit signs outside existing businesses in the countryside is unfair and would place rural businesses at a greater disadvantage to urban counterparts. (DPS/51/02, 109/02)

Response:

In this regard the SPSS, paragraph 6.60, states that particular care is necessary to ensure that advertisements do not detract from the unique qualities and amenity of our countryside.

Main Issue 2:

Draft policy wording is silent on road safety. The SPPS specifically references public safety, including road safety. (DPS 317/34)

Response:

Note that the SPPS clarifies within para 6.54 that public safety includes road safety, as the Planning Act (NI) 2011 only refers to public safety (Section 130). The regional strategic policy and implementation for Control of Advertisements also refers to public safety, including road safety though the Council considers this to be a clarification: "Planning legislation enables planning authorities to restrict or regulate display of advertisements in the interest of amenity or public safety, including road safety." As such it is considered that the draft policy takes account of the SPPS.

It is considered that the final sentence of para 2.28 of the Policy Clarification should be amended to read: "The Council will seek to ensure that the display of outdoor advertisements does not prejudice public safety, *including road safety...*"

Main Issue 3:

LED signage is not included. Suggests guidance to be added to Appendix 1. (DPS/317/34)

Response:

Agree to the inclusion of the suggested wording to Appendix 1: Guidance for different Categories of Outdoor Advertisements.

Conclusions: The policy is considered sound. However, if the Commissioner is so minded, there are a number of **minor changes** which are proposed in order to provide further clarification to issues raised within representations received. These are as follows:

1. The final sentence of para 2.28 of the Policy Clarification should be amended to read: The Council will seek to ensure that the display of outdoor advertisements does not prejudice public safety, *including road safety...*"
2. The guidance below provided in relation to LED lighting should be added to Appendix 1.

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

The minimum duration any image shall be displayed shall be determined by the Council. The minimum message display duration should ensure that the majority of approaching drivers do not see more than two messages.

The minimum message display duration of each image shall be calculated by dividing the maximum sight distance to the digital advertisement(metres) by the speed limit (metres/second) of the road (30mph = 13.4m/s, 40mph = 17.9m/s, 50mph = 22.4m/s, 60mph = 26.8m/s , 70mph = 31.3m/s.”

The luminance of the screen should be controlled by light sensors which automatically adjust screen brightness for ambient light levels, in order to avoid glare at night and facilitate legibility during daytime. The proposed advertising screen should generally comply with the Institute of Lighting Professionals’ guidance PLG05, ‘The Brightness of Illuminated Advertisements’. Maximum night-time luminance of the digital screen must not exceed the appropriate value from Table 4 of PLG05, which must be considered in conjunction with the environmental zones as defined in Table 3 of PLG 05. Proposed luminance levels and control arrangements are to be agreed by the Department for Infrastructure – Roads. Advertisements shall not resemble traffic signs or provide directional advice. Road Traffic Regulation (NI) Order 1997 makes it an offence to display any sign which resembles a traffic sign on or near a public road. Telephone numbers and website addresses should not be displayed.

Draft Policy DE08 – Advertisements and the Historic Environment	
<p>The Council will only give consent for the display of advertisements of signs on a heritage asset or affecting the setting of a heritage asset, such as a Conservation Area or a Listed Building, where all the following criteria are met.</p> <p>The advertisement of sign:</p> <ul style="list-style-type: none"> • does not adversely affect the overall character, appearance or setting of the asset; • where the asset is a building, it is located so as to respect the architectural form and detailing of the building; and, • where it is physically affixed to an asset, it does not cause irreparable damage to the asset and is reversible. 	
<p><i>Ref:</i> DPS/113/12 DPS/317/35</p>	<p><i>Representative: (Main Issue)</i> Department for Communities, Historic Environment Division (1) Department for Infrastructure (1)</p>
<p>Main Issue 1: Draft policy should take account of para. 6.58 of the SPPS which states that local policies may be brought forward for the control of advertisements which affect Listed Buildings, Conservation Areas and Areas of Townscape Character...” The Draft policy only references Conservation Areas and Listed Buildings and is silent in respect of Areas of Townscape Character.</p> <p>Alternative wording has been suggested which differentiates between Listed Building, Conservation Area and Area of Townscape Character and which includes criterion in relation to public safety.</p>	

“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 to 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” (DPS/113/12, DPS/317/35)

Response:

This policy is titled Advertisements and the Historic Environment and cites Conservation area or Listed Building as examples of the Historic Environment: “...Affecting the setting of a heritage asset, such as a Conservation Area or a Listed Building”.

It is considered that there is no significant difference between draft policy DE08 and the wording suggested by HED. Public safety has been addressed in the earlier DE policies, 01 and 02, and as such there is no need to repeat this test. HED identify additional wording to that contained within DE08 in criterion c) (above) where reference is made to the built form of the area. The Council consider that the built form of the area forms part of the overall character, appearance and setting of the area and as such no amendment is required in this regard.

Where HED suggest the requirement for “being carefully designed and located” the Council consider this to be a reasonable expansion of the second bullet point within DE08. As such the second bullet point should be expanded as follows (in italics):

- **where the asset is a building, *signage must be carefully designed and located so as to respect the architectural form and detailing of the building;***

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded, a **minor change** to the second bullet point to reference design is suggested as follows:

“The Council will only give consent for the display of advertisements of signs on a heritage asset or affecting the setting of a heritage asset, such as a Conservation Area or a Listed Building, where all the following criteria are met.

The advertisement or sign:

- does not adversely affect the overall character, appearance or setting of the asset;
- where the asset is a building, *signage must be carefully designed and located so as to respect the architectural form and detailing of the building;* and,
- where it is physically affixed to an asset, it does not cause irreparable damage to the asset and is reversible.”

Housing in Settlements

HOU01 – Housing in Settlements	
<p>(a) Towns The Council will support proposals for housing on zoned and brownfield land within the towns and will only permit proposals for housing on unzoned greenfield land where either:</p> <p>(i) the future housing need and demand exceeds the number of permissions (commitments); or</p> <p>(ii) it is demonstrated within the Housing Need Assessment that there is an unmet need for affordable housing which cannot be met through existing commitments.</p> <p>(b) Other Settlements Within villages and small settlements, housing will be permitted within Housing Policy Areas and where it is of a size and scale which is in-keeping with the size and scale of the settlement.</p>	
<p><i>Ref:</i> DPS/022/06 DPS/095/02 DPS/108/05 DPS/115/13 DPS/244/07 DPS/246/01 DPS/249/01 DPS/260/01 DPS/317/104</p>	<p><i>Representative: (Main Issue Number)</i> RSPB Northern Ireland (2) Clanmill Housing Group (1) Cllr Barry McNally (5) NI Housing Executive (3) Newpark Homes (4) NI Federation of Housing Associations (1) Department for Communities (7, 8) Omagh Housing Consortium (1) Department for Infrastructure (Transport NI) (6)</p>
<p><i>Main Issue 1:</i> Insufficient evidence has been provided to demonstrate that the policy can be achieved and is realistic. There is a presumption that all new housing developments (5,190 units) will be delivered on previously developed land within the existing urban footprint but it has not been demonstrated that this can be achieved. The policy does not acknowledge the difficulties in developing brownfield sites. The policy does not recognise that there may be the need for development of a greenfield site. (DPS/095/02, DPS/246/01, DPS/260/01)</p>	
<p><i>Response:</i> Firstly, it should be noted that the 5,190 units (referred to Part 1, para 6.25) relates to all units across the entire district and across the Plan Period. This would include in the countryside.</p> <p>It is not the intention (or presumption) of the policy that all new housing will be delivered on brownfield land within the existing urban footprint. Over the plan period most of the housing needed will be delivered through existing commitments (those that are 'shovel-ready' or commenced). This already includes a mix of</p>	

greenfield and brownfield sites. For example, the updated Housing Audit (April 2019) indicates that in Enniskillen approximately 81% of these existing hard commitments are on greenfield sites. It is also the case that much of the existing zoned housing sites which have yet to be realised (i.e. as identified within the former Area Plans) are greenfield (in the case of Enniskillen all are greenfield). The policy allows for these to be developed across the plan period and at least until the adoption of the LPP. [NB: At the LPP stage, and in line with policy SP03 (Strategic Allocation and Management of Housing Supply) these existing zoned sites may be re-categorised as Phase 1 or Phase 2 Sites or it may be determined that they are 'no longer fit-for-purpose'. Phase 2 sites will be held in reserve until after the plan period (i.e. after 2030) unless specific circumstances as set-out in policy SP03 are met to allow for the earlier release].

Therefore, except for existing zoned sites, the policy will only apply to any new housing proposals that come forward over the remainder of the plan period and which are unplanned (i.e. 'Windfall'). The attached Tables 2 & 3 (pages 77-78) provide further details of the intent of the policy and policy SP03, and how they should work in a sequential way (both pre- and post-adoption of the LPP).

As such, the policy seeks to prevent the further unsustainable release of greenfield sites within the towns for housing. Instead the policy directs any new 'windfall' housing to be delivered on brownfield sites within the urban footprint. This would ensure that the most sustainable sites are developed first and would contribute towards the RDS /SPPS requirement of 60% of new housing being in appropriate brownfield sites within the urban footprints of settlements greater than 5,000 population.

On review, it is accepted that policy HOU01 could be clearer in outlining the intention of the policy and as such it would benefit from re-structuring and additional clarification. It is also the case that there are inconsistencies between HOU01 and SP03 which will need to be addressed.

It is recognised that the development of greenfield sites may often be more straight-forward and more economically advantageous than developing brownfield sites (when accounting for issues such as land remediation, ease of access, land assembly etc). However, given that (i) a significant proportion of housing over the plan period will already be delivered on greenfield sites and (ii) the RDS /SPPS requirement to focus on brownfield sites, it must be accepted that costs and difficulties associated with brownfield development must be met if bringing forward new windfall sites.

Main Issue 2:

The ad-hoc release of unzoned greenfield land within towns where 'the future housing need and demand exceeds the number of permissions (commitments)' could undermine the objectives of furthering sustainable development and promoting a plan-led system. (DPS/022/06)

Response:

It is agreed that under most circumstances it would not be appropriate to allow unzoned greenfield sites within towns for housing development. However, the

policy is clear that this will only occur in exceptional cases and in particular “(i) where future housing need and demand exceeds the number of permissions (commitments)”. It is also the case that the Housing Audit (April 2019) shows that in most cases the level of commitments exceeds the housing need by a significant amount. As such there are likely to be limited examples of housing being allowed on unzoned greenfield sites.

This exception is introduced to ensure that the policy, and therefore the plan, can be flexible (and which is one of the tests of soundness) and if there was a significant change in circumstances. This could be evidenced in the Council’s Annual Monitoring Report and which would indicate if the potential sources for the supply of housing within a settlement (i.e. existing commitments and any existing zoned sites) was not meeting the housing need.

Policy SP03 also identifies that ‘Phase 2’ sites may be released earlier within the plan period. However, it is accepted that the terminology across these two policies does not align and therefore the policy wording and clarification for both should be re-considered and so they complement each other. It also needs to be recognised that the policy applies in two different scenarios:

- Firstly, an ‘interim’ stage after the adoption of the PS but before the adoption of the LPP and therefore the allocation of Phase 2;
- Secondly, post adoption of the LPP.

Table 2 & 3 (attached) summarise the approach across these two policies and these two scenarios.

In summary, and as noted in the response to Main Issue 1 above, these policies may need to be amended so that they are fully aligned. The exceptions to the policy should be reinforced. It will also be necessary to provide additional policy clarification on how the policies will be applied in the ‘interim’ and following the adoption of the LPP.

Main Issue 3:

Would like to see the LPP allocate some ‘uncommitted’ land to accommodate affordable housing in areas of identified need. (DPS/115/13)

Response:

Policy SP03 outlines a criteria-based approach to allocating land for housing across Phase 1 and 2 at the LPP stage. This includes “...the Urban Capacity Study; Accessibility Analysis, the prioritisation of brownfield land within the Urban Footprint; topography, flooding and other constraints to development.”

It would be possible for land to be allocated for affordable housing at the LPP stage and when a need was identified, and which was the intent of the overall policy approach of SP03 and HOU01. This would need to be within Phase 1. To highlight this, policy SP03 could be modified to include reference to a further criteria along-the-lines of “the ability of sites to provide affordable housing to meet an identified need”.

Main Issue 4:

The policy is too restrictive and inflexible and goes against regional policy direction whereby if unzoned land lies within a settlement limit then it ought to be in principle suitable for a range of uses, including housing. The exception where the future housing need and demand exceeds the number of permissions is flawed as it assumes that all planning permissions will be built out. In addition, this approach could restrict the supply of suitable housing land within the towns and inflate houses prices where there is increased demand. (DPS/244/07)

Response:

While not explicitly stated within the SPPS and RDS (the regional framework) it could be interpreted that all unzoned land within a settlement limit is “in principle” suitable for a range of uses, including housing.

However, as per the SPPS, “plans should be evidence-based...” (para 5.7) and it is also recognised that “...there may be instances where, due to local circumstances, a council has included policies and proposals which may not be consistent with the RDS...”. Where this is the case “...a council must be able to provide robust evidence of a local justification for departure [from Regional policies]” (Development Plan Practice Note 6 para 5.4.3).

It is clearly the case that there are local circumstances which allow a policy approach which is a departure from the general ‘in principle’ support for development of unzoned land within a settlement limit. This is the evidence that there is a significant over-supply of land for housing within the settlements and on greenfield sites as shown in the Housing Audit (April 2019). To continue with such a policy approach would result in an unsustainable pattern of development with the ad-hoc release of land for housing which may not relate to infrastructure. Policy HOU01, in combination with policy SP03, seeks to reverse this trend.

Main Issue 5:

Concerned that the Housing Needs Assessment does not accurately reflect actual need (particularly in a rural area). (DPS/108/05)

Response:

This issue is also raised in relation to policy HOU03 and is addressed as Main Issue 1 of HOU03 below.

Main Issue 6:

Proposals for housing on unzoned greenfield land needs to consider accessibility in terms of walking, cycling and public transport. (DPS/317/104)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.

Main Issue 7:

The Draft Plan Strategy should take specific account of the overall direction of housing policy in terms of meeting need and demand, tackling homelessness, supporting people, affordable, shared and private rented housing. It is disappointing that the Draft Plan Strategy provides no visible commitment to addressing homelessness or improving good relations and promoting/advancing the shared housing agenda in Fermanagh and Omagh District Council Area. (DPS/249/01)

It is acknowledged that homelessness is not specifically mentioned within the plan however this is recorded within the dPS baseline evidence. This is considered to form part of the housing need identified by the NIHE.

The NIHE have a statutory responsibility to establish housing need and this is set out within the annual Housing Needs Assessment by District Area. This includes social and traveller housing need.

HOU03 has sought to bring forward mixed tenure housing, requiring that proposals for residential developments of 10 housing units or ore, or on a site of 0.5ha or more, will be permitted where at least 10% of the units are affordable housing. Affordable housing is clarified in para. 3.12 as including social rented housing and intermediate housing.

Main Issue 8:

The Draft Plan Strategy references to the provision of “affordable Housing need” as measured by the Housing need Assessment (see paras 3.4, 3.5(a)(ii), 3.11, 3.12, 3.61). For clarity, it might be useful to note that the NIHE Housing Needs Assessment only covers social housing needs and that affordable housing also includes the provision of intermediate housing. (DPS/249/02)

Response:

This issue is also raised in relation to policy HOU03 and is addressed as Main Issue 4 of HOU03 below.

Conclusion:

The intent of the policy remains sound and is evidence based. However, as drafted, there are aspects of the wording of the policy which are not aligned with policy SP03 and therefore the Spatial Growth Strategy. This could be addressed through the minor change to the policy and the policy clarification to ensure that these policies are coherent in all respects. There will also be a need for minor changes to policy SP03 for the same reason.

Furthermore, a minor change is proposed to policy SP03 to ensure it makes clear that the delivery of affordable housing will be a consideration when identifying housing sites and when they will be available for development.

Therefore, if the Commissioner is so minded, the minor changes to HOU01 could include the following:

- A change of the policy title to include reference to 'Windfall sites' and so the purpose of the policy is clear and distinct from Policy SP03;
- A change to part (a) to make it clear that it relates to 'main and local' towns and to make clear the sequential approach to the development of sites within settlement limits (zoned and brownfield 'windfall' first and greenfield only in exceptional circumstances). The exceptions to this policy approach ((i) and (ii)) should also be reinforced;
- A change to part (b) to make it clear that it relates to Villages and Small Settlements and to confirm housing will be permitted on brownfield sites as well as any HPAs;
- Across both (a) and (b), changes to ensure the terminology used is clear and consistent with SP03;
- Additional clarification on terminology used in the policy, namely 'existing commitments' and 'sites zoned for housing'; and,
- Additional clarification on the role of the Annual Monitoring Report.

The proposed changes to the policy and policy clarification are:

Draft Policy HOU01 – Housing in Settlements and Windfall Sites

Main and Local Towns

The Council will support proposals for housing on sites zoned for housing within the towns and on brownfield land within the urban footprint of towns.

a) The Council will only permit housing on unzoned greenfield land within the settlement limits of a main or local town where either:

(i) the future housing need exceeds the number of existing commitments and there is no evidence of this housing need being met through sites zoned for housing; or

(ii) it is demonstrated within the Housing Need Assessment that there is an unmet need for Affordable Housing which cannot be met through any existing commitments or on sites zoned for housing.

b) Villages and Small Settlements

Within villages and small settlements, housing will be permitted within Housing Policy Areas and on brownfield land and where it is of a size and scale which is in-keeping with the size and scale of the settlement.

The Council will only permit housing on unzoned greenfield land within the settlement limits of a village or small settlement where either:

(i) The future housing need exceeds the number of existing commitments and there is no evidence of this housing need being met on sites within any Housing Policy Areas; or,

(ii) it is demonstrated within the Housing Need Assessment that there is an unmet need for Affordable Housing which cannot be met through any existing commitments or on sites within any Housing Policy Areas.

Additional paragraph (after 3.7):

For the purposes of this policy ‘existing commitments’ means the total of any extant planning permissions or sites which are currently under development as recorded in the most recent Annual Monitoring Report. ‘Sites zoned for housing’ means, prior to the adoption of the LLP, sites zoned in the Area Plans, and after the adoption of the LLP, Phase 1 and Phase 2 sites.

The Annual Monitoring Report will provide an update on any sites zoned for housing (including HPAs) to provide an indication of likelihood of development progressing. The policy will also apply to lapsed permission. Therefore, any lapsed permission on unzoned greenfield land within settlements limits will need to comply with points (i) or (ii).

HOU02 – Protection of Land Zoned for Housing

Development of non-residential uses on land zoned for housing will only be permitted where:

- it meets an identified demonstrable community need and no other sites are available in the settlements; or
- it forms part of a major housing development and remains ancillary and integral to it.

Ref:
DPS/115/14

Representative: (Main Issue)
NI Housing Executive (Support)

Main Issues:
No issues raised.

Conclusions:
Given that no issues have been raised, the policy is sound, and no changes are proposed.

HOU03 – Affordable Housing

Where a need for Affordable Housing is established by the Housing Needs Assessment, proposals for residential developments of 10 housing units or more, or on a site of 0.5 hectares or more, will only be permitted where at least 10% of the units are affordable housing.

Residential schemes should be designed to integrate seamlessly and with no distinguishable design differences (generally consistent in materials, style and detailing) between the market and affordable housing.

Development proposals will not be supported which contain less than 10 housing units where lands have been artificially divided for the purposes of circumventing the policy requirements.

<i>Ref:</i>	<i>Representative: (Main Issue)</i>
DPS/051/03	Declan McAleer MLA (1)
DPS/095/03	Clanmill Housing Group (2 and 3)
DPS/099/01	Co-Ownership (4 to 10)
DPS/108/06	Cllr Barry McNally (1)
DPS/109/03	Órfhlaith Begley MP (1)
DPS/115/15	NI Housing Executive (4, 10 to 17)
DPS/118/01; - 02	MKA Planning Ltd (18 and 19)
DPS/246/02	NI Federation of Housing Associations (2 and 3)
DPS/249/02; 04	Department for Communities (4,14)
DPS/260/02	Omagh Housing Consortium (2 and 3)
DPS/261/01	Keys and Monaghan Architects Ltd (20)
DPS/265/07	Dolan MLA (21)
DPS/277/02	The National Trust NI (Support)

Main Issue 1:

Concern that the Housing Needs Assessment is a key element of the policy, and as these typically underestimate actual need for affordable housing especially in rural needs. As such, recommends that the need for an HNA is removed. (DPS/051/03, DPS/108/06, DPS/109/03)

Response:

The SPSS is clear that the HNA (and its companion document the Housing Market Analysis (HMA)) is an important evidence base and must be taken into consideration when allocating land for housing through the LDP process. This includes affordable housing.

The methodology of the HNA has been independently reviewed (in 2004 and 2010). A further review is currently being undertaken.

It is recognised, including by the Housing Executive, that the housing need in rural areas can sometimes be hidden, as people may not register on social housing waiting lists, believing that there is little prospect of being allocated a home in areas where there is little or no social housing stock.

Therefore, the Housing Executive carries out a programme of 'Housing Needs Test' in rural areas each year to encourage people to come forward and register on the waiting list if in housing need. The findings of this will be considered either within or alongside the Housing Needs Assessment (HNA). Where there is concern that there is an unidentified need in a rural area this can be raised with the NIHE and they will undertake an assessment.

In the absence of any alternative basis to assess Affordable Housing Need, the approach outlined in the policy is appropriate.

Main Issue 2:

The policy is unsound as there is no evidence to support the triggers outlined in the policy (i.e. 10% for residential development of 10 or more units or on sites of 0.5 hectares or more). (DPS/095/03, DPS/246/02, DPS/260/02)

Response:

The SPPS does not comment on how any 'trigger' for affordable housing should be arrived at. This is because the SPPS promotes the allocation of land for affordable housing to address any identified need. However, and as discussed in the Housing Paper, there is a significant over-supply of land for housing and therefore an alternative approach to addressing affordable housing need has been developed.

The updated Housing Paper provides an analysis of the potential delivery of affordable housing in Enniskillen over the plan period (and if policy HOU01 were applied to windfall developments). Enniskillen has the highest Affordable Housing need of all the settlements within the district. The thresholds have been set according to local need and the level of committed housing sites.

The analysis shows that the main obstacle for the delivery of affordable housing is that there are a significant number of existing permissions/commitments that are unfettered with a requirement for affordable housing. These are likely to progress without delivering any affordable housing.

As such, the policy would only deliver affordable housing on sites which obtain planning permission after adoption of the dPS. These sites would be mix of previously zoned or 'windfall' sites. Analysis indicates that there would only be a limited number of such sites that would come forward and are likely to obtain planning permission. This indicates that a low threshold would be appropriate to maximise the number of housing units that can be sought.

The analysis shows that within Enniskillen, the policy is likely to deliver some affordable housing to assist in meeting the overall target for the plan period but is unlikely to significantly exceed the overall requirement and therefore put undue pressure on the viability or deliverability of housing. Therefore, the thresholds are an appropriate and balanced approach.

The threshold of 10 units or more is considered the most practicable. If set any lower (e.g. 5 units) it may be difficult for development to incorporate affordable housing units. It would also be difficult to achieve a meaningful mix of units. Any higher and it would apply to a reduced number of sites. As such there is no requirement to amend the policy in light of this comment.

Main Issue 3:

The practical implementation of the policy, in terms of who will deliver the social and affordable aspects, has not been considered. (DPS/095/03, DPS/246/02, DPS/260/02)

Response:

The SPPS outlines that “the development plan process will be the primary vehicle to facilitate any identified need” (para 6.143) for affordable housing.

Mechanisms for financing and managing affordable housing, and ensuring housing remains affordable, would be governed by NIHE and the registered providers. The recent DfC Consultation paper “Definition of Affordable Housing” (June 2019), for example, provides details of mechanisms to keep housing affordable.

Main Issue 4:

The definition of intermediate housing only reflects the products available at the time of the SPPS and therefore fails to reflect that new intermediate housing products may be developed. Therefore, the definition should be expanded. NIHE suggests this should include: AH is delivered by a RSL; AH is allocated by a housing association to eligible households who cannot access market housing; and, AH should remain at an affordable price for future eligible households or if these restrictions are lifted the subsidy shall be recycled for alternative AH provision.

The Draft Plan Strategy references to the provision of “affordable Housing need” as measured by the Housing need Assessment for clarity, it might be useful to note that the NIHE Housing Needs Assessment only covers social housing needs and that affordable housing also includes the provision of intermediate housing. (DPS/099/01, DPS/115/15, DPS/249/02)

Response:

The definitions of ‘Affordable Housing’ and ‘Social Housing’ (as contained in the Glossary of the dPS) are in line with the definitions as contained in the SPPS. However, there is a slight difference in the definition of Intermediate Housing as there is the following omission when compared to the SPPS definition:

“This definition of intermediate housing used for the purpose of this policy may change over time to incorporate other forms of housing tenure below open market rents”.

It is understood that the definition in the dPS reflects the current model of housing which would be considered intermediate housing by NIHE and which is a ‘shared ownership’ model. If any new models for intermediate housing were found to be acceptable to the NIHE in the future this would be a material consideration and the addition of the above text would allow for this.

It is noted that the definition does confirm that Intermediate Housing should only be provided by an RSL. The representation makes further requests for inclusion to the definition, but these go beyond defining the housing model and instead look to confirm measures to allocate units and remain at future eligible households. This would go beyond the remit of the planning authority and the current SPPS definition.

It is also noted that there is a current consultation by DfC on the “Definition of Affordable Housing” (June 2019). This suggests that the definition of social housing remains, broadly, as per the SPPS but seeks to introduce a wider

'overarching' definition for affordable housing and identifies several different models for intermediate housing. The overarching definition is:

"Affordable housing is housing provided for sale or rent outside of the general market, for those whose needs are not met by the market. Affordable housing which is funded by Government must remain affordable or, alternatively, there must be provision for the public subsidy to be repaid or recycled in the provision of new affordable housing".

The range of possible models and definitions for affordable housing include:

- Social Rented Housing (NB: definition unchanged)
- Shared Ownership (NB: similar definition to current definition for intermediate housing)
- Rent to Buy or Rent to Own
- Shared Equity
- Discounted market sales housing
- Affordable Rent products
- Low cost Housing within subsidy (NB: A particular query as part of the consultation is if this is truly a type of affordable housing)

Table 4 provides the full definitions of the above and highlights the key changes.

As it stands the proposed definition of Affordable Housing by DfC has not been adopted as government policy. As such, the current definition as proposed (but including the additional text for immediate housing of *"This definition of intermediate housing may change over time to incorporate other forms of housing tenure below open market rents"*) would be in line with the SPPS. If the Plan Strategy were to progress to adoption and include these definitions, but an alternative definition was adopted as government policy at a later stage (including different models), this would then be a relevant material consideration.

Main Issue 5:

Need to ensure that AH is appropriate and suitable to all groups (not just first-time buyers) including older people. (DPS/099/01)

Response:

The SPPS seeks balanced communities and requires "the provision of good quality housing offering a variety of house types, sizes and tenures to meet different needs" (para 6.137). Other policies of the plan seek to ensure that a mix of unit types which meet the needs of all groups (including older people) are provided in line with the SPPS. This would apply to all tenures including affordable housing. Policy DE02 (d) requires all development to be "accessible to all and incorporate design measures to provide adaptable accommodation and reduce social exclusion..." and policy HOU05 (c) requires all housing to "...provide a mix of housing to meet the needs of everyone, including a range of dwelling types, sizes...".

Main Issue 6:

The policy should define how many homes will be shared ownership and how many will be for social housing. However, there may also need to be flexibility for the housing association in the mix of units when purchasing from the developer. (DPS/099/01)

Response:

The application of the policy will be informed by the NIHE Housing Needs Assessment and which, as per para 3.12, will be a material consideration. The SPSS outlines that the HNA will be taken into consideration in the allocation ...of land required to facilitate the right mix housing tenures including...affordable housing. While the primary role of the HNA will be to identify where need exists (and therefore if the policy is applied) it would also be used to guide developers/applicants on the need for social rent or intermediate housing. If an overly prescriptive split between social housing and intermediate housing was provided in the policy this would result in an inflexible policy approach.

Main Issue 7:

Shared ownership should be ‘pepper-potted’ and so that externally they are no different from a market housing unit. However social housing tends to be better clustered and so is easier and more cost effective for a housing association to manage. There should be flexibility in the policy and it would be preferable to state that ‘where possible and practical’ the AH units should be dispersed throughout the development. (DPS/099/01)

Response:

The SPSS does not go into the specifics of ‘pepper potting’ or ‘clustering’. The policy allows flexibly for either ‘pepper-potting’ or ‘clustering’ of affordable units within a mixed tenure scheme. The policy requires schemes to be “designed to integrate seamlessly” and this could be achieved through either ‘pepper-potting’ or ‘clustering’, and as such there is no need to add ‘where possible and practical’.

Main Issue 8:

Shared ownership and social housing units should be to a sufficient standard (i.e. not have a lesser specification than the market housing). (DPS/099/01)

Response:

All housing, including affordable housing, will be assessed against HOU05 and to ensure it is of a sufficient standard and quality in planning terms. Policy HOU03 is also clear that private market and affordable housing should be designed to be consistent in materials, style and detailing.

Main Issue 9:

Service charges for affordable housing should be reasonable (so as not to make the unit unaffordable) and there should be a clause in the planning agreement to confirm this. (DPS/099/01)

Response:

The policy is an operational policy to secure the provision of affordable housing. The request goes beyond this and to require provisions relating to service charges. This would be beyond what could be reasonably within the remit of planning control.

Main Issue 10:

Promotes/Supports the use of section 76 agreements to secure affordable housing. Cites example of ‘S106’ agreements in England. (DPS/099/01, DPS/115/15)

Response:

Paragraph 3.14 outlines that the delivery of “social rented housing...will be secured by planning condition or by legal agreement”. (NB: Issue 14 also relates to this point).

Appendix 8 “Planning Agreements, Developer Contributions, Community Benefits and Financial Guarantees” refers to planning agreements and how they are provided for under Section 76 of the Act. It states planning agreements “can be used to overcome obstacles to the grant of planning permission where these cannot be addressed through the use of conditions. A planning agreement may...require the land to be used in a specific way” (Para 1.5, Appendix 8). This is in line with the approach outlined in the SPPS at paras. 5.69 to 5.71.

As such, the dPS does allow for the use of section 76 legal agreement as one possible mechanism to secure affordable housing. The principle of this would be a similar to a S106 agreement in England, which are often used to secure affordable housing.

Main Issue 11:

Requests that provision is made for a higher proportion of affordable housing and that the proportion of AH can be adjusted through a key site requirement within the LPP and if an acute need is identified. (DPS/115/15)

Response:

The proportion of affordable housing is set as a minimum (at least 10%). It would not be appropriate to require within policy that a higher amount may be required. This would result in uncertainty for developer/applicants when applying the policy.

There may be occasion that a higher proportion of affordable housing than 10% is delivered voluntarily and following discussions with NIHE (see para 3.4).

If sites are identified in the LPP for affordable housing, a higher proportion could be specified as a Key Site Requirement if this could be justified at the time.

Main Issue 12:

Request a statement that NIHE will determine the mix (social/intermediate and size) of AH required and that social housing units will be delivered to standards contained in DfC’s Housing Association Guide. (DPS/115/15)

Response:

Para. 3.12 confirms that the Housing Needs Assessment will be a material consideration, and this may be the route to identify any mix (social/intermediate) depending on need. It is likely that any decision on mix would be following a review of the HNA and in consultation with the NIHE (as a consultee). As this is a DM practice depending on the circumstances, there is no need to confirm this in the policy or clarification.

It would not be appropriate to require standards contained in DfC's Housing Association Guide in policy or policy clarification. There is no requirement in the SPPS for these standards to be met. It is understood that the standards must be met to ensure the development is eligible for Government funding. It would be inflexible to make this a requirement as the standards, or the need to comply with them, as they may change over time and are outside of the LDP process.

Main Issue 13:

The policy should state that NIHE have a role in identifying need. (DPS/115/15)

Response:

The SPPS at para 6.143 notes that the HNA may be undertaken "...by the Northern Ireland Housing Executive, or the relevant housing authority...". The drafting of the policy (and the policy clarification at para 3.12) does not identify a specific party as being responsible for the HNA. This is therefore a reasonable interpretation of the SPPS.

Main Issue 14:

NIHE request that the statement '...the delivery of social rented housing, and its retention in perpetuity, will be secured by planning conditions or by legal planning agreement.' is removed (para 3.14). This is because Housing Association and the Housing Executive operate a 'House Sales Scheme'.

Department for Communities outlines that the retention of social rented housing in perpetuity caveats, directly contradict requirements under the House Sales Scheme and would require legislative change to implement. (DPS/115/15; DPS/249/04)

Response:

The 'House Sales Scheme' does allow social rented affordable housing units to be purchased, in part or full, by existing tenants, subject to meeting eligibility criteria, at a discount on market value (e.g. after 5-year tenancies). As such, removing the phrase "and its retention in perpetuity" should be agreed. Any legal agreement would need to be drafted to reflect that social rented units could in fact be subject to the House Sales Schemes and thus otherwise not retained in perpetuity. As such the wording should be changed.

It is noted that the DfC Consultation "Definition of Affordable Housing" (June 2019) also includes possible mechanisms for retaining Affordable Homes, including how any government subsidy will be repaid or recycled.

Main Issue 15:

NIHE considers that supplementary planning guidance is required to implement the policy and can assist in developing this. (DPS/115/15)

Response:

There is no specific reference in the SPPS to the use or role of SPGs in the planning system other than to recognise that existing DfI guidance can be considered as SPGs. As the SPPS does not prevent the Council bringing forward its own SPG (or similar guidance) it is agreed that one would be of benefit under these circumstances. This would be able to clarify some of the detailed processes and practices when considering applications, but which would not be appropriate to include within a detailed policy or clarification in a strategic planning document. For example, the SPG could cover areas such as: development viability, 'pepper-potting or clustering', advice on mix (unit sizes and tenure type), role of NIHE as a consultee. (e.g. many of the matters discussed above).

Main Issue 16:

NIHE request a statement that a developer contribution may be required in the future, resulting from a plan review. (DPS/115/15)

Response:

Appendix 8 "Planning Agreements, Developer Contributions, Community Benefits and Financial Guarantees" refers to developer contributions and lists the examples of when these may be required. This does not refer to a developer contribution "in lieu" of affordable housing. This wording reflects the SPPS (paras. 5.69 to 5.71).

There is presently no evidence to support that need for a developer contribution for affordable housing. At the time of any plan review it may then be appropriate to review if this position has changed and based on the effectiveness of the policy in delivering affordable housing. As such, there is no need to amend the policy/clarification.

Main Issue 17:

NIHE note that prematurity should be applied to avoid any increase in planning applications to avoid this policy provision, and therefore to prejudice the ability of the plan to achieve strategic objectives and aims. (DPS/115/15)

Response:

The SPPS, at paragraph 5.73, outlines where the refusal of planning permission on the grounds of prematurity may be justifiable. This includes "where there is a phasing policy in the LDP, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect". Draft policies SP03 and HOU01, read in combination, could be considered a phasing policy and as the intention is to prevent the further proliferation of unsustainable development on greenfield sites and prior to the allocation of land for housing within the LPP. Therefore, an application for a Greenfield 'Windfall' site (within settlement limits) prior to the adoption of the Plan Strategy could be 'premature'. If the proposal was for more than 10 units, this could also be premature in relation to policy HOU03.

The Council would need to consider the implications of taking such a position when determining any such application prior to the adoption of the plan strategy.

Main Issue 18:

Cannot proceed with planning policies for affordable housing given the lack of regional planning policy guidance on this matter. The planning policy context, principle and methodology should be set and properly defined within a new PPS. Unaware of any specific research study done by the Department or the Council on the private housing market in the FODC area to justify or set out whether the local housing market can afford or absorb the financial cost of HOU03. Unaware of any significant work done on the affordability of existing houses in the Council area. (DPS/118/01)

Response:

Regional policy on Affordable Housing is contained within the SPPS. There is no PPS on Affordable Housing. In any event, and as per paragraph 1.11 of the SPPS, “existing policies retained under the transitional arrangements...”

(such as the PPSs) “...shall cease to have effect in the district of that council and shall not be material from that date...”. Therefore, it would not be appropriate to define the policy context, principle and methodology within a new PPS.

The Housing Market Analysis Update (NIHE 2018) includes an assessment of the Private housing market and all other tenures in FODC.

Main Issue 19:

The policy is not founded on a robust evidence basis which explains the rationale behind the policy triggers and provides a clear understanding of the implications arising from the policy.

- **The proposed threshold approach does not fully align with the approach set out in the SPPS;**
- **The proposed approach does not align with Council’s own evidence base;**
- **A robust evidence base which takes account of viability is required; and**
- **The proposed approach will not be effective as it does not reflect the mechanism for the provision of social and intermediate housing in Northern Ireland. (DPS/118/02)**

Response:

In response to the various points:

- The approach to affordable housing does not fully align with the approach outlined within the SPPS. However, there is local evidence, in the form of the current over-supply of housing land, which justifies for this alternative approach.
- The Council’s evidence base clearly shows that most of the housing within the district will be delivered through existing commitments and as such there is limited opportunity for this to provide affordable housing (for example as zoning land or by indicating a proportion of a site may be required for affordable housing via a Key Site Requirement). Where a need for affordable housing exists now and in the short term (in line with HNA),

<p>the policy will allow affordable housing provision to be secured on new sites.</p> <ul style="list-style-type: none"> • NIHE have confirmed that as most affordable housing units will be financed through Housing Association Grant, the majority of schemes will be financially viable. NIHE have also outlined that negotiations to reduce an affordable housing requirements will only be necessary where site circumstances will require exceptional or abnormal costs (but in most cases this should have been reflected in reduced land value – and as such the price paid for land will not be considered in the assessment of viability, but rather land value will be the current value as independently assessed by LPS). It is only at this point that viability should be considered and this would need to be an open-book ‘independent model’. As such, the possibility of viability being a material consideration to the application of this policy should be reflected in the policy clarification. The exact mechanism and considerations could be contained in an SPG. • As noted above, the policy reflects the definition of social and intermediate housing in the SPPS. Many of the detailed mechanisms for the provision of affordable housing are outside the remit of planning.
<p><i>Main Issue 20:</i> Considers that the provision of affordable housing, at a level of 10%, would need to be sold at a loss and therefore would impact on development viability. (DPS/261/01)</p>
<p><i>Response:</i> The submission assumes that AH would be sold at a loss which is not necessarily the case. There is no robust evidence provided with this submission which relies on broad assumptions on sales prices to claim that developers would find it difficult to achieve profitability. The response fails to acknowledge that AH is normally funded by Housing Association Grant and Housing Association’s private finance. Often this can provide guaranteed income and therefore assist in development being realised and viable.</p>
<p><i>Main Issue 21:</i> Concerned that policy is dependent on need established by Housing Needs Assessment which typically underestimate the actual need for affordable housing. In the future, FODC should seek to amend the SPPS in this regard. Decimal points should be rounded up to maximise affordable housing. (DPS/265/07)</p>
<p><i>Response:</i> The Housing Needs Assessment is produced by Northern Ireland Housing Executive. The Council do not have the power to amend the SPPS unless there is a specific consultation on a policy matter upon which it can provide a response. DfI retain control over the content of the SPPS.</p>
<p><i>Conclusions:</i> The policy is considered to be sound. However, if the Commissioner is so minded, minor changes are suggested to the policy clarification to improve understanding of the policy as follows:</p>

- Refer to viability as a potential consideration when determining the level of affordable housing with the following inserted at Para 3.12:

In those circumstances where the number of affordable housing units required by this policy would exceed the need, a lower number of units will be acceptable. Where the viability of a site is in dispute, the Council will expect developers to present viability evidence on an open book basis at the planning application stage. Where necessary this evidence will be independently assessed, and where it is demonstrated that a development is not viable a reduced or alternative provision of affordable housing may be acceptable.

- Amend para 4.13 (last line) to remove "...and its retention in perpetuity..."

Change the definition of Intermediate Housing within the Glossary to include:
This definition of intermediate housing may change over time to incorporate other forms of housing tenure below open market rents.

In addition, produce a supplementary planning guidance note, in association with the NIHE, to address detailed issues of viability, tenure mix etc.

HOU04 – Traveller Accommodation

Where a need for Travellers’ specific accommodation is established by the Housing Needs Assessment a development proposal for a suitable facility which meets this need will be permitted. This may be provided through either a grouped housing scheme, a serviced site or a transit site where the following criteria are met:

- adequate landscaping is provided;
- the development is compatible with existing and proposed buildings; and structures in the area paying particular regard to environmental amenity
- workspace, play space and visitor parking is provided.

Where a need for a transit site or a serviced site cannot be met in a settlement development proposals will be assessed against policy HOU17.

<p><i>Ref:</i> DPS/115/16 DPS/125/01 DPS/249/03</p>	<p><i>Representative: (Main Issue)</i> NI Housing Executive (Support) Private Individual (1) Department for Communities (2)</p>
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Main Issue 1:
Considers that the provision of Policy HS3 of PPS12 should be incorporated into this policy and specifically that:

- (i) **“exceptionally, and without a requirement to demonstrate need, a single-family traveller transit site or serviced site may be permitted in the countryside. Such proposals will be assessed on their merits”; and,**

(ii) **“in all cases planning authorities will take full account of planning environmental and other material considerations – for example the availability of suitable infrastructure and services”. (DPS/125/01)**

Response:

In terms of point (i):

It is noted that this provision of Policy HS3 (PPS12) is not contained within the SPPS (Travellers Accommodation is addressed at para 6.144 to 6.146 of the SPPS). Instead the SPPS only refers to transit site or serviced site being acceptable outside an existing settlement where a 'need is identified'. Where this is the case such sites will need to meet the 'policy requirements in respect of rural planning policy for social and affordable housing'.

Policy HOU04 is fully aligned with this provision of the SPPS where it is replicated in the last paragraph and where it cross-refers to policy HOU17 (Affordable Housing in the Countryside). There is no local evidence (or evidence provided with the consultation responses) which suggests an alternative policy approach to the SPPS.

In terms of point (ii):

The matters listed within Policy HS3 (PPS12) would still be material considerations when determining planning applications for traveller accommodation and in many cases would be addressed by other policies of the DPS.

Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Main Issue 2:

The correct reference would be Travellers’ Accommodation Needs Assessment. (DPS/249/03)

Response:

Travellers’ Accommodation Needs Assessment is part of wider Housing Needs Assessment. Therefore, no change to the terminology is required.

Conclusion:

Given the above, the policy is sound, and no changes are proposed.

HOU05 – Shaping Our Houses and Homes

The Council will support development proposals for residential development where it is demonstrated that the proposals will create a quality and sustainable residential environment which meets all of the following criteria:

- a) they retain or enhance the positive aspects of the character and appearance of the surrounding area;
- b) they would not result in unacceptable damage to the local character, environmental quality or residential amenity of established residential areas;
- c) they provide a mix of housing to meet the needs of everyone, including a range of dwelling types, sizes and tenures;
- d) they maintain and provide useable garden space which is proportionate to the proposed residential development;
- e) all buildings are located and orientated to front onto existing and proposed roads;
- f) they provide detailed plans of the boundary treatment, including appropriate hedge planting, walls or railings. The use of close boarded fencing will be limited to the rear of dwellings where there is no aspect onto a public road;
- g) where necessary, adequate provision, is made for local neighbourhood facilities as an integral part of the development;
- h) they demonstrate that secure-by-design principles have been applied; and
- i) they provide reasonable separation distances from overhead power lines and sub-stations.

All development proposals for residential development are required to submit a Design Concept Statement and/or a Concept Master Plan (for developments of 100 dwellings or more or for development of sites measuring either in part or full, 5 hectares or more).

Any proposal for residential development that would result in unsatisfactory piecemeal development will not be permitted even on land identified for residential use in a development plan.

Alterations and Extensions

Development proposals to extend and/or alter an existing dwelling will be permitted where:

- (i) the scale, massing and design respect the character of the existing dwelling, neighbouring properties, setting and context; and
- (ii) the proposal retains sufficient space within the curtilage of the property for recreational and domestic purposes including car parking and manoeuvring of vehicles.

<p><i>Ref:</i> DPS/115/17 DPS/267/03 DPS/277/03 DPS/317/24</p>	<p><i>Representative:</i> NI Housing Executive (1) Cllr McCaffrey (2) The National Trust NI (Support) Department for Infrastructure (3)</p>
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Main Issue 1:
Policy should include additional criteria to require all new homes to be designed to Lifetime Homes Standards and that all housing developments

contain a 10% proportion of wheelchair standard units (for developments of 20 units or more). (DPS/115/17)

Response:

Background

LTHs were originally developed in the early 1990s and were last updated in 2011. Lifetime Homes are ordinary homes but designed to incorporate 16 design criteria. Each design feature is intended to add comfort and convenience to the home and support the changing needs of individuals and families at different stages of their life (LTH are often described as 'adaptable' or 'future-proofed'). The LTHs are available to view at: <http://www.lifetimehomes.org.uk/pages/introducing-the-design-criteria.html>.

As an example, Criterion 12 allows for a house to be adapted by the addition of a stair lift or future through floor lift if a member of the household became less mobile or begins to use a wheelchair. To meet this criterion the designer of a new home would ensure the stairs are of a sufficient width to allow a stairlift to be easily added or include a 'knock-out panel' at first floor level to ensure that a through floor lift could be easily added. This would therefore allow continued access throughout the house and reduce any significant or costly renovations. There are various reports and studies which indicate that the additional build cost of meeting the 16 design criteria is low, when considered at the start of the process.

While some of the LTHs are included in Building Regulations Part R (2011) many are not. This is because Building Regulations focus only on ensuring that dwellings are 'accessible' for visitors, whereas LTHs are focused on making dwellings accessible and adaptable for all occupiers.

Current Requirements for LTHs in NI

A requirement for Housing Associations to build to LTHs has been in place since 1998. The current DfC Housing Association Guide (HAG) design standards outline that all new housing association houses should meet LTHs.

This is an entirely separate requirement to planning.

Compliance Checking

Where LTHs are a current requirement for homes built by Housing Associations (see above) this would be linked to funding from DfC. Therefore, any compliance check of plans or completed houses would be undertaken by the NIHE/DfC when approving funding.

For all other types of housing (i.e. general needs private market housing) there is no current process in place for compliance checking. It would not be the responsibility of NIHE (as noted above these units would not need housing association funding) or Building Control (many of the LTHs are not included in Building Regulations). If LTHs were introduced as a new planning requirement, a new process would need to be established for compliance checking and two possible options are:

- The Architect/Designer who has responsibility for design and specification of the dwelling would ensure compliance with LTHs throughout the design process. The developer could also appoint an Access Consultant to undertake this area of work and ensure compliance.
- Council Planning Officers could check the planning submission (drawings and any Design and Access statement) to ensure that new houses are

designed and approved to meet LTHs. This would go well beyond the normal work undertaken as part of a planning assessment and would require the submission and assessment of technical details or drawing at the planning application stage.

In their submission NIHE provide suggested wording for planning conditions to secure LTHs.

Reasons for not including a requirement for LTHs as a policy in the draft Plan Strategy:

There are three key reasons why it would not be appropriate to include LTHs as a policy:

1. Impractical to introduce and enforce such a requirement – As noted above it could be a significant commitment to assess development against LTHs. LTHs could be secured by condition which would be enforceable. However, compliance checking would go well beyond the normal remit of planning enforcement.
2. LTHs are likely to become obsolete – It is noteworthy that LTHs have not been updated since 2011. A government review of Housing Standards in England (August 2013) found that there were many different versions of housing design standards had been developed, particularly accessibility standards, across local authorities. The review ultimately determined that it would be best for LTHs to be incorporated in updated Building Regulations and to avoid unnecessary duplication. New Building Regulations in England include a requirement for ‘accessible and adaptable dwellings’. As such it is unlikely that LTHs will be kept updated and it is likely that Building Regulations within Northern Ireland will follow a similar process when next updated.
3. There is no provision or requirement in the SPPS to include LTHs as a requirement for all new houses – Therefore, Policy DE02 (Design Quality), which relates to all development types, including housing, outlines at (d) that all development proposals should be “accessible to all and incorporate design measures to provide adaptable accommodation and reduce social exclusion...”. This would provide the basis of any assessment of a development proposal and to ensure it was built to accessible and adaptable standards.

Wheelchair Standards

The submission by NIHE identifies that demographic changes in the district (aging population with more health issues) are likely to result in an increased need for wheelchair housing units and this would be across all tenures. In terms of the likely housing growth over the plan period this would equate to about 10%. As such it would be reasonable to seek for provision of wheelchair standard housing at this level for new housing developments. However, it is noted that there would also be a need for wheelchair standard units in smaller settlements and where it is unlikely that the minimum threshold of 20 units would ever be met. As such a lower threshold of 10 units should be applicable in these smaller settlements.

Main Issue 2:

“Reasonable separation distances” (criteria (i)) should be defined as a specific measurement depending on the overhead line type. (DPS/267/03)

Response:

Para 6.249 of the SPPS currently refers to best practice in relation to power lines. This states that exposure to Electro Magnet Fields (EMFs) should comply with the 1998 International Commission on Non-Ionizing Radiation Protection (ICNIRP) Guidelines. Policy PU02 (Overhead Electricity Lines) makes this a requirement for any new proposals for new OHPs.

Para 6.249 also states:

“A voluntary [Code of Practice](#) (DECC, July 2013) has been agreed by the Department of Energy and Climate Change, the Department of Health, the Energy Networks Association, the Welsh Government, the Scottish Government, and the Northern Ireland Executive. It sets out what is regarded as compliance with those aspects of the EMF exposure guidelines that relate to indirect effects as far as the electricity system is concerned. Further Government policies relating to EMFs from overhead power lines, advise that as a precautionary measure they should, where reasonable, have optimum phasing. This is the subject of a companion Code of Practice “Optimum phasing of high voltage double-circuit power lines”. This Code of Practice applies in England, Wales, Scotland, and Northern Ireland”.

This code of practice outlines that electricity companies will, where reasonably practicable, avoid designing lines that would create fields of $5\text{kV}\text{m}^{-1}$ or greater in homes, other land in residential use, their curtilage, and schools. It is further stated that good line-routing will normally achieve this anyway (by routing away from such sensitive sites) but otherwise overhead power lines will be designed to have appropriate clearance to achieve this.

As such, there is no definitive guidance on separation distance and as it is based on a calculation to avoid exposure. Therefore, the wording selected in the policy (“reasonable separation distance from overhead power lines and sub stations”) is sound.

Main Issue 3:

The policy does not adequately reflect the provision of PPS3 and PPS13 and as there is no reference in the policy wording to promoting sustainable travel (i.e. walking, cycling, public transport, permeability of sites by active modes, meeting the needs of people whose mobility is impaired, providing adequate vehicular access, parking, movement to and from the public road and movement between internal roads, traffic calming measures, respecting existing public rights of way). Creating Places – Achieving Quality in residential development should be referred to. (DPS/317/24)

Response:

This consultation response shows a complete lack of understanding of the draft Plan Strategy and how it will be applied. The issues listed would be adequately addressed by other policies of the plan (and will therefore be material

considerations when determining planning applications including for housing) and there is no need to continually repeat them for all policies.

Policy DE02 applies to all development types (including housing) and covers at criteria: (b) integrate sustainable modes of transport...; (d) accessible to all...; and (e) ...protect and retain any established rights of way...

Policy TR01 also applies to all development types (including housing) and covers at criteria: (a) ...capacity to accommodate the type and amount of traffic generated...(b) access arrangements do not prejudice road safety or inconvenience the flow of traffic...; (c) adequate parking facilities are provided...

Paragraph 1.5 (Part One) of the DPS is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Paragraph 2.15 (Part One) also identifies Creating Places as supplementary guidance for the purposes of improving the design, character and layout of new housing developments.

Additional criteria are therefore not required.

Conclusions:

In response to Main Issue 1, the Council's view is that the policy should be amended to require 10% of all units to be built to wheelchair accessible standards. To make this practicable this should only apply to development proposals of more than 20 units except for smaller settlements where there should be a lower threshold of 10 units. Therefore, if the Commissioner is so minded, the following change is proposed:

- h) they demonstrate that secure-by-design principles have been applied; -*
- i) they provide reasonable separation distances from overhead power lines and sub-stations; and*
- j) where either: (i) for a development of 20 units or more, or (ii) where the development is within a smaller settlement, a development of 10 units or more; at least 10% of all units are wheelchair standard units.*

HOU06 – Public Open Spaces in New Residential Developments

The Council will support new residential developments of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development. In smaller residential schemes the need to provide public open space will be considered on its individual merits.

An exception to the requirement of providing public open space will be permitted in the case of apartment developments or specialised housing where a reasonable level of private communal open space is being provided. An exception will also be

considered in cases where residential development is designed to integrate with and make use of adjoining public open space.

Where the provision of public open space is required under this policy, the precise amount, location, type and design of such provision will be negotiated with applicants taking account of the specific characteristics of the development, the site and its context and having regard to the following:

- (i) open space accounts for at least 10% of the total site area;
- (ii) for residential development of 300 units or more, or for development sites of 15 hectares or more, a normal expectation will be around 15% of the total site area; and
- (iii) provision at a rate less than 10% of the total site area may be acceptable where the residential development:
 - is located within a town centre;
 - is close to and would benefit from ease of access to areas of existing public open space; or
 - provides accommodation for special groups, such as the elderly or people with disabilities.

For residential development of 100 units or more, or for development sites of 5 hectares or more, an equipped children’s play area will be required as an integral part of the development. The Council will consider an exception to this requirement where an equipped children’s play area exists within reasonable walking distance (generally around 400 metres) of the majority of the units within the development scheme.

Public open space required by this policy will be expected to conform to all the following criteria:

- it is designed in a comprehensive and linked way as an integral part of the development and is overlooked by the front of nearby dwellings;
- it is of demonstrable recreational or amenity value;
- it is designed, wherever possible, to be multi-functional;
- it provides easy and safe access for the residents of the dwellings that it is designed to serve;
- its design, location and appearance take into account the amenity of nearby residents and the needs of people with disabilities;
- it retains important landscape and heritage features and incorporates and protects these in an appropriate fashion; and
- suitable arrangements are put in place by the developer for the future management and maintenance in perpetuity of areas of public open space.

<p><i>Ref:</i> DPS/051/01 DPS/095/01 DPS/109/04 DPS/115/18 DPS/246/03 DPS/254/01</p>	<p><i>Representative: (Main Issue)</i> Declan McAleer MLA (1) Clanmill Housing Group (Support) Órfhlaith Begley MP (1) NI Housing Executive (2) NI Federation of Housing Associations (Support) Cllr Glenn Campbell (1)</p>
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DPS/265/03 DPS/267/04 DPS/277/04 DPS/317/82	Jemma Dolan MLA (1) Cllr McCaffrey (3) The National Trust NI (Support) Department for Infrastructure (Support)
<p>Main Issue 1: There is a concern that the policy could be circumvented (by phasing developments so that each phase is below the 100 unit / 5-hectare trigger) to avoid the requirement to deliver an equipped children’s play area. (DPS/051/01, DPS/109/04, DPS/254/01, DPS/254/01, DPS/265/03)</p>	
<p><i>Response:</i> This policy continues the policy framework, including tests, outlined in policy OS2 of PPS8 with limited variation. The policy also meets the requirements of SPPS (as per para 6.206) to bring forward a policy requiring new residential development, (generally of 25 units or more, or more than one hectare) to provide adequate and well-designed open space integral to the development. Policy OS2 was deemed to be effective within the FODC area. It also included the same requirement that development of 100 units /5 hectares or more should include an equipped children’s play area.</p> <p>At the LPP stage, it will be possible to identify local areas where there is a deficiency in equipped children’s play area and, where appropriate, identify the provision of an equipped children’s play area to meet this shortfall as a Key Site Requirement.</p>	
<p>Main Issue 2: Off-site open space contributions should only be allowed in exceptional circumstances, where near and easily accessible to the proposed development. (DPS/115/18)</p>	
<p><i>Response:</i> Neither policy OS2 of PPS8 or the SPPS make provision for off-site open space contributions in lieu of the provision of open space being integrated into the development sites. There is no local evidence that would suggest that this an issue in FODC.</p>	
<p>Main Issue 3: The only exception for less than 10% of public open space (iii) should be where a development “is located within a town centre”. The other criteria are not appropriate and would be against the core principles of the SPPS in terms of improving health and well-being and creating and enhancing shared space or S75 groups (by reducing space for elderly or people with disabilities). (DPS/267/04)</p>	
<p><i>Response:</i> The two exceptions are replicated from OS2 of PPS8.</p> <p>However, and on reflection, these are no longer considered appropriate and, in particular, the second exception (“provides accommodation for special groups,</p>	

such as the elderly or people with disabilities”) would be disadvantageous to sections of the community. Instead a ‘general’ exception should be included in the policy.

Conclusions:

Given the above, the policy is considered to be sound, but would benefit from a minor amendment as follows:

- iii) *provision at a rate less than 10% of the total site area may be acceptable where the residential development:*
 - *is located within a town centre; or,*
 - *it is demonstrated that there are exceptional circumstances.*

HOU07 – Conversion and Change of Use of Existing Buildings to Self-Contained Flats

The Council will support development proposals for the conversion or change of use of an existing building to self-contained flats will be permitted where:

- a) the original property is greater than 150 square metres gross internal floorspace and the flats exceed the space standards set out in Table 5;
- b) all flats are self-contained (i.e. having separate bathroom, wc and kitchen for use by the occupiers);
- c) all residential units have access to the public street through the front of the building, unless there are other material considerations that out-weigh this requirement; and,
- d) adequate provision is made for waste and recycling storage.

Ref:
DPS/115/19
DPS/277/05
DPS/317/76

Representative: (Main Issue)
NI Housing Executive (Support)
The National Trust NI (1)
Department for Infrastructure (2)

Main Issue 1:

It should be explicitly stated that the policy only relates to buildings within the settlement limits. The policy should also clarify (by additional criteria) that flat conversions should have no adverse effect on heritage assets such as Conservation Areas, ATCs, historic parks and gardens. (DPS/277/05)

Response:

The policy is within the section of the plan which is for ‘Housing in Settlements’. Where policies within this section also apply to ‘Housing in the Countryside’ it is clearly noted below the policy (i.e. policies HOU04, HOU05, and HOU06). As such there is no ambiguity.

Additional criteria – the potential impact on heritage assets would still be a material consideration when determining planning applications for flat conversions and in

<p>many cases would be addressed by other policies of the DPS (e.g. policies HE04, HE05, HE06).</p> <p>Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.</p> <p>Additional criteria are therefore not required.</p>
<p>Main Issue 2: Policy should also take account of 'any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods'. (DPS/317/76)</p>
<p><i>Response:</i> Policy TR01 also applies to all development types (including housing) and covers at criteria: (a), (b) and (c).</p> <p>Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.</p>
<p><i>Conclusions:</i> Given the above, the policy is sound, and no changes are proposed.</p>

<p>HOU08 – Annex Living</p>	
<p>The Council will support development proposals for the creation of self-contained accommodation through the extension to an existing dwelling or conversion of an outbuilding within the curtilage of the existing dwelling where it can be demonstrated that:</p> <ul style="list-style-type: none"> a) the self-contained unit will be used solely as accommodation ancillary to the main dwelling house; b) adequate access, parking and turning facilities can still be provided within the site and which will not be independent of the existing dwelling house; and, c) the scale of accommodation is subservient to the existing dwelling. 	
<p><i>Ref:</i> DPS/115/20 DPS/277/06 DPS/317/36</p>	<p><i>Representative: (Main Issue)</i> NI Housing Executive (Support) The National Trust NI (1) Department for Infrastructure (2)</p>

Main Issue 1:

The policy should clarify (by additional criteria) that new annexes should have no adverse effect on heritage assets such as Conservation Areas, ATCs, historic parks and gardens. (DPS/277/06)

Response:

Additional criteria –the potential impact on heritage assets would still be a material consideration when determining planning applications for annex accommodation and in many cases would be addressed by other policies of the DPS (e.g. policies HE04, HE05, HE06).

Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Additional criteria are therefore not required.

Main Issue 2:

The SPPS makes no specific provision for Annex accommodation and there is a concern that this policy is ambiguous and could potentially lead to a proliferation of self-contained units (including in the countryside). Ancillary Annexes should be limited to the provision of additional accommodation for elderly family members of other personal and domestic circumstances. (DPS/317/36)

Response:

There appears to be no evidence (at a local level) that indicates a specific need for this policy and therefore it is potentially not consistent with the SPPS.

There would be many instances where the type of development that would be allowed by the policy would not require planning permission in any case, by way of the Planning Act (NI) 2011 Part 23 ‘Meaning of “development” (3) (c) - “*The following operations or uses of land shall not be taken for the purposes of the of this Act to involve development of the land ...the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;*”

(e.g. if you replaced or interpreted the words at HOU05(a) “...accommodation ancillary to the existing dwelling” as meaning the same as “...incidental to the enjoyment of the dwelling-house...” it would not require planning permission).

Given the above, there is the potential for an ‘annex’ to be created through the extension of a dwelling-house or even the conversion of an existing out-building, provided it remains incidental to the enjoyment of the main dwelling-housing. This could still potentially be ‘self-contained’. If it was found that the ‘annex’ (even when self-contained) would not remain incidental to the enjoyment of the main dwelling-house, and therefore is development that requires planning permission, an assessment of the proposal could be made under policy HOU05 ‘Alterations and Extensions’ (i) (in terms of ‘subsistence’ of any development) and (ii) (in terms of

retaining sufficient space for recreation and domestic purposes including car parking and manoeuvring of vehicles) and DE01 (in terms of potential amenity impacts).

This would therefore make the policy redundant as these are the aspects that the policy seeks to assess under criteria (b) and (c). In addition, policy HOU05 is also supplemented by Appendix 2 “Guidance for Residential Extensions and Alterations” which includes, at para 1.48, guidance for when considering applications for ancillary uses such as annexes.

Conclusion:
 In hindsight, as there is no robust evidence to demonstrate that local circumstances should allow for the introduction of this policy approach contrary to the SPPS, the policy and policy clarification (para 3.29) should be deleted from the draft Plan Strategy.

Housing in Settlements – General / Other Comments	
<i>Ref:</i> DPS/117/01 DPS/133/01 DPS/135/01 DPS/137/01 DPS/138/01 DPS/256/04	<i>Representative: (Main Issue)</i> Omagh Golf Club (1) John Carrigan (2) Joseph Jackson (1) O’Kane (1) O’Neil (3) Green Party (4)
<i>Main Issue 1:</i> Requests for land to be rezoned either within the settlement limit of Omagh (including from open space/recreation to ‘white land’) or to the edge of the settlement limit of Omagh (for housing). (DPS/117/01, DPS/135/01, DPS/137/01)	
<i>Response:</i> It is not the role of the DPS to allocate land for development or re-categorise land previously allocated for development. As per para 2.2 (part 1) of the DPS it is the role of the Local Policies Plan to contain site specific designations, associated policy and key site requirements. Furthermore, there is no evidence of a need to extend the settlement limits currently (to provide additional land for housing) and, in fact, there is contrary local evidence which indicates that there is more than enough land available within the existing settlements limits to meet housing need (including within Omagh) over the plan period (see Housing Audit (April 2019)).	
<i>Main Issue 2:</i>	

Considers that a ‘high percentage’ of the land within Enniskillen, identified as meeting future housing needs remains undeveloped due to unsuitable topography and ground conditions, and may not meet the type of housing need of an ageing population etc. Also considers that the spatial distribution of housing is focused on the north/north-east of Enniskillen and with little to the south west (Sligo Road corridor). On this basis promotes a site to edge of the settlement limits as addressing these issues. (NB: similar issue raised with respect to Part 1 para 6.23). (DPS/133/01)

Response:

The consultation response that raises this issue provides no specific reference to sites which are not being brought-forward for development due to other constraints (topography, ground conditions). While reference is made to a ‘high percentage’ of land being affected it is not possible to ascertain this without specific details. Therefore, the evidence-base prepared in support of this policy, and which will be the basis for determining the amount of land that will be allocated within the LPP or apportioned within the LPP (namely the Housing Audit (April 2019)), is robust.

Main Issue 3:

The maps which indicate completed housing are not accurate and do not correctly show the limits of sites. An example of an updated/corrected map for Dromore is provided. (DPS/138/01)

Response:

It is acknowledged that there are some inaccuracies within the town maps which show the results of the Housing Monitor 2018 (appended to the Housing background paper). This is partly due to how the sites and their boundaries, are shown on the maps and also as the Housing Monitor is a ‘snapshot’ in time and circumstances may have changed since last reviewed.

The Housing Audit and Annual Housing Monitor will be kept up-to-date and to maintain a robust evidence base for policy HOU01 (and for assessing planning applications against this policy when adopted). When doing so, any specific comments made as part of this consultation can be taken on board.

Main Issue 4:

Section 3 (Housing) is incoherent and does not fully explore or address the issues relating to the supply of ‘affordable housing’. (DPS/256/04)

Response:

It is considered that the dPS is appropriately drafted in terms of striking a balance between providing context and clarification for policies while being succinct. The supporting documents provide more information and background to how the policies have developed (notably the Housing paper, the Population Paper, NIHE Housing Needs Assessment, and the Sustainability Assessment). It would not be appropriate to contain this level of information within a policy document. Much of the Housing Evidence Base will be reviewed ahead of IE and will be updated to reflect any recent relevant changes and the most up-to-date information.

Conclusion:

No other issues have been raised which require change to the housing in settlement policies.

TABLE 2 - SP03 (a) and HOU01 (a) – A sequential approach to the allocation of Land for Housing & the approval on housing on Windfall sites (brownfield and greenfield land) in the Main and Local towns

‘INTERIM’ – post adoption of PS, prior to adoption of LPP		Post LPP	
(1)	Existing Commitments [see SP03]	(1)	Existing Commitments [see SP03]
(2)	Brownfield in Urban Footprint – “Windfall Sites” [see HOU01]	(2)	Brownfield in Urban Footprint – “Windfall Sites” [see HOU01]
(3)	Existing Area Plan Zoned land [see SP03 policy clarification]	(3)	Phase 1 sites (where required ¹) [see SP03]
<i>then</i>		<i>then</i>	
		(4)	Phase 2 sites [see SP03] * these will only be released for development where it can be demonstrated that (1) and (3) above will not meet the remainder of the housing need for the plan period. Full details of how Phase 2 will be released will be provided within the LPP.
<i>then</i>		<i>then</i>	
(4)	Greenfield Sites in Settlement – “Windfall Sites” [see HOU01] * planning permission will only be allowed for such sites where it can be demonstrated that existing commitments (1 above) will not meet the remainder of the housing need for the plan period and there is no evidence of the remaining housing need for the plan period being met through existing AP Zoned land (3). This will normally be assessed through Annual Housing Monitor.	(5)	Greenfield Sites in Settlement – “Windfall Sites” [see HOU01] * planning permission will only be allowed for such sites where it can be demonstrated that existing commitments (1 above) will not meet the remainder of the housing need for the plan period and there is no evidence of the remaining housing need being met through existing Phase 1 sites (3) or the early release of Phase 2 sites (4). This will normally be assessed through Annual Housing Monitor.

¹ At the time of the LPP, and for the Main or Local towns, where (1) and an allowance for (2) are greater than housing need no Phase 1 sites will be allocated.

TABLE 3 - SP03 (b) and HOU01 (b) – A sequential approach to the allocation of Land for Housing and approval on housing on Windfalls sites (brownfield and greenfield) in Villages and Small Settlements

‘INTERIM’ – post adoption of PS, prior to adoption of LPP		Post LPP	
(1)	Existing Commitments [see SP03]	(1)	Existing Commitments [see SP03]
(2)	Brownfield – “Windfall Sites” [see HOU01]	(2)	Brownfield – “Windfall Sites” [see HOU01]
<i>then</i>		(3)	Housing Policy Areas (where required ²) [see SP03]
<i>then</i>		<i>then</i>	
(3)	Greenfield Sites in Settlement – “Windfall Sites” [see HOU01] * planning permission will only be allowed for such sites where it can be demonstrated that existing commitments (1 above) will not meet the remainder of the housing need for the plan period. This will normally be assessed through Annual Housing Monitor.	(4)	Greenfield Sites in Settlement – “Windfall Sites” [see HOU01] * planning permission will only be allowed for such sites where it can be demonstrated that existing commitments (1 above) will not meet the remainder of the housing need for the plan period and there is no evidence of the remaining housing need being met through any Housing Policy Areas (3). This will normally be assessed through Annual Housing Monitor.

² At the time of the LPP, and for the Villages and Small Settlements, where (1) and an allowance for (2) are greater than housing need no Housing Policy Areas will be allocated.

Table 4: Definitions of Affordable Housing models in the Draft Plan Strategy, SPPS and DfC Consultation (June 2019). The main/significant differences are highlighted in red and under-lined.

	Draft Plan Strategy (Glossary)	SPPS (Glossary)	DfC Consultation (June 2019)
Affordable Housing	Comprises of Social Rented Housing and Intermediate Housing.	For the purposes of the SPPS, 'affordable housing' relates to social rented housing and intermediate housing.	<u>Affordable housing is housing provided for sale or rent outside of the general market, for those whose needs are not met by the market. Affordable housing which is funded by Government must remain affordable or, alternatively, there must be provision for the public subsidy to be repaid or recycled in the provision of new affordable housing.</u>
Social Rented	Housing provided at an affordable rent by a Registered Housing Association. Social rented accommodation should be available to households in housing need and is offered in accordance with the Common Selection Scheme, administered by the Northern Ireland Housing Executive, which prioritises households who are living in unsuitable or insecure accommodation.	Social Rented Housing is housing provided at an affordable rent by a Registered Housing Association; <u>that is, one which is registered and regulated by the Department for Social Development as a social housing provider.</u> Social rented accommodation should be available to households in housing need and is offered in accordance with the Common Selection Scheme, administered by the	Social Rented Housing in Northern Ireland is provided by a Registered Housing Association <u>or the Northern Ireland Housing Executive.</u> <u>Housing Associations are registered and regulated by the Department for Communities as a social housing provider. Social rents are provided at submarket rent levels.</u> Social rented accommodation should be available to households in

		Northern Ireland Housing Executive, which prioritises households who are living in unsuitable or insecure accommodation.	housing need and is offered in accordance with the Common Selection Scheme, administered by the Northern Ireland Housing Executive, which prioritises households who are living in unsuitable or insecure accommodation.
Intermediate / Other	<p>Consists of shared ownership housing provided through a Registered Housing Association and helps households who can afford a small mortgage, but that are not able to afford to buy a property outright. The property is split between part ownership by the householder and part social renting from the Registered Housing Association. The proportion of property ownership and renting can vary depending on householder circumstances and preferences.</p> <p>(NB: This effectively describes the <i>Shared Ownership Model</i>)</p>	<p>Intermediate Housing consists of shared ownership housing provided through a Registered Housing Association (e.g. the Co Ownership Housing Association) and helps households who can afford a small mortgage, but that are not able to afford to buy a property outright. The property is split between part ownership by the householder and part social renting from the Registered Housing Association. The proportion of property ownership and renting can vary depending on householder circumstances and preferences.</p> <p><u>This definition of intermediate housing used for the purpose of this</u></p>	<p>Shared ownership – shared ownership schemes are a cross between buying and renting; aimed mainly at first time buyers. Under these schemes, purchasers buy a share of their home with a mortgage. They then pay rent on the remaining share of the property, which is owned by the local housing association. The expectation is that over time shared owners will buy more shares in their home until they own the whole of the property. This process is often referred to as ‘staircasing’ to full ownership.</p> <p><u>Rent to Buy or Rent to Own – these schemes provide applicants with the opportunity</u></p>

		<p><u>policy may change over time to incorporate other forms of housing tenure below open market rates.</u> (NB: This effectively describes the <i>Shared Ownership Model</i>)</p>	<p><u>to rent a property for a specified period of time and then to purchase it, either through shared ownership or by straight sale with the aid of a more traditional mortgage product.</u> The main attraction or benefit of these schemes is that <u>properties are rented at reduced rates or provide a rent rebate to help households to save for a home deposit.</u></p> <p><u>Shared equity</u> – the terms <u>shared equity and shared ownership</u> are often used interchangeably but they are in fact <u>different products.</u> <u>Shared equity schemes typically allow homebuyers to combine a small deposit with a lower than average mortgage size by providing buyers with an ‘equity loan’, covering a percentage of the property’s value. It can be a quick way to boost the size of the buyer’s deposit and increase their chances of getting a good mortgage deal.</u></p> <p><u>Discounted market sales housing</u> – is</p>
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		<p><u>housing that is sold at below local market value. Eligibility is determined with regard to local incomes and local house prices. Homes sold under these schemes typically have a discount of around 20% and include provisions to remain at a discount for future eligible households.</u></p> <p><u>Affordable Rent products e.g. mid-market rent</u> – housing that is made available for rent at a cost lower than private market rent but higher than social rented housing rent. For example rent could be set around Local Housing Allowance or 20 per cent below local market value. This type of housing is deemed as being particularly well suited to Build to Rent Schemes.</p> <p><u>Low Cost Housing without subsidy</u> – housing that priced at or below the average house price for the council area, as reported by LPS Northern House Price Index Report and which</p>
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			<u>is provided without any Government funding and offered for outright sale.</u>
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Housing in the Countryside

Draft Policy HOU09 Rural Replacement Dwellings	
<p>The Council will support the replacement of an existing dwelling where the following criteria are met:</p> <p>a) The dwelling to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact;</p> <p>b) It is located within the curtilage surrounding the original dwelling. Exceptionally an alternative location in a position nearby may be acceptable where there is a demonstrable benefit in doing so; and,</p> <p>c) The replacement dwelling must not have a visual impact significantly greater than the existing building;</p> <p>Proposals involving the replacement of an unlisted vernacular dwelling will only be permitted where it is demonstrated that the building is structurally unsound and incapable of conversion or sympathetic refurbishment with adaptation. In such cases the design of the proposed dwelling must incorporate elements of the design and layout of the original vernacular dwelling and comply with criteria (a) - (c) above. For the purposes of this policy all references to ‘dwellings’ will include buildings previously used as dwellings.</p> <p>This policy will not apply where planning permission has previously been granted for a replacement dwelling and a condition was imposed restricting the future use of the original dwelling, or where the building is immune from enforcement action as a result of non-compliance with a condition to demolish.</p>	
<p><i>Ref:</i> DPS/051/04 DPS/109/05 DPS/113/13 DPS/115/21 DPS/252/05 DPS/254/02 DPS/267/05 DPS/271/11 DPS/277/07 DPS/317/105</p>	<p><i>Representative: (Main Issue)</i> Mc Aleer MLA (1) Begley MP (1) DfC (Historic Environment Division) (2,3,4,5) NIHE (Support) SSE Renewables (6, 7, 8, 9) Cllr Campbell (1) Cllr McCaffrey (10) Dalradian Gold Ltd (6, 7) National Trust (11) Dfl (12)</p>
<p>Main Issue 1: Remove the requirement for all external walls to be substantially intact. Replace this with 3 walls or 2 walls visible from critical points as proposed in HOU11. (DPS 51/04, 109/05, 254/02)</p>	
<p><i>Response:</i> The criterion within the draft policy reflect the regional strategic policy within the SPPS in relation to Replacement Dwellings. Draft policy HOU11 goes beyond the provisions of the SPPS and is subject to additional criterion as a result of this. It is</p>	

important that the differences between the policies are retained and applied as such.

Main Issue 2:

HED suggested correction: “The existing building is not suitable for conversion under policy HE09”. This policy could be omitted as it could be considered in conflict or create confusion with draft policy HE09 (unlisted vernacular dwellings). (DPS113/13)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.

It is very clear that replacement will only be permitted where the building is not capable of conversion in line with HE09. There is no conflict.

Main Issue 3:

Para 3.37 in its current form is to be omitted. (DPS/113/013)

Response:

Agree. Para 3.37 does appear to contradict the requirement that replacement...will only be permitted where the building is structurally unsound and incapable of conversion or sympathetic refurbishment with adaption. *Consider using wording similar to that in PPS21:*

“Where the replacement of an unlisted vernacular dwelling is considered acceptable in principle, the encouragement provided in this policy is to retain and incorporate the existing structure into the overall layout of the development scheme is intended to promote imaginative design solutions that will help retain a visual link with the past.

Main Issue 4:

Para 3.38 HED consider it would be prudent to remove the word curtilage as it has no exact legal definition and could lead to confusion. HED state this is incorrect and should be deleted. HED urge 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. Para 3.38 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. (DPS 113/013)

Response:

Para 3.41 of the plan provides the LDP definition for curtilage. No action required.

Considered in light of the amendment suggested under Main Issue 3 it is not considered necessary to amend para 3.38 as it will already have been clarified that “where the replacement of a vernacular building has been agreed in principle....”

Main Issue 5:

Para 3.39 – HED consider 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 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. (DPS/113/013)

Response:

The proposed tests relate to abandoned dwellings. This approach does not form part of the regional strategic approach set out within the SPPS. No amendments proposed.

Main Issue 6:

SSE Renewables and Dalradian Gold Ltd detail that the DPS refers to the development of replacement dwellings as an opportunity to upgrade housing stock whilst minimising landscape and visual impact, however no evidence or assessment has been provided to support this statement. Furthermore, applicants will not be required to submit a visual assessment of the development so it is difficult to understand how the policy will be monitored. (Reference is made to the requirement for other types of development such as wind energy to provide a landscape and visual appraisal.) (DPS 252/05 and 271/11)

Response:

Regional Strategic Policy in the SPPS provides for replacement dwellings. Existing dwellings to be replaced are a current commitment on the landscape and as such, their replacement with a dwelling which does not have a visual impact significantly greater than the existing building, will have minimal impact on the landscape. Assessment of the visual impact of all development in the countryside, including replacement dwellings, is a requirement for all planning applications.

The scale of wind energy proposals is not comparable to single dwellings, however it is considered that an LVIA would assist in the assessment of development proposals within the more sensitive landscapes within our District. This requirement has been reflected within policies L01 and L02.

Main Issue 7:

The Council has failed to consider how a policy for the reuse of existing dwellings aligns with the wider sustainability objectives focused on locating residential development within sustainable locations. (DPS 252/05, 271/11)

Response:

The RDS identifies the need to sustain rural communities, which is taken account of in the SPPS. Sustainable development is at the heart of the SPPS which includes a regional strategic policy for replacement dwellings. The dPS reflects the regional strategic policy in relation to replacement dwellings.

Main Issue 8:

SSE Renewables quote from the draft policy state that: for the purpose of ensuring alignment with the SPPS and PPS21, it should be clear within the policy that this opportunity to replace relates solely to residential properties where it can be demonstrated that the use has not been abandoned. (DPS 252/05)

Response:

The regional strategic policy for replacement dwellings does not bring forward abandonment as a policy test instead requiring that the building to be replaced exhibits the essential characteristics of a dwelling and, as a minimum, that all external structural walls are intact. Nor is abandonment a test within CTY3 of PPS 21. It is considered that draft policy HOU9 reflects the regional strategic policy within the SPPS and there is no requirement to add the additional test being suggested.

Main Issue 9:

Policy does not apply a restriction in sensitive location like that proposed for other forms of development within the dPS. No consideration has been given to the cumulative landscape and visual impact of single dwellings within sensitive locations or the impact on the delivery of services in those areas. (DPS 252/05)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered.

Development in the countryside, including residential development, will be managed through a series of policies which seek to sustain rural communities and whereby development can be integrated appropriately within the rural landscape. However, where there are exceptional landscapes, we have identified proposed Special Countryside Areas (SCAs). Within these areas, development will only be permitted in exceptional circumstances (Policy L02).

Main Issue 10:

Welcomes the policy as an opportunity to tidy up unsightly aspects of the countryside as well as helping to sustain rural communities. However, these buildings are almost exclusively owned by the farming community and will be retained by them for the use of their family. Under this draft policy the non-farming rural dweller, many of whom make a considerable contribution

to rural community life, are no closer to finding a policy that will allow them to develop a home in the community that they contribute to. (DPS 267/05)

Response:

Whilst the DPS can bring forward policies which seek to provide for both the farming and non-farming rural dweller it cannot control the ultimate end-user, with the exception of a dwelling approved under personal and domestic circumstances.

However, the dPS has sought to provide for additional opportunities for single houses in the countryside through the provision of a number of policies beyond those provided for within the SPPS. These seek to achieve sustainable forms of development within the countryside which propose the re-use or replacement of existing buildings or sites with services in line with the SPPS.

Main Issue 11:

Recommends an additional criterion: any proposed replacement should have no significant adverse effect on the character or appearance of the locality, or on the amenities of nearby residents or other land uses. (DPS 277/07)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered.

Main Issue 12:

Needs to take account of any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods. (DPS/317/105)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered.

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded, the Council is willing to amend the wording of the clarification in order to address issues raised within the representations as follows:

Para 3.37 be replaced with: *"Where the replacement of an unlisted vernacular dwelling is considered acceptable in principle, the encouragement provided in this policy is to retain and incorporate the existing structure into the overall layout of the development scheme is intended to promote imaginative design solutions that will help retain a visual link with the past.*

<p>Draft Policy HOU10 Replacement of Other Rural Buildings</p> <p>The Council will support the replacement of an intact redundant, non-residential building with a dwelling where the following criteria are met:</p> <ul style="list-style-type: none"> a) The existing building is not suitable for conversion under policy HE09; b) It would result in significant environmental benefits including visual amenity and positively contributing to the landscape setting of the site; c) The building is not a vernacular building which is capable of reuse and does not make an important contribution to the heritage, appearance or character of the area; d) There are existing services on site; e) The proposed dwelling does not create a visual impact which is significantly greater than that of the existing building; and, f) It is located within the curtilage of the building to be replaced; <p>The following types of buildings will not be permitted for replacement under this policy:</p> <ul style="list-style-type: none"> i) domestic ancillary buildings; ii) steel framed buildings designed for agricultural use; iii) a building of a temporary construction; and iv) a building formerly used for industry or business. <p>Buildings and their curtilage which are considered to have been purposely neglected to meet the policy tests will not be considered for replacement.</p> <p>Applicants must demonstrate that the lawful use is no longer viable.</p>	
<p><i>Ref:</i> DPS/113/14 DPS/115/22 DPS/267/06 DPS/277/08 DPS/317/07, 106</p>	<p><i>Representative: (Main Issue)</i> DfC (Historic Environment Division) (1, 2, 3) <i>NIHE (Support)</i> Cllr McCaffrey (4,) National Trust (1, 3) DfI (5, 6)</p>
<p><i>Main Issue 1:</i> HED consider that the policy does not take sufficient account of SPPS notably 6.67, 6.69 and 6.73 and representations made by HED from the evidence base provided to date. The National Trust state that the SPPS in its current form only allows for the replacement of existing dwellings. (DPS 113/14, 277/08)</p>	
<p><i>Response:</i> It is considered that whilst a policy for replacement of other dwellings is not set out within the residential development provisions of the SPPS, HOU10 does comply with the paragraphs referred to by HED. Para 6.67 sets out the role of planning and other environmental policies in facilitating sustainable development in the Countryside in a manner which is not at the expense of the natural or built</p>	

environment. As stated in para 1.5 the whole plan must be taken into account when assessing development proposals – this includes the relevant development and design, natural environment and historic environment policies.

Given the requirement within the SPPS that in bringing forward a strategy for the sustainable development in the countryside, together with appropriate policies and proposals that the Council must reflect the aims, objectives and policy approach of the SPPS, tailored to the *specific circumstances* (our emphasis) of the plan area, further examination of the information available was carried out to establish how the FODC area was different within the context of Northern Ireland or the our immediate neighbouring council areas.

In doing so, it has identified that Fermanagh and Omagh District Council differs significantly to others in relation to reduced levels of growth, geographical mass alongside resulting population density and the effectiveness of current planning policies in sustaining rural communities.

It is clear from planning approvals that the farming population of FODC are well provided for in terms of planning policy with farm dwellings accounting for 84.5% of approvals in the years 2012/13-2018/19. However, it is a concern that beyond this there is little provision for non-farming rural dwellers in a manner which would not be considered to impact negatively on rural character.

PPS21, CTY 3 states that “Favourable consideration will however be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise make an important contribution to the heritage, appearance or character of the locality.” Basing the policy on this approach results in significant environmental benefits to the site and provide development on a one for one basis; reusing both the site and existing services. This approach ensures reflects the status quo in terms of the landscape’s ability to absorb development with the benefit of significant environmental improvement.

As outlined above, dwellings yielded through conversions make up a very small percentage (0.43%) of the rural approvals in our District. Draft policy HE09 provides for conversion/re-use of locally important or vernacular buildings and conversion of these will always be the preferred choice for them unless demonstrated that they are not suitable for conversion or capable of re-use. There are, however, other non-vernacular-type rural buildings which may be suitable for replacement as a dwelling. Such buildings are already a visual commitment in the countryside and their replacement is more beneficial in sustainable development terms. However, a number of types of buildings are not suitable for replacement which have been incorporated into the draft policy as exclusions (i) to (iv). This means that the opportunities for replacement under this policy are likely to be somewhat limited.

Main Issue 2:

HED consider the policy ‘opening statement’ to be too loose and would allow an applicant/developer to ‘cherry-pick’ the items a) to f). Have concerns around the wording of items d) – all the applicant has to do is provide a

'service' to the site to enable a replacement to be supported. HED proposed the inclusion of the word 'all': '...where all the following criteria are met.' (DPS/ 113/14)

Response:

It is considered that the current wording requires that "the following criteria are met" is clear that permission will be granted where the criteria are met. It is considered that this would not allow for cherry-picking of criterion to meet.

However, it is acknowledged that there is some inconsistency between the use of the phrases "following criteria are met" and "all the following criteria are met" throughout the dPS which should be addressed.

Main Issue 3:

HED consider that criterion c) should be omitted as it is covered by item a) (the existing building is not suitable for conversion under policy HE09) of the draft policy. This is direct conflict in HE09 which seeks to preserve 'unlisted locally important buildings or vernacular buildings.' The National Trust refers to paragraph 6.1 of the SPPS as recognising vernacular buildings as a built heritage asset, and state that HOU10 is at odds with HE01. (DPS 113/14, 277/08)

Response:

There is no duplication. The policy is clear that it excludes those opportunities which are suitable for conversion under policy HE09 (criterion a), and also requires that the building is not a vernacular building which is capable of reuse and does not make an important contribution to the heritage, appearance or character of the area (criterion c). Criterion C actively seeks to protect local distinctiveness in seeking to maintain those buildings which make an important contribution to the heritage, appearance or character of the area which is consistent with HE policies.

Main Issue 4:

Welcomes the policy as an opportunity to tidy up unsightly aspects of the countryside as well as helping to sustain rural communities. However, these buildings are almost exclusively owned by the farming community and will be retained by them for the use of their family. Under this draft policy the non-farming rural dweller, many of whom make a considerable contribution to rural community life, are no closer to finding a policy that will allow them to develop a home in the community that they contribute to. (DPS/267/06)

Response:

Whilst the DPS can bring forward policies which seek to provide for both the farming and non-farming rural dweller it cannot control the ultimate end-user, with the exception of a dwelling approved under personal and domestic circumstances.

However, the dPS has sought to provide for additional opportunities for single houses in the countryside through the provision of a number of policies, beyond those provided for within the SPPS, which seek to achieve sustainable forms of development within the countryside which propose the re-use or replacement of existing buildings or sites with services in line with the SPPS.

Main Issue 5:

DfI notes the number of draft policies (HOU10, HOU11, HOU13 and HOU14) which provide additional opportunities for residential development in the countryside. Council has not presented any evidence or local justification in relation to the need for these additional opportunities. (DPS/ 317/07)

Response: Excerpt from Spatial Growth Strategy consideration below:

As outlined above, dwellings yielded through conversions make up a very small percentage of the rural approvals in our District. Draft policy HE09 provides for conversion/re-use of locally important or vernacular buildings and conversion of these will always be the preferred choice for them unless demonstrated that they are not suitable for conversion or capable of re-use. There are, however, other non-vernacular-type rural buildings which may be suitable for replacement as a dwelling. Such buildings are already a visual commitment in the countryside and their replacement is more beneficial in sustainable development terms. However, several types/uses of buildings are not suitable for replacement which have been incorporated into the draft policy as exclusions (i) to (iv). This means that the opportunities for replacement under this policy are likely to be quite limited.

Main Issue 6:

Needs to take account of any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods. (DPS/317/106)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered.

Conclusions: Overall the policy is considered to be sound

However, in order to ensure consistency of approach, a check should be carried out to align the use of the language, "following criteria are met" and "all the following criteria are met".

Draft Policy HOU11 Redevelopment of a former site for dwelling

The Council will support the redevelopment of a former dwelling for a dwelling where all the following criteria are met:

- a) evidence is submitted to demonstrate the previous residential use of the site;
 - b) the site has long established boundaries defining an existing curtilage which allows the resulting new dwelling to be integrated into the landscape.
- Where the size of the dwelling may be constrained by the size of the existing**

site, removal of established mature planting on the boundaries to facilitate the dwelling will not be permitted;
 c) there are a minimum of three external structural walls which are substantially intact, or where there are two external walls which are substantially intact and are visible from critical views from public vantage points; and,
 d) there are existing services on site.

This policy will not apply where planning permission has previously been granted for a replacement dwelling and a condition has been imposed restricting the future use of the original dwelling, or where the building is immune from enforcement action as a result of non-compliance with a condition to demolish.

<p><i>Ref:</i> DPS/113/15 DPS/115/23 DPS/252/07 DPS/267/07 DPS/271/12 DPS/277/09 DPS/317/08/37</p>	<p><i>Representative:</i> DfC (Historic Environment Division) (1, 2, 3) NIHE (<i>Support</i>) SSE Renewables (4) Cllr McCaffrey (5) Dalradian (4) National Trust (4) DfI (4, 6)</p>
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Main Issue 1:
HED consider that the policy effects on unrecorded heritage assets, such as farmsteads and abandoned settlements depicted on historic map editions and which have informed the character of the landscape, are potentially negative. Express concerns in relation to the following:
Criterion b) may lead to pre-emptive removal of mature boundaries in advance of applying for planning permission;
Criterion d) the pre-emptive laying of services, for example, in advance of applying for planning permission;
Criterion c) reduces the need for all structural walls to be intact (as per HOU09). This is in direct conflict with HOU09 and will lead to confusion. (DPS 113/15)

Response:
 As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered.

HOU11 provides for the replacement of a less substantially intact building than HOU09 however this is based on further, more stringent criteria. Criteria B requires that the site has long established boundaries defining an existing curtilage. Removal as suggested by HED would mean that the proposal could not meet the policy requirement, and as such would not achieve planning permission. The services within the site have to be in relation to the existing building. HED's analysis in relation to criterion c) is correct.

Main Issue 2:

HED consider the policy to be unclear as it does not take sufficient account of the 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. (DPS 113/15)

Response:

The paragraphs referenced relate to achieving sustainable development. The draft plan strategy has been subject to a Sustainability Appraisal which aims to assess the policies and proposals with the aim of achieving of sustainable development. All three pillars of sustainable development must be balanced against each other in the planning for and management of development.

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered.

Main Issue 3:

HED suggest draft policy could be omitted as its criteria are already met within draft policies HE09, HOU08, HOU09 and HOU10 or it will create confusion or be used in direct conflict with these policies. (DPS 113/15)

Response:

Do not agree with HED's recommendation. HOU09 contains policy tests not included within other policies and provides for development that would not otherwise be permitted by the Plan.

Main Issue 4:

The National Trust, SSE and DFI Strategic Planning note that the SPPS does not make provision for this type of development and the policy remains untested in practice. Policy could lead to an excessive number of new houses across the countryside, including the AONB, which would negatively impact on rural landscape. Furthermore it is unclear whether evidence is available in relation to the need for this policy or the potential applications that could come forward under this draft policy. On face value this policy provides that abandoned dwellings throughout the district could be reused. (DPS 252/07,271/12, 277/09 and 317/08)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered.

Analysis of the planning approvals for residential development in the countryside has identified that the majority of approvals are for a dwelling on a farm. It also

identified that the current policy provisions in relation to dwellings in an existing cluster do not provide meaningfully for FODC.

With this in mind, other alternative policy approaches which are judged to result in sustainable forms of development, and which take account of both the SPPS and the specific circumstances of the plan area, have been identified.

The policy approach for HOU11 includes the requirements for existing services at the site and addresses the potential adverse impact on rural amenity and landscape by limiting the size of the replacement dwelling to being not significantly greater than the existing building. It replicates those elements of the reuse of buildings that the SPPS cites as sustainable forms of development at para 6.69.

PPS 21 nor the regional strategic policy set out within paragraph 6.73 of the SPPS require that replacement dwellings have not been abandoned. Therefore, there is no requirement for the dPS to carry this test forward.

Main Issue 5:

Welcomes the policy as an opportunity to tidy up unsightly aspects of the countryside as well as helping to sustain rural communities. However, these buildings are almost exclusively owned by the farming community and will be retained by them for the use of their family. Under this draft policy the non-farming rural dweller, many of whom make a considerable contribution to rural community life, are no closer to finding a policy that will allow them to develop a home in the community that they contribute to. (DPS 267/07)

Response:

Whilst the dPS can bring forward policies which seek to provide for both the farming and non-farming rural dweller it cannot control the ultimate end-user, with the exception of a dwelling approved under personal and domestic circumstances.

However, the dPS has sought to provide for additional opportunities for single houses in the countryside through the provision of a number of policies, beyond those provided for within the SPPS, which seek to achieve sustainable forms of development within the countryside which propose the re-use or replacement of existing buildings or sites with services in line with the SPPS.

Main Issue 6:

DfI Roads indicate that HOU11 needs to take account of: “any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods.” (DPS 317/37)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.

Conclusions:
 The policy is considered to be sound. However, a drafting error has been noticed within the first sentence of the policy which should be corrected as follows: “*The Council will support the replacement of a former site for a dwelling where all the following criteria are met...*” N.B. replacement of dwelling with site.

Draft Policy HOU12 Dwelling on a Farm Business	
<p>The Council will support applications for a new dwelling on a farm business which is currently active and has been established for a minimum of 6 years. The site for the new dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding unless the farm activities would significantly affect the amenity of the new dwelling or there are verifiable plans to expand the farm and there are no alternative sites at another farm group on the farm. In these cases, the new building must be located on a site which is as close as possible to the existing group of buildings and which visually integrates into the landscape.</p> <p>A new dwelling for the farm business will only be granted once every 10 years. No dwellings or development opportunities shall have been sold off or transferred from the farm holding within 10 years of the date of the application.</p>	
<p><i>Ref:</i> DPS/051/05, 12 DPS/109/06 DPS/115/24 DPS/134/05 DPS/254/03 DPS/265/08 DPS/317/77/107</p>	<p><i>Representative: (Main Issue)</i> Mc Alear MLA (1) Begley MP (1) NIHE (Support) (2) Cllr Greene (1) Cllr Campbell (1) Dolan MLA (1) Dfl (3, 4)</p>
<p><i>Main Issue 1:</i> Requirement to be active farm for 6 years is too prohibitive. Changing this to 3 years would reduce this prohibition and would deter potential applicants from setting up a farm business solely for the purpose of securing planning permission. Farming is a very fluid and volatile business and many transactions such as conacre and purchases are conducted informally. This should be recognised and flexibility given on requirement for ‘full accounts’ and other evidence such as herd and flock records should be accepted as supporting evidence of farm activity. (DPS 51/05, 12, 109/06, 134/05 and 254/03, 265/08).</p>	
<p><i>Response:</i> The SPPS stipulates that: The farm business must be currently active and have been established for a minimum of 6 years...”. There is no evidence to support an alternative reduced period within draft policy, nor any basis or foundation to accept other ‘supporting evidence’ as suggested within the representation.</p>	

<p>Main Issue 2: NIHE supports policies which allow development at an appropriate scale and can help promote sustainable rural communities. (DPS 115/24)</p>
<p><i>Response:</i> No comment.</p>
<p>Main Issue 3: Dfl notes the definition of “sold-off” excludes the sub-division of a business amongst family members or the gifting of a site to a family member. (DPS 317/77)</p>
<p><i>Response:</i> No comment.</p>
<p>Main Issue 4: Dwelling on a farm business, needs to take account of: "and where practicable access to the dwelling should be obtained from an existing lane." (DPS/317/107)</p>
<p><i>Response:</i> This test is not included within the regional strategic policy set out within the SPPS.</p> <p>As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.</p>
<p><i>Conclusions:</i> The policy is considered to be sound. No amendments required.</p>

<p>Draft Policy HOU13 - Dwelling in association with the keeping and breeding of horses for commercial purposes.</p>
<p>The Council will support applications for a dwelling in association with the keeping and breeding of horses for commercial purposes where it has been demonstrated that all the following criteria can be met:</p> <ul style="list-style-type: none"> a) the development is essential and could not be located within a settlement; b) the applicant has been keeping and breeding horses for a minimum of 6 years; and, c) the applicant’s keeping and breeding of horses constitutes a commercial enterprise. <p>The keeping of horses and/or ponies for hobby purposes will not satisfy the requirements of this policy.</p>

<p><i>Ref:</i> DPS/115/25 DPS/252/08 DPS/271/13 DPS/317/09</p>	<p><i>Representative:</i> NIHE SSE Renewables (1) Dalradian (1) Dfl (1)</p>
<p>Main Issue:</p> <p>1. Dfl, SSE and Dalradian note that there is no policy provision within the SPPS for the keeping and breeding of horses for commercial purposes. It is not clear why the council are seeking to introduce this policy. Dfl state this could conceivably result in a significant and sustained increase in the number of additional dwellings in the countryside. (DPS 252/08, 271/13, 317/09)</p>	
<p><i>Response to Main Issue 1: Excerpt from Spatial Growth Strategy Topic Paper</i></p> <p>Currently under CTY 10 Dwellings on Farms in PPS 21, a proposal for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will also be assessed under the criteria set out within it. However, the Planning Appeals Commission in an appeal decision 2016/A0233 for a Dwelling on a farm pointed out that the keeping and breeding of horses for commercial purposes is a non-agricultural activity for which the proper term is an equine business. In light of this, and in addition to the fact that Dfl did not challenge this decision; thereby indicating they had no issue with this approach, the Council considered this activity should be given its own separate policy and excluded from draft policy HOU12 Dwelling on a Farm Business. The criteria remain the same as applied under CTY 10 and so this is not viewed as a new policy which would lead to additional development opportunities</p>	
<p><i>Conclusions:</i> The policy is sound.</p>	

Draft Policy HOU14 – Rounding off and Infilling

1. **The development of a new dwelling as a rounding off will be permitted where all the following criteria are met:**
 - a) **The proposed dwelling will result in the rounding off of a gap within an existing group of buildings which are sited outside a farm;**
 - b) **The existing group of buildings appears as a focal point at a junction of roads or on the landscape when viewed from a public vantage point;**
 - c) **The proposed dwelling is visually linked with an existing group of buildings constituting a minimum number of 3 buildings;**
 - d) **The site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;**
 - e) **The proposed dwelling does not result in the coalescence of two visually distinct groups of buildings;**

- f) The proposed development can be absorbed into the existing cluster
- g) through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;
- h) The proposal will not create or add to a ribbon development; and,
- i) The proposed development will not result in any further development opportunities.

2. Infilling will be permitted within a line of buildings where the proposed site is a small gap suitable to accommodate only one dwelling within an otherwise substantial and continuously built up frontage which will not detract from the rural character. For the purposes of this policy, a substantial and continuously built up frontage is a line of at least 3 buildings, each with their own defined curtilage.

Permission will not be granted where the proposed site is an important visual break between existing buildings on the landscape, or where the proposed development will result in a suburban style of build-up of development when viewed with existing and approved buildings.

<p><i>Ref:</i> DPS/51/06 DPS/108/03 DPS/109/07 DPS/115/26 DPS/139/01 DPS/254/04 DPS/265/09 DPS/267/08 DP/ 317/10 & 38</p>	<p><i>Representative:</i> Mc Aleer MLA (1) Mc Nally (2, 3) Begley MP (1, 2) NIHE (<i>Support</i>) O Neill (2, 4, 5, 6, 7) Cllr Campbell (1, 2, 3) Dolan MLA (3) Cllr McCaffrey (2) Dfl (8)</p>
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Main Issue 1:
Existing clusters are the product of previous planning policies, emerging from families building beside the family home. There is not always an obvious focal point such as a crossroad so a new policy should accept that clusters exist and remove the requirement of a focal point. In many cases the focal point is the family home. (DPS 51/06, 109/07, 254/04)

Response:
 The SPSS sets out the regional strategic policy for new dwellings in an existing cluster and identifies that the existing cluster should appear as a visual entity in the landscape and associated with a focal point. Whilst the SPSS does not define a focal point, criterion b) states that the existing group of buildings appears as a focal point at the junction of roads or on the landscape when viewed from a public vantage point.

Main Issue 2:

This gap should be retained as one that could facilitate a maximum of 2 sites. (DPS 51, 108). A reduction to one dwelling would reduce the opportunity for those living in rural areas to continue to do so. Radical change in policy will lead to confusion for people whose sites have already been approved but where building has not yet commenced and could a current approved infill site be renewed in future? Proposed change will result in a substantial loss of opportunity to build in the rural area. (DPS 51/06, 108/03, 109/07, 139/01, 254/04, 267/08)

Response:

The policy change will have no impact on the implementation of an extant planning approval. Any application to renew planning permission would be assessed against the relevant planning policy at that time.

At the time of the formulation of the Draft Plan Strategy, the Council identified infill as being a policy which delivers approvals for housing in the countryside whilst also recognising that it had the potential impact on the rural character of the district. It was previously held that by limiting the policy to accommodate only one dwelling within an otherwise substantial and continuously built up frontage would work to minimise the impact of infill dwellings on the rural character of Fermanagh and Omagh. In particular, the potential for ribbon development is considered to be both damaging to rural character and an unsustainable form of development. However, the Council reviewed its position in light of the representations received and resolved to revert to two dwellings in a small gap as is currently provided for under PPS21.

Main Issue 3:

Questions the need for each of the three buildings to have their own defined curtilage. This is another way of saying the 3 buildings must be dwellings – it is very unlikely that a garage sited adjacent to a dwelling will have its own defined curtilage, separate from the dwelling. (DPS 108/03, 254/04, 265/09)

Response:

This comment relates to infilling. The purpose of requiring that each of the 3 buildings having their own defined curtilage is to prevent the use of ancillary domestic buildings as a 'building' in its own right, thereby resulting in the use of a domestic grouping as justification for an infill dwelling. In order to protect rural character it is necessary to limit this provision to gaps which exist in a substantial and continuous built up frontage in a line of 3 dwellings, each with their own curtilage. In particular, the potential for ribbon development is considered to be both damaging to rural character and an unsustainable form of development. In bringing forward additional policies for single houses in the countryside, beyond those provided for within the SPPS, it is also recognised that there is a need to balance the number of resulting approvals with the dPS spatial growth strategy and its allocation to housing in the countryside.

Main Issue 4:

Understands that the policy was not agreed by local Councillors. (DPS 139/01)

<p><i>Response:</i> The Draft Plan Strategy was agreed by a Special Regeneration and Community Committee (a meeting of the full Council) on 18th September 2018. All members of the Council were afforded the opportunity to attend various workshops and meetings in relation to the LDP Draft Plan Strategy.</p>
<p><i>Main Issue 5:</i> Planning case law has been established through the PACNI and FODC and questions the need to change it. (DPS 139/01)</p>
<p><i>Response:</i> Planning law is established through legislation and legal decisions. The Local Development Plan will provide the policies for decision making within the plan period.</p>
<p><i>Main Issue 6:</i> Planners have countered Mr O'Neill's argument by saying that draft policy HOU11 will allow for development in the rural area. The policy tests within HOU11 are very severe. (DPS 139/01)</p>
<p><i>Response:</i> The Council identified infill as being a policy which delivers approvals for housing in the countryside whilst recognising that it had the potential to impact on the rural character of the district. In particular, the potential for ribbon development is considered to be both damaging to rural character and an unsustainable form of development. In order to minimise this impact the decision was taken to look to other opportunities within the district where there was already a building and/or services on a site in order to facilitate what is considered to be a sustainable approach to development in the countryside.</p> <p>This approach is considered to be in line with Regional Strategic Policy, para 6.69 of the SPPS.</p>
<p><i>Main Issue 7:</i> Suggest that the wording of CTY8 be replicated. (DPS 139/01)</p>
<p><i>Response:</i> Given the position taken by the Council as set out in Issue 6 it would be inappropriate for the Council to replicate the detail of CTY8.</p>
<p><i>Main Issue 8:</i> Dfl express concerns, that whilst the policy appears to take account of the SPPS, it has significantly looser policy tests e.g. 'the existing group appears as a focal point at a junction of roads...' as opposed to be associated with a focal point –not defined in SPPS '...or on the landscape when viewed from a public vantage point' (which is subjective). Additionally, Dfl raise the concern that an existing group is defined as three buildings which could create opportunities for additional dwellings in the countryside, particularly as a building is defined in the draft policy as permanent structure with a roof</p>

and walls. This could potentially include domestic garages, ancillary building and sheds. This policy could have a significant impact on the number of new dwellings in the countryside and therefore the overall housing for the district. (DPS 317/38)

There is firm evidence that the existing policy provision in relation to dwellings within an existing cluster is not achieving any meaningful number of permissions within the District. In the period 2012/2019 a total of 8 approvals were granted under dwellings in an existing cluster; this accounts for less than 1.72% of approvals for single houses in the countryside. In consideration of this it is appropriate to tailor the policy to the specific circumstances of the plan area which is recognition of a rural area which is dominated by land which lies within farmland.

In reconsidering Policy HOU14 in the context of the representation from DfI it is considered that valid concerns have been identified by DfI citing that an existing group is defined as a minimum of three buildings which could create opportunities for additional dwellings in the countryside, particularly given the definition of building provided. An example is given by DfI of a cluster with a single dwelling, garage and a shed.

It is considered that the policy should be amended to stipulate that the proposed dwelling is visually linked with an existing group of buildings constituting a minimum number of 4 buildings, 3 of which must be dwellings. Additionally, consideration should also be given to referencing "each with their own defined curtilage."

Conclusions: If the Commissioner is so minded, the Council would suggest the following minor contextual change to the policy at criteria (c)

The development of a new dwelling as a rounding off will be permitted where all the following criteria are met:

- a) **The proposed dwelling will result in the rounding off of a gap within an existing group of buildings which are sited outside a farm;**
- b) **The existing group of buildings appears as a focal point at a junction of roads or on the landscape when viewed from a public vantage point;**
- c) **The proposed dwelling is visually linked with an existing group of buildings constituting a minimum number of 4 buildings, 3 of which must be dwellings each within their own defined curtilage;**
- d) **The site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;**
- e) **The proposed dwelling does not result in the coalescence of two visually distinct groups of buildings;**
- f) **The proposed development can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;**
- g) **The proposal will not create or add to a ribbon development; and,**
- h) **The proposed development will not result in any further development opportunities.**

2. Infilling will be permitted within a line of buildings where the proposed site is a small gap suitable to accommodate only two dwellings within an otherwise substantial and continuously built up frontage which will not

detract from the rural character. For the purposes of this policy, a substantial and continuously built up frontage is a line of at least 3 buildings, each with their own defined curtilage.

Permission will not be granted where the proposed site is an important visual break between existing buildings on the landscape, or where the proposed development will result in a suburban style of build-up of development when viewed with existing and approved buildings.

Draft Policy HOU 15 - Dwelling to serve a Non-agricultural business

The Council will support a development proposal for a new dwelling in connection with an established non-agricultural business, located beside or within the boundaries of the business enterprise, where:

- a) it is demonstrated that there is a site specific need that makes it essential for an employee to live at the site of their work;
- b) there are no alternative development opportunities available under any other policy; and,
- c) there are no reasonable alternative solutions to meet the particular circumstances of the case.

Planning permission granted under this policy will be subject to a condition restricting occupation of the dwelling for the use of the business.

<p><i>Ref:</i> DPS/008/01 DPS/115/27 DPS/252/09 DPS/271/14</p>	<p><i>Representative: (Main Issue)</i> Knock Community Association (1) <i>NIHE (Support)</i> SSE Renewables (2) Dalradian Gold Ltd (2)</p>
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Main Issue 1:
Whilst the policy is referenced under relevant policy within the representations form, no specific reference or comment is made in relation to HOU15. (DPS/008/01)

Response:
No comment.

Main Issue 2:
This policy does not align with the policy provisions of the SPPS, which does not include such a policy requirement, nor does the SPPS identify that the LDP should include policies for such purposes. Furthermore, the dPS does not provide evidence to support this policy. (DPS 252/09, 271/14)

Response:
SPPS Regional Strategic Policy for Residential Development in the Countryside provides a number of policies including that for Dwellings for non-agricultural enterprises. The SPPS states: provision should be made for a new dwelling in connection with an established non-agricultural business enterprise. A site-specific need must exist that makes it essential for an employee of the business to live at the site of their work.

It is considered that draft policy HOU15 not only aligns with the SPPS but it seeks compliance with additional policy criteria beyond those set out within the SPPS.	
<i>Conclusions:</i> The policy is sound. No amendments required.	
Draft Policy HOU16 Personal and Domestic Circumstances	
<p>Development proposals for a new dwelling to provide for the long-term needs of an individual, where there are no alternative development opportunities available under any other policy and where there are compelling and site specific, personal or domestic circumstances, will be permitted providing the following criteria are met:</p> <p>a) The applicant can provide satisfactory evidence that separate accommodation is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.</p> <p>All permission granted under this policy will be subject to a condition restricting the occupation of the dwelling to a named individual and their dependents.</p>	
<i>Ref:</i> DPS/115/28	<i>Representative: (Main Issue)</i> Support
Issues Raised: None	

Draft Policy HOU17 Affordable Housing in the Countryside	
<p>Development proposals for a group of no more than 6 dwellings adjacent to or near a village or small settlement to provide affordable housing to meet the needs of the rural community will be permitted where:</p> <ul style="list-style-type: none"> • the application is made by a registered Housing Association or a formally constituted Rural Development /Community Association registered with the Charities Commission and on the Council register for a minimum of 3 years; and • a demonstrable need has been identified which cannot readily be met within an existing settlement in the locality. <p>In assessing the acceptability of sites outside a village or small settlement, the following sequential test in terms of location will be applied:</p> <p>a) land adjacent to the existing settlement limit, subject to amenity and environmental considerations;</p> <p>b) a site close to the settlement limits which currently contains buildings or where the site is already in a degraded or derelict state and there is an opportunity to improve the environment;</p> <p>c) an undeveloped site in close proximity to the settlement where the development could be visually integrated into the landscape;</p> <p>d) a site within a Rural Community Area.</p>	
<i>Ref:</i> DPS/008/02	<i>Representative: (Main Issue)</i> Knock Community Association (1)

<p>DPS/48/04 DPS/50/02 DPS/51/07 DPS/99/02 DPS/109/08 DPS/115/29 DPS/123/02 DPS/124/02 DPS/236/02 DPS/237/02 DPS/254/05 DPS/269/02 DPS/292/03 DPS/294/03 DPS/317/39, 108 DSO/249/05</p>	<p>Translink (1) Coa Community Group (2) Mc Aleer MLA (3) CoOwnership (Support) Begley (3) NIHE(4, 5) Aughakillymaude Community Association (2) Boho Womens Group (2) Fermanagh Rural Community Network (2) Killyfole and District DA (2) Cllr Campbell (3) Cooneen CDA (2) Boho Community Association (2) Public Interest Group (2) Department for Infrastructure (6, 7) Department for Communities (8)</p>
<p>Main Issue 1: Whilst the policy is referenced under relevant policy within the representations form no specific reference or comment is made in relation to HOU17. (DPS 08/02, 48/04)</p>	
<p><i>Response:</i> No comment.</p>	
<p>Main Issue 2: Highlight aging population in the District as identified in the Community Plan. Recommend that to address this, in terms of care and social interaction, is through ensuring the DRC's remain designated e.g. housing such as rural association homes close to aging relatives and community facilities. (DPS 50/02, 123/02, 124,02, 236/02, 237/02, 269/02, 292/03, 294/03, 04)</p>	
<p><i>Response:</i> Whilst the community plan confirms that the District has an aging population and the DPS accepts that there is a need to address such needs within DE02 no evidence has been presented to demonstrate that there is such a need within the areas identified as DRCs within the Fermanagh Area Plan. It is therefore considered reasonable to reflect the regional strategic policies within the SPPS which stipulates that where a need has been addressed it should be adjacent to or nearby a small settlement.</p>	
<p>Main Issue 3: Agree that a proposed site should be located at a focal point such as a school, hall or community facility. Crossroads should be added to this as many of the focal points listed are in areas that are already designated as villages or hamlets. (DPS 051/07, 109/08, 254/05)</p>	
<p><i>Response:</i></p>	

There is no evidence provided in respect of the need to support providing affordable housing at cross-roads in the countryside. Additionally, such a provision would have the potential to have a significant impact on the number of approvals for single houses in the countryside thereby impacting on the Spatial Growth Strategy for the dPS.

Main Issue 4:

NIHE welcome the draft policy. Suggest removal of limit to 6 dwellings. This should be higher in order to allow for economies of scale. DfI note that affordable housing will be permitted where the application is made by a registered Housing Association or a Rural Development/Community Association, providing more opportunities than those provided for within the SPPS and it is unclear which groups could avail of this development opportunity under this policy. Also notes that the sequential test allows for up to six houses within a Rural Community Area although draft policy RCA01 makes no reference to affordable housing within a Rural Community Area. (DPS/115/29)

Response:

The policy requires that there is a demonstrated need which cannot be readily met within an existing settlement hierarchy.

It is accepted that economies of scale must come into consideration and therefore it is recommended that consideration be given to increase the number from 6 to 8 in agreement with the NIHE. This will require that the need for the increased number of affordable units be demonstrated.

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered. RCAs are only mentioned here as they form part of a test within the HOU17.

Main Issue 5:

NIHE express concern in relation to the first bullet point. Currently affordable housing can only be delivered by, or draw Housing Association grant funding, if it is a Registered Housing Association with DfC. Registered Housing Associations allocate houses to eligible households who are in the greatest housing need. While the intention of this policy may be to allow a Community Land Trust to provide affordable housing, we have previously received legal advice stating that the use of such a concept in Northern Ireland would require either specific enabling legislation, or modification of existing land law (the Property Order 1997 & Leasehold (Enlargements and Extensions) Act 1971). (DPS/115/29)

Response:

. **FODC's legal team has reviewed the legal advice provided to the NIHE and would advise that the legal position of the NIHE is correct. In consideration of this

HOU17 should be amended at first bullet point as follows: “the application is made by a registered Housing Association.”

Main Issue 6:

DfI states the policy needs to take account of accessibility in terms of walking, cycling and public transport. (DPS/317/108)

Response:

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.

Main Issue 7:

Notes that affordable housing will be permitted where the application is made by a registered Housing Association or a 'Rural Development/Community Association'. This provides additional opportunities that those already provided within the SPPS and it is unclear which groups could avail of this development opportunity. Also notes that the sequential test for site selection allows for groups of up to six affordable houses within a 'Rural Community Area' although draft policy RCA makes no reference to affordable housing in an RCA. (DPS/317/39)

Response:

As per main issue 5 it is proposed to remove the reference to Rural Development/Community Association.

As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.

Main Issue 8:

HOU17 limits the provision of “affordable housing” to registered Housing Associations. The Department suggests that it would be prudent to future proof the Draft Plan Strategy by removing this limitation given that the Department is planning a review of the definition of affordable housing, which could encompass a broader definition of intermediate house. As such, the plan should allow flexibility in this regard. (DSO/249/05)

Response:

FODC is guided by the SPPS in relation to affordable housing. With annual monitoring, the operational effectiveness of the policies will be kept under review with the opportunity of a full review at the end of the first 5 years from the Plan’s adoption.

Conclusions:

The policy is considered to be sound. However, references to community associations should be removed and the number of dwellings in a group increased to 8, with the amended policy to read as follows:

Development proposals for a group of no more than 8 dwellings adjacent to or near a village or small settlement to provide affordable housing to meet the needs of the rural community will be permitted where:

- the application is made by a registered Housing Association; and
- a demonstrable need has been identified which cannot readily be met within an existing settlement in the locality.

In assessing the acceptability of sites outside a village or small settlement, the following sequential test in terms of location will be applied:

- a) land adjacent to the existing settlement limit, subject to amenity and environmental considerations;
- b) a site close to the settlement limits which currently contains buildings or where the site is already in a degraded or derelict state and there is an opportunity to improve the environment;
- c) an undeveloped site in close proximity to the settlement where the development could be visually integrated into the landscape;
- d) a site within a Rural Community Area,

Draft Policy HOU18 Residential Caravans and Mobile Homes

Exceptionally planning applications for a residential caravan or mobile home will be permitted, for a temporary period only, pending the development of an approved permanent dwelling or to provide for the needs of an individual (and their dependents) in conjunction with Policy HOU16 – Personal and Domestic Circumstances.

All permissions will be subject to a three-year time limit. Planning permission will not be granted for a permanently sited residential caravan or mobile home in the countryside except where it complies with Policy HOU04 Traveller Accommodation.

<i>Ref:</i> DPS/051/08 DPS/265/10	<i>Representative: (Main Issue)</i> Mc Aleer MLA (1) Dolan MLA (1)
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Main Issue 1:

When relating to personal and domestic circumstances, these can be life long and requiring the applicant to reapply for permission every 3 years on top of other challenges such their annual PIP assessments would be an additional burden. The 3 years should be extended to 5 years or guided by the prognosis from the applicants GP or other relevant health professional. (DPS/051/08, DPS/265/10)

Response:

A three-year time limit is considered to be appropriate and in line with current practice, with provision available for temporary approval to be extended by further application. A period of five years would bring what is a temporary approval in line with the legal period for lawful development.

Conclusions: The policy is sound.

Community Facilities

Draft Policy CF01 – Community Facilities

Development of new or enhanced community facilities will be permitted where there is a clear community need for such a facility and they:

- a) are appropriate in scale to the needs of the local community and reflect the character of the location; and
- b) are located within the settlement or within the area they serve.

Protection of community facilities

Proposals involving a change of use or redevelopment of an existing community facility for a non-community use will only be supported where it can be demonstrated that the building is no longer needed and is not economically viable for an alternative community use.

Ref:
DPS/0317/40

Representative: (Main Issue)
DfI Strategic Planning Directorate

Main Issue 1:

1. **The draft policy as written could give rise to opportunities within the countryside which would not align with strategic policy as the wording “within the area they serve” is ambiguous and open to a range of localities. Where the policy allows for a change of use or redevelopment of an existing community facility for a non-community use, this is not defined and could open up opportunities for unacceptable types of use or development both within the countryside and within settlement limits.**

Response:

The Council accepts that the draft policy as written is ambiguous and it was not the intention to permit a range of community uses in the countryside. The majority of community uses should be located within a settlement. However, the exception to this would be a community facility such as a community hall associated with a Rural Community Area (Draft Policy RCA01). The Council would suggest that within the countryside, where a community use is no longer economically viable, acceptable alternative uses should be limited to non-residential uses appropriate to its countryside location in accordance with other policies in the Plan.

Conclusions:

In view of the comments raised, the Council would accept that there is a need to improve the wording of the policy and a suggested amended wording (shown in italics) - if the Commissioner is willing to consider at IE - is offered as follows:

“Development of new or enhanced community facilities will be permitted *within a settlement or, in association with a Rural Community Area*, where there is a clear community need for such a facility and they are appropriate in scale to the needs of the local community and reflect the character of the location.

In the case of a facility in association with an RCA, the use will be limited to a community hall only.

Protection of Community Facilities

Proposals involving a change of use or redevelopment of an existing community facility for a non-community use will only be supported where it can be demonstrated that:

- a) the building is no longer needed and is not economically viable for an alternative community use, and
- b) *the alternative use is compatible with surrounding uses.*

In the countryside, acceptable alternative uses will be limited to those where the nature and scale of the proposed use is non-residential and would be appropriate to its countryside location in accordance with other policies in the Plan.

Open Space, Sport and Recreation

Draft Policy OSR01 – Protection of Open Space	
<p>The Council will only support the loss of existing or future open space to alternative uses in the following circumstances:</p> <ol style="list-style-type: none"> a) where it is demonstrated that the proposal will bring substantial community benefits that outweigh the loss of the open space; or b) where it is demonstrated that there will be no significant detrimental impact on amenity, character or biodiversity of an area and either: <ul style="list-style-type: none"> • for an area of open space which is 2 hectares in size or less, alternative provision is made by the developer which is at least as accessible to current users and at least equivalent in terms of size, usefulness, attractiveness, safety and quality; or • the retention and enhancement of existing playing fields and sports pitches within a settlement can only be achieved by the development of an area, not more than 10% of the overall area, and there is no adverse impact on the functional provision of the facility or overall amenity value of the open space. This exception can only be exercised once. 	
<p><i>Ref:</i> DPS/115/30 DPS/277/10 DPS/317/41</p>	<p><i>Representative: (Main Issue)</i> NIHE (3) National Trust (1) Department for Infrastructure (2)</p>
<p><i>Main Issue 1:</i> Paragraph 6.205 of the SPPS states that there will be a policy presumption against the loss of open space to competing land uses in local plans irrespective of its physical condition and appearance. Any exception to this general approach should only be appropriate where it is demonstrated that redevelopment would bring substantial community benefit that outweighs the loss; or where it is demonstrated that the loss of open space will have no significant detrimental impact.</p> <p>To be consistent with government advice and make the policy effective in protecting open space, Policy OSR01 should explicitly state a general presumption against the loss of open space and any development resulting in the loss of open space will only be considered in exceptional circumstances. The Council will only support ‘in a number of circumstances’ approach is less robust. The policy headnote should also explicitly point out that the presumption against the loss of existing open space will apply irrespective of its physical condition or appearance as per government advice. (DPS/277/10)</p>	
<p><i>Response:</i> The first paragraph of this issue refers to the SPPS. Policy OSR01 does reinforce the SPPS rationale of preserving open space, by stating that the ‘Council will only</p>	

support the loss of existing or future open space to alternative uses' in very specific circumstances, detailed in policy OSR01 points (a) and (b).

The draft policy, whilst not specifying the land quality of the open space sites to be examined, does therefore have the overarching presumption against loss of this land. This potentially allows for the possibility of substituting land zoned as open space, which has been left under-utilised or vacant for years and in a substandard condition, for maintained alternative sites which could provide open space or recreational activities for residents.

A recent study by FODC has determined that there is a surplus of recreation and open space land available in the district therefore perhaps the focus could be to try and preserve the quality land which is available and provide up to date services and access to additional land for similar purposes, without losing the overall quantum of land which has been zoned for this purpose.

That said, the prevailing policy within SPPS (and previous guidance within PPS8) both explicitly maintained that there was a presumption against loss of existing open space "irrespective of its physical condition and appearance", inferred to be land which has a current useable function as, or that which has been zoned as, open space. Therefore, in considering the potential for wholesale loss of open space land on account of an assessment of its condition and/or appearance, it may be prudent to accept a change to the draft policy as suggested.

Main Issue 2:

The draft policy introduces further explanation on when the loss of open space is considered appropriate when compared to the SPPS. The Policy would benefit from further clarification on how the second bullet point of criteria (b) will be applied. Policy clarification appears only to relate to the first bullet point of criteria (b). This would help to support how the exceptions are justified. (DPS/317/41),

Response:

This is a reasonable request and therefore some additional clarification could be added.

Main Issue 3:

Support the open space policies for the provision and protection of open space. However, believe that there are circumstances where the selective redevelopment of portions of open space, particularly within large estates, can deliver positive effects: estate restructuring; reductions in anti-social behaviours; and meeting high levels of housing need. NIHE would like affordable housing to be recognised as a substantial community benefit as an exception to policy. Seek retention of Protocol in relation to exception policy within PPS8. (DPS/115/30)

Response:

As detailed in the representation, affordable housing has previously, on a case-by-case basis, been considered as possible substantial community benefit. As the

existing protocol existed between the Department and the NIHE it would not be appropriate to retain this. This does not preclude the NIHE and FODC bringing forward an alternative.

Conclusions:

If the Commissioner is so minded, the Council would suggest a minor contextual change to the policy in order to address comments made under Main Issue 1, as follows:

...loss of existing future open space “irrespective of its physical condition and appearance”, to alternative uses in the following circumstances...

With regard to Main Issue 2, there should be some additional clarification added below the draft policy to explain the circumstances in which the second bullet point of criteria (b) would and could apply and to support how exceptions are justified as follows:

Insert new para after 3.74:

In relation to playing fields and sports pitches in urban areas, there may be exceptional circumstances where it is demonstrated that the retention and enhancement of the facility can only be achieved by the redevelopment of a part of the area. This can, however, be detrimental to the quality and value of such facilities and call into question their overall viability. Consideration will therefore only be given to redevelopment proposals that are judged to have no adverse effect on the sporting potential or overall amenity value of the open space and which are restricted to an area no greater than 10% of the total site. This exception will be applied only once to guard against the piecemeal erosion of playing fields and sports pitches by a succession of small developments, possibly over a long period of time.

Draft Policy OSR02 – Intensive Sports Facilities

The Council will support proposals for intensive sports facilities where they are located within settlements.

An intensive sports facility may be permitted outside a settlement, where the following can be demonstrated:

- a) there is no alternative site within a settlement which can accommodate the development;
- b) the proposed site is located close to the edge of the settlement and is visually linked with the settlement;
- c) the scale and design of the development is in keeping with the size of the settlement; and
- d) the proposed intensive sports facility is convenient and accessible for all sections of society particularly children, older people and those with

<p>disabilities and is accessible in terms of walking, cycling and public transport.</p> <p>Exceptionally, a large-scale intensive sports facility will be permitted within the countryside and away from the settlement edge where it is demonstrated that it is of strategic importance.</p> <p>Development proposals to extend an existing intensive sports facility must demonstrate that it is a necessary response to a demonstrated need and be in keeping with the scale and character of the existing facilities.</p>	
<p><i>Ref:</i> DPS/022/07 DPS/115/31 DPS/277/11 DPS/317/25 & 42</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) NIHE (Sound) National Trust (2) Department for Infrastructure (3 and 4)</p>
<p><i>Main Issue 1:</i> This draft policy has only partially replicated the PPS 8 Policy OS4 for Intensive Sports Facilities which sets out criteria for intensive sports facilities outside settlements and then goes on to set out criteria for which all intensive sports facilities will be required to meet i.e. both within and outside settlements. In this regard, draft Policy OSR02 has only provided criteria for the circumstances where intensive sports facilities may be acceptable outside settlements. This therefore creates a policy vacuum once PPS 8 is no longer material. (DPS/022/07)</p>	
<p><i>Response:</i> This is noted and amended wording to the draft policy is under consideration to make the policy more robust.</p>	
<p><i>Main Issue 2:</i> Paragraph 6.207 of the SPPS states that the precise location of intensive sports facilities can be contentious, and by their very nature and scale can give rise to particularly complex planning considerations such as impact on amenity, and sustainability issues. Such facilities shall be located within settlements in order to maximise the use of existing infrastructure. As an exception, a sports stadium may be allowed outside of a settlement, but only where clear criteria are established, which can justify a departure from this approach. Government advice is therefore that sports stadiums are only allowed in exceptional cases. Whilst the local plan provides policy criteria, Policy OSR02 should also explicitly state that the applicant must demonstrate specific locational need in order to make the policy effective.</p> <p>In addition, we suggest that the following criteria is added: ‘there is no adverse impact on the setting of the settlement’. This would enable Policy OSR02 to take into account paragraph 6.71 of the SPPS [see Text box below] which states that ‘development in the countryside must not mar the</p>	

distinction between a settlement and the surrounding countryside or result in urban sprawl. (DPS/277/11)

Response:

The beginning of the issue raised refers to the SPPS, paragraph 6.207. The next part of the issue raised reads as follows: 'Government advice is therefore that sports stadiums are only allowed in exceptional cases'. This is not our interpretation of the SPPS and it may be that the representation has made this statement mistakenly. It is assumed that what was meant to be raised was that '...sports stadiums are only allowed outside of a settlement in exceptional cases'. Where policy OSR02, states: '...where the following can be demonstrated: a) there is no alternative site within a settlement which can accommodate the development'. It is our understanding that this is the opportunity for the applicant to demonstrate specific locational need to make the policy effective.

There is no need to include additional criteria as suggested (along the lines of SPPS Para 6.71) as this is adequately addressed by policy DE06 "The Setting of Settlements" and which applies to all development types including Intensive sports facilities.

Main Issue 3:

The SPPS (6.207) provides for intensive sports facilities to be located within settlements with the exception of a sports stadium. The proposed policy deviates from strategic policy direction in that it allows for the provision of intensive sports facilities outside settlement limits, albeit in restricted circumstances. Furthermore, in relation to a large-scale intensive sports facility, no clear criteria are stated other than demonstration of strategic importance. It would be expected that the large-scale facilities would have a higher test to achieve. (DPS/317/25)

Response:

Amendments to the policy wording could be considered to give more clarity. Suggest removing third paragraph "Exceptionally, a large-scale intensive sports facility will be permitted..." from the draft policy.

In the event that an application is received for a large-scale intensive sports facility within the countryside and away from the settlements limits, other policies of the plan and other material considerations would still take affect and the application would be considered on its own merits.

Main Issue 4:

No reference has been made to the road network being able to safely handle the extra vehicular traffic any proposal would generate, satisfactory arrangements being provided for site access, car parking, drainage and waste disposal. Improvements to infrastructure may also be necessary.

It is considered that point “d” of the Draft Policy for “outside settlement limits” should also apply to intensive sports facilities that are “within settlement limits”.

Modifications: It is crucial that intensive sports facilities within settlement limits has policy wording included in order to ensure any facility is convenient and accessible for everybody and is easily accessible in terms of walking, cycling and public transport. (as indicated above). (DPS/317/42)

Response:

It would be logical for the convenience and accessibility aspects of intensive sports facilities to apply equally to those within and outside of settlements. It may be appropriate to consider rewording accordingly by deleting point (d) as this would be covered by other policies of the plan.

Conclusions:

The policy intent remains sound. However, if the Commissioner is so minded, the Council is willing to amend the wording to improve understanding of the policy. The proposed changes, which are considered to be minor contextual changes, are as follows:

- Remove third paragraph within policy referring to ‘...large-scale intensive sports facility’;
- Add additional text to Policy Clarification relating to furthering the explanation of what Intensive Sports are exactly. This should be as per the footnote of the SPPS which details intensive sports facilities as: ‘Stadia, sports halls, leisure centres, swimming pools, and other indoor and outdoor sports facilities’.
- Remove point (d) as this is adequately covered by other policies of the plan.

Proposed changes to policy OSR02:

c) the scale and design of the development is in keeping with the size of the settlement.

Proposed changes to para. 3.75:

An intensive sport facility is a purpose built indoor or outdoor resource which facilitates one or more activity fundamental to maintaining individual health and fitness. This may include, stadia, sports halls, leisure centres, swimming pools, and other indoor (and outdoor) sports facilities.

<p>Draft Policy OSR03 – Outdoor Recreation in the Countryside</p>	
<p>The Council will support development proposals for outdoor recreational uses and ancillary facilities in the countryside where:</p> <ul style="list-style-type: none"> • it has been demonstrated that the proposal cannot be located within a settlement or on the edge of a settlement; • ancillary buildings and/or structures are designed to a high standard and are of a scale appropriate to the locality; • the site is accessible by a range of transport modes including public transport and walking and cycling; and, • it will not adversely impact on the landscape character or appearance of the countryside. 	
<p><i>Ref:</i> DPS/022/08 DPS/115/32 DPS/277/12 DPS/317/26 & 43</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) NIHE (Sound) National Trust (2) Department for Infrastructure (3 and 4)</p>
<p><i>Main Issue 1:</i> Not all the policy tests from PPS8, Policy OS3 have been carried across to Draft policy OSR03. Draft Policy OSR03 has failed to include a criterion relating to features of nature conservation interest.</p> <p>The policy tests do not include any reference to the environment (save from a visual perspective). As with all other forms of development, FODC’s LDP should steer development away from sensitive areas (including habitats and species). Such sensitive areas should also include those outside the protected site network. While protection of designated sites will be a key priority for RSPB NI during this plan process, there is also a need for a robust policy which protects priority habitats and species, as identified in the NI Biodiversity Strategy. This is necessary because only a very small proportion of our biodiversity is protected in designated sites. (DPS/022/08)</p>	
<p><i>Main Issue 2:</i> This policy should include the following criteria:</p> <ul style="list-style-type: none"> • It will have no significant adverse impact on features of importance to natural or built heritage. • It will have no significant adverse impact on visual amenity and can integrate into the landscape. <p>The above would strengthen the effectiveness of the policy. (DPS/277/12)</p>	

Main Issue 3:

No reference has been made to the road network being able to safely handle the extra vehicular traffic any proposal would generate, satisfactory arrangements being provided for site access, car parking, drainage and waste disposal. Improvements to infrastructure may also be necessary.(DPS/317/43)

Main Issue 4:

It is noted that the policy does not align with SPPS (6.212) in that outdoor recreation in the countryside should have regard to visual and residential amenity; public safety, including road safety; and any impact on nature conservation, landscape character, archaeology or built heritage. (DPS/317/26)

Response to Main Issues 1, 2, 3, 4:

Representations citing this draft policy have a common theme, predominantly the issue of a lack of reference to another policy area or consideration such as nature conservation, archaeology, built heritage and visual amenity.

The policy does however refer only to matters which are already covered within other policies contained of the Draft Plan Strategy (e.g. Part Two 2.0 - Development & Design (DE01-DE08), and Part Two - 5.0 Environment (HE01-HE09 inclusive and NE01-NE03 inclusive)). Other dPS policies are relevant and cover additional elements of road safety and design, which are cited in main issues 3 & 4 above (see 6.0 Infrastructure and especially of note are policies TR01 to TR06).

Conclusions:

Given that the natural and historic environment considerations are covered by other policies in the dPS, and cover many of the concerns and issues raised in the representations received above, this draft policy should be removed altogether in the interests of consistency, and to prevent unnecessary repetition and improve the effectiveness of the policy. Policy clarification (Paras 3.76 and 3.77) should also be removed.

Draft Policy OSR04 – Protection of Lough Shores

To protect the lough shores from excessive or inappropriate development, the Council will only support water-based development proposals requiring lough shore access and minor works such as walkways and cycle-ways where the following criteria are met:

- a) there is no significant adverse impact on the natural environment, including biodiversity and landscape character;
- b) the proposal, either individually or cumulatively when considered with other existing and proposed development in the area, will not adversely impact on the character and visual amenity of the area when viewed from public vantage points such as public roads, loughs and islands; and
- c) it does not result in a proliferation of access points along the shoreline

<p><i>Ref:</i> DPS/022/09 DPS/070/03 DPS/115/33 DPS/277/13 DPS/317/44</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) Cathcart (2) NIHE (Sound) National Trust (3) Department for Infrastructure (Sound)</p>
<p><i>Main Issue 1:</i> it is considered that criteria (a) has effectively lowered the level of protection to the natural environment. In terms of existing policy, water-based development proposals would be covered by PPS 8, Policy OS 3 and Policy OS 6. There is no reference to ‘significant’ adverse impact. It is thus considered that the terminology should be: ‘no adverse impact’.</p> <p>PPS 8 Policy OS 6 is important to nature conservation and biodiversity purposes, as areas around the lough shore can provide many important functions supporting the ecology of birds e.g. nesting, roosting, feeding etc and pollution or disturbance could prejudice the support to bird species currently provided by these areas. Issues of potential disturbance to key birds from recreational tourism should be considered.</p> <p>Breeding populations of Eurasian curlew, northern lapwing and common snipe (known as breeding waders) have declined dramatically since 1987 and the distributions of all species are becoming increasingly fragmented and restricted. Urgent conservation action is needed to prevent the disappearance of these species from the wider countryside. FODC LDP has a critical role in protecting such species and their habitats from inappropriate development.</p> <p>Furthermore, the last test (vii) in current PPS 8 Policy OS 6 should also be included within the tests of Draft Policy OSR04.</p> <p><u>Modifications:</u> Draft Policy OSR04 be amended to include all the additional policy tests from PPS 8 Policy OS 6 and that the ‘significant adverse impact’ test be revised to ‘no adverse impact’ as per current policy. (DPS/022/09)</p>	
<p><i>Response:</i> In relation to the protection of our natural environment, regional policy such as contained in the SPPS and within PPS 2 consistently phrase the term ‘adverse effect’ when referring to potential harm of development, as opposed to ‘significant adverse effect’. Therefore, the recommended change (delete ‘significant’) would be appropriate.</p> <p>Rather than reproduce Planning Policy Statements, the Draft Plan Strategy covers generic guiding principles for development within its Development and Design policies (pages 49-59 of the DPS). Guidance concerning the natural environment is contained within the Natural Environment policies, and similarly, historic environment considerations are covered in the Historic Environment policies.</p>	

Main Issue 2:

There is a lack of clarity over the definition of what comprises the Lough Shore, as referenced in the Draft Policy. The Draft Plan Strategy has other designations and policies relating to natural environment, tourism, which will provide protection to those aspects of Lough shores. OSR 03 is written in favour of recreational development but OSR 04 is a policy against development. As lough shores are unspoilt areas then this may indicate that current policies and designations of Fermanagh Area Plan have been effective in providing appropriate protection and might have been carried forward in part or in full.

It is considered that OSR04 Part b) is impractical, as it is unclear where proposals for facilities for water sports will receive support. For any proposed development to receive support the acceptable level of adverse visual impact seems to be zero. If the test of visual impact of water-based development is to avoid a cumulative impact of proposal in conjunction with existing and proposed development, it suggests a better site for the proposal will always be away from other existing or proposed development and therefore away from tourism hubs. This would be less sustainable than supporting water-based leisure development in lough shore locations at tourism hubs. (DPS/070/03)

Response:

Additional clarification over what comprises the 'lough shore' would be an amendment that should be considered. Additional clarification is therefore proposed as follows:

"For the purposes of this policy, lough shore is the area set back from the fringe of the shoreline of the lough. It will contain both areas of undisturbed woodland and wetland as well as existing access points associated with recreational activities such as fishing, boating, sailing, canoeing and marinas and it will also include existing walking and cycling trails around the lough".

Development proposals, for water-based recreation or tourism along the 'lough shore' would be assessed against all policy requirements of the plan. There will be instances where a development proposal is acceptable when assessed against one policy (e.g. the location of a tourism facility at or near a tourism hub) but unacceptable when considered against another policies (e.g. results in a cumulative impact on appearance of the lough shore). It would not be possible to address all potential scenarios within draft policies. As always, development proposals will be considered on their individual merits.

Main Issue 3:

It is considered that whilst policy to avoid inappropriate development and protecting the nature conservation significance of the lough shore is of paramount importance, nonetheless, by restricting development proposals to water-based type facilities and minor works at existing established visitor attractions may be too excessive. Exceptions should be permissible such as subordinate development related to visitors or operational type proposals,

<p>which have no adverse impact on biodiversity, visual impact along shoreline, built heritage etc. (DPS277/13)</p>
<p><i>Response:</i></p> <p>The representation is suggesting that more exceptions should be made for visitor attractions. Under the proposed policies, L02 and L03, tourism accommodation and facilities are listed as exceptions. Policy L03 does not inhibit development it puts a more stringent test upon proposed development to meet criteria:</p> <p>“...would not adversely affect or change either the quality or character of the landscape or the setting of the loughs. All proposals must have regard to siting, massing, shape, design, finishes and landscaping in order that they may be integrated into the landscape”.</p>
<p><i>Conclusions</i></p> <p>The policy is considered to be sound. However, if the Commissioner is so minded, it is proposed to delete ‘significant’ from criteria a) and add wording to the policy clarification to clarify what is meant by ‘lough shore’. The proposed additional wording, after “...as well as the inland water bodies.” is as follows:</p> <p>“For the purposes of this policy, lough shore is the area set back from the fringe of the shore line of the lough. It will contain both areas of undisturbed woodland and wetland as well as existing access points associated with recreational activities such as fishing, boating, sailing, canoeing and marinas and it will also include existing walking and cycling trails . The site selection features for designated sites could be impacted directly by development or indirectly through the proliferation of access points and increase in recreation.”.</p>

<p>Draft Policy OSR05 – Development Adjacent to a Main River</p>	
<p>The Council will only support development proposals on sites adjacent to a main river where the following criteria are met:</p> <ul style="list-style-type: none"> a) a biodiversity strip of at least 10 metres from the edge of the river is provided and accompanied with an appropriate landscape management proposal; b) public access and recreation provision is provided where appropriate; c) there is no significant adverse impact on the natural environment or historic environment; d) where a future riverside walk has been identified, the development incorporates its provision into the design or sets aside a sufficient area to accommodate its future provision; and, e) the proposal should not compromise or impact upon the natural flooding regime of the main river, nor interfere with water quality. 	
<p><i>Ref:</i> DPS/022/10</p>	<p><i>Representative: (Main Issue)</i> RSPB (1)</p>

DPS/115/34 DPS/238/01 DPS/277/14 DPS/317/45	NIHE (Sound) Private Individual (2) National Trust (Sound) Department for Infrastructure (3)
<p>Main Issue 1: The comments and recommendations in respect of Draft Policy OSR04 - Protection of Lough Shores (see Main Issue 1), are equally applicable in this context. (DPS/022/10)</p>	
<p><i>Response:</i> Rather than reproduce Planning Policy Statements, the Draft Plan Strategy covers generic guiding principles for development within its Development and Design policies (pages 49-59 of the DPS). Guidance concerning the natural environment is contained within the Natural Environment policies, and similarly, historic environment considerations are covered in the Historic Environment policies.</p>	
<p>Main Issue 2: The draft policy OSR05 setting out the criteria for development adjacent to a main river assumes that a 10-metre development boundary is sufficient to keep the river safe - is there research that supports this premise? Do you have specific strategies to preserve the integrity of our water supplies? (DPS/238/01)</p>	
<p><i>Response:</i> Good Practice guides such as the DAERA (formerly DARD) document 'Good Agricultural Practice for the Prevention of Pollution of Water Air and Soil' (2008) frequently refer to 10m buffers within which there are restrictions to works or storage of materials which could cause harm to the watercourse and/or its flora or fauna. Legislative requirements also extensively cover the storage and distribution of materials that have potential to cause harm to the aquatic environment. For example, 'The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003' within which the 10m set back is mentioned in reference to waterways.</p>	
<p>Main Issue 3 DfI Rivers advises the Council that it should consider the wording of this policy in the context of Suggested Modification 6 applicable to Draft Policy FLD04 - Protection of Flood Defences and Drainage Infrastructure and Policy Clarification paragraph 6.17.</p> <p>This modification referred to is worded as such: 'The policy requires a 5-metre working strip adjacent to all watercourses and flood defence and drainage infrastructure.' (DPS/317/80)</p>	
<p><i>Response:</i> Other policies cover the natural environment and historic environment. Similarly, flood risk management policies are contained within Draft Policy FLD 01 through FLD 06 inclusive.</p>	

On further consideration, removal of (c) and (e) should ensure consistency and soundness as they effectively replicate policy elsewhere within the dPS.
<p>Conclusion: The policy is considered to be sound, though should benefit from the removal of criteria (c) and (e) as detailed above.</p>

Draft Policy OSR06 – Safeguarding of the Ulster Canal	
The Council will not support any development which would prejudice the future development or restoration of the Ulster Canal.	
<p><i>Ref:</i> DPS/115/35 DPS/253/01 DPS/317/46</p>	<p><i>Representative: (Main Issue)</i> NIHE (Sound) Monaghan County Council (Sound) Department for Infrastructure (Sound)</p>
All representations mentioning draft policy OSR06 were supportive of the policy generally. Therefore, the policy is sound.	
<p><i>Conclusion:</i> The policy is sound and no changes are proposed.</p>	

Draft Policy OSR07 – Floodlighting of Sports and Outdoor Recreational Facilities	
The Council will only support floodlighting of sports and outdoor recreational facilities where all the following criteria are met: <ul style="list-style-type: none"> a) there is no unacceptable impact on the amenities of people living nearby; b) there is no unacceptable impact visual amenity or character of the locality; and c) public safety is not prejudiced. 	
<p><i>Ref:</i> DPS/022/11 DPS/115/36</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) NIHE (Sound)</p>
<p><i>Main Issue 1:</i> No reference is made here to ensuring no adverse impacts on nature conservation interests. Disturbance from inappropriate lighting has a potential to impact on bird and bat roost sites or foraging bats.</p> <p><u>Modifications:</u> It is recommended that Draft Policy OSR07 be amended to include the following criterion (additional text bold and underlined): d) it will not have an adverse impact on nature conservation interests. (DPS/022/11)</p>	

<p><i>Response:</i> Nature conservation interests are covered separately both by adjacent policies in the Draft Plan Strategy and in external policies and legislative requirements on a regional scale.</p>
<p><i>Conclusion:</i> The policy is sound and no changes are proposed.</p>

Rural Community Areas

RCA01 – Rural Community Areas	
<i>Ref:</i>	<i>Representative: (Issue Number)</i>
DPS/08/03, 04	Knocks Community Association (1 & 2)
DPS/22/44	RSPB (10)
DPS/50/03-08	Coa Community Group (1, 2, 3, 4, 5, 6, 7, 8 & 9)
DPS/115/78	NIHE (support)
DPS/119/02-10	Cashel Community Association (1, 2, 3, 4, 5, 6, 7, 8 & 9)
DPS/123/03	Aughakillymaude Community Association (2)
DPS/124/03	Boho Womens Group (2)
DPS/127/01, 03-10	Private Individual (1, 2, 3, 4, 5, 6, 7, 8 & 9)
DPS/134/04	Cllr Greene (12)
DPS/236/03-11	Fermanagh Rural Community Network (1, 2, 3, 4, 5, 6, 7, 8 & 9)
DPS/237/03-11	Killyfoyle and District Development Association (1, 2, 3, 4, 5, 6, 7, 8 & 9)
DPS/264/02-05	Cllr John Feely (2, 6, 11 & 12)
DPS/265/04, 12-15	Jemma Dolan MLA (2, 6, 12, 13, 14)
DPS/267/02, 11-18	Cllr Brian McCaffrey (1, 2, 3, 5, 6, 7, 8, 9, 15 & 16)
DPS/269/03, 06-12	Cooneen/Coonian Community Development (1, 2, 3, 4, 6, 7, 8, & 9)
DPS/292/04-12	Boho Community Association (1, 2, 3, 4, 6, 7, 8, & 9)
DPS/294/04-12	Private Individual (1, 2, 3, 4, 5, 6, 7, 8, 9)
DPS/317/48, 126-130	Department for Infrastructure (2, 17, 18, 19, 20 & 21)
<p><i>Main Issue 1:</i> The Fermanagh Area Plan identified Dispersed Rural Communities to promote rural regeneration, including small scale enterprise schemes and additional residential development. Within FAP DRCs are listed alongside their associated townlands. They have been largely successful in promoting rural regeneration. Not specifying these DRCs will make it harder to get planning permission. (DPS 08/03, 08/04, 50/03, 119/02, 127/03, 236/01, 237/03, 267/14, 269/03, 292/06, 294/06)</p>	
<p><i>Response:</i> The DPS reflects the regional strategic policies as set out within the SPPS and in addition brings forward a number of new policy provisions to provide for Development in the Countryside. These include RCA01: Rural Community Areas which is considered to provide for a small scale, rural start-up project or community development where there is an established facility and in line with a number of criteria, including an identified local community need.</p> <p>There is no evidence provided as to how not bringing forward DRC's would make it harder to get planning permission. Currently proposals within DRCs are assessed against the policy tests within PPS21 and the SPPS which are relevant to the proposal, and as cited within a number of the representations these have been successful in achieving planning permission.</p>	

<p>Main Issue 2: Existing DRCs should be identified as Rural Community areas within the LDP. (DPS 08/03, 50/04, 119/03, 123/03, 124/03, 127/01, 236/01, 237/04, 264/02, 265/04, 267/02, 269/06, 292/04, 294/04, 317/48)</p>
<p><i>Response:</i> The approach taken to RCAs in not identifying or listing them at draft Plan Strategy stage was taken to ensure that no potential RCAs were omitted. Whilst it is acknowledged that the DRCs identified under the FAP will be considered as Rural Community Areas, to go ahead and identify only those existing DRCs as RCAs would not result in a consistent approach across the District.</p> <p>There remains potential to identify RCAs at Local Policies Plan stage. In doing so, any identification of an RCA would be limited to the existing facility and buildings and would not extend to townlands as per the approach in the Fermanagh Area Plan which resulted in DRCs which were extensive in size, comparable to the two main towns of Enniskillen and Omagh It should also be noted that there are clear policy tests within RCA01 in the absence of identified RCAs.</p>
<p>Main Issue 3: DRC designation is important in applying for grants bringing funding into the area and acting as a catalyst for rural activity. (DPS 50/05, 119/04,127/04, 236/01, 237/05, 267/15, 269/09, 292/07, 294/07)</p>
<p><i>Response:</i> Plan Strategy Objective 3 is to Provide for vibrant rural communities whilst protecting the countryside in which they live by accommodating sustainable development. The role of the DPS is not to provide a basis for funding applications.</p>
<p>Main Issue 4: The LDP Team has not taken account of PPS21 CTY2 Development in Dispersed Rural Communities. (DPS 50/03, 119/05, 127/05, 236/01, 237/06, 269/10, 292/08, 294/08)</p>
<p><i>Response:</i> The LDP team has taken account of the SPPS in bringing forward the DPS. There is no requirement to take account of the existing suite of Planning Policy Statements.</p>
<p>Main Issue 5: Quotes from topic paper Sustaining Rural Communities which notes that the SPPS is silent in regard to what is defined as a focal point in relation to New Dwellings in an Existing Cluster and considers that the LDP Team have not taken account of policy and guidance issued by the Department. (DPS 50/03, 119/06, 127/06, 236/01, 267/12, 237/07, 292/09, 294/09)</p>
<p><i>Response:</i></p>

The writer has misinterpreted what is written within the Sustaining Rural Communities paper in relation to focal points for Dwellings within an existing cluster and applied it to Dispersed Rural Communities.

Main Issue 6:

Considers that the dPS has not had regard to the plans, policies and strategies within Mid-Ulster District Council, Derry City and Strabane District Council nor those of the adjoining transboundary Councils in the Republic of Ireland in relation to Dispersed Rural Communities/Rural Communities. (DPS 50/03, 119/07, 127/07, 236/01, 237/08, 264/03, 265/12, 267/13, 269/07, 292/10, 294/10)

Response:

The DPS has taken account of approaches within other Council areas. The decision to proceed with RCAs followed a number of workshops with Councillors during which they were informed of the policy approach set out within MUDC Preferred Options Paper in addition to earlier papers to the Councillors which included detail of approaches elsewhere.

Main Issue 7:

The dPS has not taken account of the Fermanagh and Omagh District Council Community Plan in respect of the key challenge “to ensure the continued vitality and sustainability of our rural communities.” To do so the LDP should maintain DRCs and designate others, as per the approach of Mid-Ulster. The DPS is not flexible (DPS 50/05, 119/08, 127/08, 236/01, 237/09, 267/11, 269/08, 292/11, 294/11)

Response:

The DPS has had regard to the Community Plan. The Plan objectives have been formulated and aligned with the Community Plan. This has been the approach through from pre-Preferred Options Paper stage to the publication of the DPS. Additionally, the Preferred Options Paper was consulted upon at the same time as the draft Community Plan.

The Head of Community Planning has also been an active member of the LDP Steering Group with the Community Plan team providing input into the drafting and amending of the DPS.

There are a range of policies within the DPS which seek to sustain rural communities within sustainable forms of development. These relate to housing in the countryside, industry and business, tourism and rural community areas.

As before the DPS has taken account of the Community Plan and additionally will be subject to review at 5 years.

Main Issue 8:

In relation to our aging population the Community Plan recognises that “we must be ready to embrace it.” The district has a low population density and high levels of isolation with DRCs providing community facilities and to allow people to live close to aging relatives thus providing care for a large

proportion of the population. (DPS 50/05, 119/09, 127/09, 236/01, 237/10, 267/11, 269/03, 292/12, 294/12)

Response:

The District does have a low population density in comparison to other Districts (evidence cited under Development in Countryside) however the SPPS provides the Regional Strategic Policies for Development in the Countryside which the LDP must adhere to unless there is evidence for otherwise. The landscape must also have the capacity to absorb sustainable forms of development.

It is recognised that there are portions of the Fermanagh and Omagh District which are less accessible in terms of their remoteness from services however this differs from isolation which is exacerbated by access to transport, public transport, associated fuel poverty and inadequacies in digital connectivity.

The policy, as currently written, is to provide for communities alongside existing facilities/existing buildings. It does not include criterion in relation to isolation. To do so would require an audit of existing facilities within communities in conjunction with an analysis of Multiple Deprivation Measures data in relation to those indicators detailed above to identify those potential 'isolated' areas. It would be difficult, in doing so, to demonstrate or measure fully how this would address 'isolation'.

Main Issue 9:

The geography of Fermanagh, with lakes dividing the county means DRCs are more important than in other areas to prevent isolation. (DPS 50/08, 119/10, 127/10, 236/01, 237/11, 267/16, 269/12, 292/05, 294/)

Response:

It is acknowledged that the geography, including lakes, waterways and topography of the Fermanagh and Omagh District results in portions of the Fermanagh and Omagh District being less accessible. A decision was made at a workshop held following the report to Members on the representations received to the Preferred Options Paper that a consistent approach would be taken across the District to Development in the Countryside. The policy approach of RCA01 is to help to sustain rural communities where they exist. Being a less accessible rural community does not preclude this.

Main Issue 10:

Considers that further qualifying text should be included stating that proposals will be subject to normal planning and environmental considerations. Suggests that policy wording be amended to include: "planning permission will be subject to meeting all other policy requirements" in order to make it more compliant with para 3.9 of the SPPS. (DPS 22/44)

Response:

Paragraph 1.5 (Part one) of the DPS is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain

policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Main Issue 11:

The Fermanagh and Omagh Councillors were misled to believe that only the Fermanagh legacy Council area had DRCs and had Councillors been aware that there are DRCs in Magherafelt and Cookstown their decisions may have been different. (DPS 264/04)

Response:

A decision was made by Members at a workshop held following the report to members on the representations received to the Preferred Options Paper that a consistent approach would be taken across the District to Development in the Countryside.

Members in attendance were also informed of the approach set out within MUDC Preferred Options Paper to have DRCs.

RCAs are FODC’s alternative to DRCs which is the approach agreed by FODC Council.

Main Issue 12:

Rural Needs Impact Assessment has not fully investigated the impact of not identifying those DRCs, designated under the FAP, within the DPS on the residents, businesses and community groups within DRCs. (DPS 134,04; 264/05, 265/13)

Response:

RCAs are FODC’s alternative to DRCs.

Any proposals within these areas will be treated as being within the countryside and relevant policies will be applied. This reflects current practice.

Main Issue 13:

RCA01 in conjunction with Town Centres and Retail Strategy (TCR04) – in enacting this policy the DPS will be doing away with rural post offices and small shops that already exist. These small rural communities have been under sustained attack from regional and central government for decades but it would now be unprecedented for local government to turn their back on them now. (DPS 265/14)

Response:

The policy cannot be applied retrospectively to existing shops and post offices.

Main Issue 14:

RAC01 and TCR04 should be amended to allow for small retail opportunities in DRCs and RCAs. (DPS 265/15)

Response:

Multiple instances of services within existing settlements being lost or closed have occurred in recent years. This has impacted particularly rural settlements. It is

therefore important to seek to maintain the role and function of our settlements as service providers.

Evidence of closures indicates that the sustainability of these services is being challenged. It would be potentially damaging to the services in settlements to make provision for shops within RCAs.

Main Issue 15:

Details the services and extent of Aghadrumsee and states that it should be designated as a small settlement. (DPS 267/17)

Response:

As conceded under Main Issue 4 of Draft Strategic Policy SP02 Settlement (Spatial Growth Strategy Topic Paper), the Council may be minded to consider the inclusion of only the easterly node of Aghadrumsee as a small settlement. This is due to its degree of nucleation and service provision, characteristics absent from the westerly node. However, Council are also of the opinion that whilst Aghadrumsee East may bare the characteristics of a small settlement, equality issues may arise in identifying Aghadrumsee East as a small settlement and not Aghadrumsee West. Furthermore, the designation of Aghadrumsee East as a small settlement would result in a settlement limit restricted to the existing extent of built form with no additional lands included and only an HGI allocation of one or two dwellings to reflect its status as a small settlement at the bottom of the settlement hierarchy and with limited facilities. The remaining area of Aghadrumsee would not be recognised as a Rural Community Area due to its proximity to the new settlement and in response to the representations made to the DPS.

Main Issue 16:

Clogh should be designated as a small settlement. (DPS 267/18)

Response:

Clogh does not meet the criteria for designation as a small settlement, it is considered to be a cluster within the rural area.

Main Issue 17:

The SPPS makes sufficient provision for appropriate sustainable economic and community development in the countryside (DPS 317/126).

Response:

Whilst the SPPS provides regional strategic policies for development in the countryside the Council have established that there is potential to provide for additional policy approaches within the countryside, which align with paragraphs 6.68- 6.72 of the SPPS.

The Council recognise the potential detrimental impact of infill dwellings on the rural character of the district and have sought to reduce the number of approved dwellings resulting from the application of this policy. Additionally, evidence of approvals has shown the negligible number of approvals resulting from both

dwellings in a cluster and conversions. To counter this, additional policies have been taken forward in order to Sustain Rural Communities.

Main Issue 18:

Seeks clarification as to what constitutes an ‘existing facility’ within the draft policy. (DPS 317/129)

Response:

An existing facility includes an existing building such as a community hall, church, shop or school.

Main Issue 19:

The need/justification for this policy should be supported by clear evidence. (DPS 317/130)

Response:

The RDS recognises that to sustain rural communities, new development and employment opportunities are required which respect the local, social and environmental circumstances. Para 6.64 of the SPPS states that policy approaches to new development should therefore reflect differences within the region, be sensitive to local needs and be sensitive to environmental issues including the ability of settlements and landscapes to absorb development.

It is the Council’s interpretation that this statement, in itself, recognises that over and above the provisions of the regional strategic policies within the SPPS there will be occasions where there will be a need, in working to sustain rural communities, to meet local need through making provision for appropriately sited and integrated development.

Fermanagh and Omagh District Council is not only the largest council area in terms of geographical mass, it is also the most peripheral within Northern Ireland and has the lowest population density. This fact remains even with the exclusion of waterways. The DPS has recognised that there are various levels of sensitivity of landscape throughout the District and has taken forward policies to provide appropriate levels of protection to the landscape. There remains part of the countryside which has the capacity to absorb further sustainable development. RCA01 seeks to provide for small scale, rural start-up projects or community development where this capacity to absorb exists.

It is important to recognise the rural nature of Fermanagh and Omagh and accept that it has a dispersed rural population, both within the settlements below 5000 population and beyond within the countryside. Whilst taking into account the role and function of our rural settlements there is also a need to enable, where there is a local need, community infrastructure to act as a shared space or focal point for recreation, community activity and to also provide for small scale, start-up projects to support the micro business base within the District.

Main Issue 20:

Link to policies: Affordable Housing in the Countryside (HOU17), Community Facilities (CF01), Farm Diversification (IB05), and Industry and Business

Development in the Countryside (IB04) should be referenced accordingly. Cites example that HOU17 references RAC01 but RCA01 does not reference HOU17. (DPS 317/127)

Response:

Paragraph 1.5 (Part one) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

HOU17, as drafted, is required to reference RCA01 as it is part of the sequential test. However, it is important to note the proposed amendments to HOU17 which include the deletion of the reference to community associations.

Main Issue 21:

Reference to rural start-up projects should be provided within the glossary. (Useful to have a definition of a ‘rural start-up’ in IB04 – policy link with RCA01.) (DPS 317/128)

Response:

Agree. This is in association with IB04. The clarification for IB04 identifies a ‘rural start up project’, para 4.15 identifies uses which would be considered in the countryside e.g. agricultural based, food production, machinery repairs etc

Conclusions:

As stated in the conclusions to Draft Strategic Policy SP02, the Council’s approach to the classification of settlements in the settlement hierarchy is sound. Whilst Aghadrumsee East could potentially be designated as a small settlement, equality issues are likely to arise if the westerly node is excluded. The identification of Rural Community Areas based on recognised focal points of DRCs is considered to be a more pragmatic planning approach rather than formal designation of DRCs as small settlements.

The policy is considered to be sound. However, it is suggested that para 3.89 should be amended to state that rural start-up businesses include agricultural based, food production, machinery repairs etc.

Industry and Business

Industry and Business – General Comments	
<p><i>Ref:</i> DPS/022/012, DPS/022/012a, DPS/022/012b</p>	<p><i>Representative: (Main Issue)</i> RSPB Northern Ireland (1)</p>
<p><i>Main Issue 1:</i> IB01, 02 & 04 should be set within a qualifying context that it will be subject to normal planning and environmental considerations to make it more compliant with the SPPS (DPS/022/012, DPS/022/012a, DPS/022/012b).</p>	
<p><i>Response:</i> On p.47 para 1.4 clarification is given that the policies within the draft Plan Strategy should be read in conjunction with the SPPS and the RDS. Further, para 1.5 indicates ‘the whole plan must be considered when assessing development proposals.’</p>	
<p><i>Conclusions:</i> No changes are proposed in response to the issue raised.</p>	

Draft Policy IB01 – Industry and Business Development in Settlements
<p>The Council will support industry and business uses in settlements as follows:</p> <p>(a) Towns: Development proposals for industry, will be permitted: -</p> <ul style="list-style-type: none"> i) on land zoned for such purposes in the Local Development Plan; or ii) within an existing industrial area where it is compatible with adjacent and nearby uses and is of a scale, nature and form in keeping with the industrial area. <p>Development proposals for business will be permitted: -</p> <ul style="list-style-type: none"> i) in a town centre; or ii) on land zoned for such purposes in the Local Development Plan; or iii) elsewhere in towns, where it is a firm (rather than speculative) proposal and it can be demonstrated that no suitable sites exist within the town centre or to the edge of a town centre. <p>(b) Villages and Small Settlements: Development proposals for industry and business will be permitted where:</p> <ul style="list-style-type: none"> i) the scale, nature and design of the proposal are in-keeping with the character and setting of the settlement; and, ii) the proposal is compatible with adjacent and nearby land uses, including residential uses.

<p><i>Ref:</i> DPS/022/12 DPS/115/37 DPS/245/02, 03 DPS/257/02 DPS/255/01 DPS/245/03</p>	<p><i>Representative: (Main Issue)</i> RSPB (5) NIHE (Support) Retail NI (1)(2) Roger Morrison (3) Invest NI Retail NI (4)</p>
<p><i>Main Issue 1:</i> The re-use of existing sites and buildings should be actively encouraged. It may be appropriate to issue “a call for sites” as the Plan progresses to match business profiles with existing sites. This may result in the growth of Enterprise Zones to encourage new economic development and regeneration of existing underutilised employment sites (DPS245/02).</p>	
<p><i>Response:</i> Support for re-use of sites and buildings, the proposed sequential approach and PRC noted.</p> <p>The SPPS states at paragraph 6.286 that as part of the process of identifying sites to be allocated for town centre uses in the plan, councils should undertake a ‘call for sites’ consultation exercise. The Council will consider this further as it moves forward to the Local Plan Policies stage.</p> <p>Enterprise Zones were first designated in 2012, part of the then Government’s long-term economic plan to support businesses grow by offering incentives to locate e.g. business rate discounts and superfast broadband. The designation of Enterprise Zones rests with central Government.</p>	
<p><i>Main Issue 2:</i> Retail NI is fully supportive of the sequential approach to limit the amount of business development outside of the town centre(s). The introduction of a ‘commitment test’ will ensure there are specific end user requirements, which would justify an edge or out-of-centre location. However, applications of this type should not be approved at ground floor within the Primary Retail Core (PRC) where they would preclude retail or leisure activities that generate high levels of footfall (DPS245/02).</p>	
<p><i>Response:</i> The representation suggests ‘a commitment test’ as detailed above to justify an edge or out of centre location. It is considered IB01 deals effectively with the sequential approach in line with the regional strategic policy provision of the SPPS.</p>	
<p><i>Main Issue 3:</i></p>	

<p>Objection to absence of zoned land for industry/business use in villages (DPS257/02).</p>
<p><i>Response:</i> Although the representation is concerned at the lack of zoned industrial/business lands in our villages, this position is in line with the SPPS regional strategic policy. There remains a presumption in favour of industrial/business development as laid out in IB01(b) where the scale, nature and design of the proposal are in-keeping with the character and setting of the settlement and in line with the spatial growth strategy for the LDP.</p> <p>The absence of zoned land is no disadvantage to our industrial and business sector; indeed, one could argue by not zoning land in villages and small settlements that developers have a wider choice of potential development sites subject to relevant planning policy.</p>
<p>Main Issue 4: Strike a balance between providing appropriate development opportunities at a variety of locations and the impact on the character of the area or adjoining uses (DPS/245/03).</p>
<p><i>Response:</i> The second criteria indicates how the ‘proposal must be in keeping with the character and setting of the settlement’ in which it is located.</p> <p>As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.</p>
<p>Main Issue 5 IB01 should be set within a qualifying context that it will be subject to normal and planning and environmental considerations.</p>
<p>As stated in para 1.5 the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered.</p>
<p><i>Conclusion:</i> No changes are proposed.</p>

<p>Draft Policy IB02 – Loss of Industry and Business Uses</p>
<p>(a) Zoned Land</p>

<p>Alternative uses on land zoned for industry and business uses will not be permitted.</p> <p>(b) Unzoned Land Development proposals which result in the loss of land and floorspace used, or last used, for industry or business use will only be permitted where:</p> <ul style="list-style-type: none"> i) it is from industry to a business use (excluding offices) or other comparable employment-generating use; or ii) redevelopment for a mixed-use development which retains or incorporates into the scheme a significant element of the industry or business use, and which will otherwise result in community or environmental benefits; or iii) it is demonstrated that the present use is unsuitable for modern industry or business purposes and there is no market interest in the site following one year of continuous active marketing. 	
<p><i>Ref:</i> DPS/022/012a DPS/115/38 DPS/120/01 DPS/245/04 DPS/247/03 DPS/255/02</p>	<p><i>Representative: (Main Issue)</i> RSPB Northern Ireland (1) NIHE (Support) MBA Planning (2) Retail NI (3)(4)(5) Provincial Developments Ltd (6) Invest NI (7)</p>
<p><i>Main Issue 1:</i> The above-named policies should be set within a qualifying context that it will be subject to normal planning and environmental considerations to make it more compliant with the SPPS (DPS/022/012a).</p>	
<p><i>Response:</i> This issue is dealt with under 'General Comments' at the beginning of the document.</p>	
<p><i>Main Issue 2:</i> IB02 is too restrictive and 'will result in former industrial land lying vacant. It will stymie regeneration and growth, contrary to RG7 (Support Urban and Rural Renaissance) of the Regional Development Strategy (RDS).'</p> <p>Alternative uses may be permitted where the land is not a vital local industrial land resource and its development for alternative uses will not result in a short fall of such land during the course of the Plan period (DPS/120/01).</p>	
<p><i>Response:</i> Para 4.10, policy clarification to IB02 states that the re-allocation of land zoned for industry and business should normally only occur through the Local Development Plan. This reflects para 6.89 of the SPPS which seeks to protect against the loss of economic development land, as well as indicating that any decision to reallocate such zoned land to other uses ought to be made through the LDP process.</p>	

<p>Main Issue 3: It is suggested that “should” is replaced with “must” in the accompanying text in Paragraph 4.10, which is a mandatory approach and offers stronger protection. This is also consistent with the text in other parts of the document (DPS/245/04).</p>
<p><i>Response:</i> The draft Plan Strategy sought to reflect paragraph 6.89 of the SPPS which states that “planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process.” However, it is acknowledged that in combining the two sentences a lesser test has been applied in relation to the reallocation of zoned land. To remedy this, it is suggested that the word ‘normally’ should be removed from the sentence under paragraph 4.10 of the policy clarification so that it reads “As such, the reallocation of land zoned for industry and business should only occur through the Local Development Plan process”. Consideration should also be given to moving this sentence into the policy box.</p>
<p>Main Issue 4: If a mixed-use scheme is being proposed on unzoned land, then it would be prudent to ensure a condition is attached to deliver the employment or wider economic development first. This should be added into the accompanying policy clarification text to provide greater certainty to all (DPS/245/04).</p>
<p><i>Response:</i> These are matters which will be dealt with at Local Policies Plan stage, for example through the use of ‘Key Site Requirements’.</p>
<p>Main Issue 5: The timescale of one year in Criterion (iii) is relatively short and could easily be circumvented to seek alternative uses. A period of 18 or 24 months would be more robust (DPS/245/04).</p>
<p><i>Response:</i> Criterion (iii) requires both ‘that the present use is unsuitable for modern industry or business purposes and there is no market interest... following one year of continuous active marketing.’ Whilst a period of 24 months may be more robust, a call must be made as to how reasonable it may be to nullify any potential development for 2 years where interest is shown after 12 months on a site which is unzoned in the LDP.</p> <p>It is considered necessary to clarify what is meant by the term ‘continuous active marketing’ as referred to in para IB02(b)(iii). For example - applicants will be required to demonstrate (a) how long the site has been vacant, (b) who has marketed the site, (c) what the marketing exercise entailed including evidence that it was carried out; and (d) a summary and analysis of the response to the marketing exercise.</p>

Main Issue 6:

The policy is not founded on a robust evidence basis and is not in keeping with the SPPS and PPS4 as it fails to include exceptions for when industrial and employment land can be used for alternative uses.

Modification Sought: Our client requests the Council to reconsider its approach and incorporate exceptions within this policy for zoned land to provide an appropriate degree of flexibility (DPS247/03).

Response:

The SPPS provides flexibility to consider alternative proposals only in relation to unzoned land and that such proposals should offer community, environmental or other benefits. Draft policy IB02 reflects this 'flexibility' under (b) Unzoned Land and suggests some examples of alternative uses in paragraph 4.11.

In the case of zoned land, the LDP is considered to be the appropriate mechanism for considering alternative uses and such decisions may only be taken following ongoing monitoring of the take up of land for industry and business as well as ongoing assessment of future requirements and trends which may identify or highlight the need to reconsider the proposed use of sites.

Main Issue 7:

Considers this policy to be in general conformity with the RDS and the SPPS. Also note that the gestation period for industrial land to be fully occupied is, in the experience of Invest NI, significantly longer than for other development uses. This should be borne in mind when considering whether there is any market interest in a site (DPS/255/02).

Response:

Response noted.

Conclusions:

In response to Main Issues 3 and 5, the Council would suggest making minor contextual changes to the wording of the policy and clarification. If the Commissioner is so minded to consider these, the following changes are proposed:

1. Amend the sentence "As such, the reallocation of land zoned for industry and business should normally only occur through the Local Development Plan process" by omitting the word '*normally*' and moving the sentence to policy box.
2. Add to policy clarification what is meant by the term 'continuous active marketing' as referred to in para IB02(b)(iii). Applicants will be required to demonstrate (a) how long the site has been vacant, (b) who has marketed the site, (c) what the marketing exercise entailed including evidence that it was carried out; and (d) a summary and analysis of the response to the marketing exercise.

Draft Policy IB03 – Development incompatible with Industry and Business Users	
A development proposal in the vicinity of an existing or approved industry and/or business use may not be permitted where it would be incompatible with or would prejudice the future operations of the industry or business.	
<i>Ref:</i> DPS/115/39 DPS/245/05 DPS/255/03	<i>Representative (Main Issue)</i> NIHE (Support) Retail NI (1) Invest NI (Support)
<p><i>Main Issue 1:</i> Established industrial and business uses should be protected from incompatible development, which could limit or hamper their future growth and output. It may be appropriate to include a precautionary approach that in the absence of scientific evidence to the contrary, there will be a presumption against such incompatible development, particularly if there is the potential risk to human health. (DPS/245/05)</p>	
<p><i>Response:</i> The SPPS, paragraph 6.90, states that: "...it is in the public interest to ensure that their operations (economic development enterprises) are not unduly compromised through incompatible development. It further states that where it is clearly demonstrated that a proposal for new or expanded development would prejudice the future operation of an established or approved economic development use, then it will normally be appropriate to refuse the application. However, it is incumbent on the planning authority to explore all means of mitigation with the developer and the established enterprise prior to determining the application.</p> <p>It is considered that the draft policy is sufficient to address the regional strategic policy. However, it is considered that the representation has identified that further clarification is required in respect of draft policy IB03 taking account of the above text from the SPPS.</p>	
<p><i>Conclusions:</i> The following text should be added to the policy clarification as a minor contextual change:</p> <ol style="list-style-type: none"> 1. "Where it is clearly demonstrated that a proposal for new or expanded development would prejudice the future operation of an established or approved economic development use, then it will normally be appropriate to refuse the application. However, it is incumbent on the planning authority to explore all means of mitigation with the developer and the established enterprise prior to determining the application." 	

Draft Policy IB04 – Industry and Business Development in the Countryside.

The Council will support proposals for industry and business uses where it is a firm (rather than speculative) proposal and there is a requirement for the industry or business to be located in the countryside, and in the following circumstances:

- a) the redevelopment of an established industry or business use (excluding where this would be the redevelopment of an established industry or business use for storage or distribution purposes); or
- b) the expansion of an established industry or business use where there is no substantive increase in the site area of the enterprise. Exceptionally, expansion beyond the existing curtilage may be acceptable where it is demonstrated that relocation of the enterprise is not possible for operational or employment reasons and the proposal would make a significant contribution to the local economy; or
- c) the development of an enterprise park/centre specifically for rural start-up projects, where it can be demonstrated that there is an unmet need and there is no suitable site within nearby settlements; or
- d) re-use of an existing building for a rural start-up project where it can be demonstrated that there is no suitable site within nearby settlements and there are site specific reasons for the proposed location; or
- e) the development is for a major³ industrial proposal which requires a countryside location due to its size or site-specific requirements and it can be demonstrated that it would significantly contribute to the regional economy.

New offices and call centres will not be permitted in the countryside except where offices are ancillary to the main use.

<p><i>Ref:</i> DPS/022/12b DPS/051/10 DPS/054/01 et al⁴ DPS/109/09 DPS/115/40 DPS/245/06 DPS255/04 DPS/317/49</p>	<p><i>Representative: (Main Issue)</i> RSPB (6) McAleer MLA (1) Multiple groups & individuals (2) Begley MLA (1) NIHE (3) Retail NI (4) Invest NI (Support) DfI Planning (5)</p>
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Main Issue 1:
The final policy should recognise and support the creation of home-based ‘cottage industries’ such as craft making and that many business owners in rural areas use their home and yard for short term storage of materials ancillary to their main business (DPS/051/10 & DPS/109/09).

³ The Planning (Development Management) Regulations (Northern Ireland) 2015 (Statutory Rules 2015 No. 71).

⁴ There are 76 group and private individual representations containing the same content. These are listed in table 8 on page 421.

Response:

The draft Plan Strategy acknowledges the role of 'cottage industries' with objective 09 of the DPS aiming to recognise and accommodate the micro business base including rural entrepreneurship, self-employment and home-working.

The DPS has taken forward operational policies for those types of industry and business development which require planning permission. It is the Council's intention to consult upon supplementary planning guidance on Homeworking.

Main Issue 2:

Objection to fact FODC support major business in the countryside and want Council to take views of people who live in the countryside into consideration. In particular, the objector does not want the Sperrins to become the industrial zone for NI. Therefore, FODC should oppose any major industrial proposal in the Sperrins AONB (DPS/054/01 et al⁴).

Response:

The DPS has reflected the regional strategic policy within paragraph 6.88 of the SPPS which relates to Industry and Business in the Countryside. Para 1.4 of the DPS states that the policies within the draft Plan Strategy should be read in conjunction with the SPPS and the RDS. Further, para 1.5 indicates 'the whole plan must be considered when assessing development proposals.' Other policies within the DPS apply.

Main Issue 3:

Generally, supports the policy for industry and business development in the countryside. However, it must be ensured that the countryside is afforded a high level of protection from excessive and inappropriate development. Outside of settlements employment lands should be located near major economic corridors. (DPS/115/40).

Response:

Economic Development corridors are identified in the RDS as being aligned to the Regional Strategic Transport Network. It is considered unreasonable to refuse any application based on the fact it lies outside or is distant to an identified economic development corridor. The SPPS does not provide the basis for this approach and there is no local evidence to support this change to the regional strategic policies in relation to Industry and Business.

Main Issue 4:

The policy lacks an exceptional circumstances clause to allow for a proposal that does not fit neatly within the five specified criteria. The criteria are more restrictive than those currently contained with PPS4 and may inhibit development and have a negative impact on rural dwellers, communities and business growth. The wording of criteria (b) is completely unrealistic, as an established business, which has made a significant investment at its current location would not seek to relocate as it would not be financial viability, nor

would it be suitable to consider an alternative site. This should be removed (DPS/245/06).

Response:

On p.47 para 1.4 clarification is given that the policies within the draft Plan Strategy should be read in conjunction with the SPPS and the RDS. Further, para 1.5 indicates 'the whole plan must be considered when assessing development proposals'. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes provide scope for sustainable economic development in the countryside.

Criterion b) provides for the exceptional circumstances for the major expansion of an industrial enterprise. This approach reflects the regional strategic policy as set out within paragraph 6.88 of the SPPS and provides for instances where relocation is not possible for operational or employment reasons.

Main Issue 5:

In relation to criterion d) reuse of the existing building for a rural start up project, clarification would be welcomed if this is intended for either existing industrial or business use buildings to be potentially re-used, or if it is a locally important building (as per the SPPS) or further still any existing building in the countryside, which would raise concerns. It would also be useful to have a definition of a 'rural start up project' (DPS/317/49).

Response:

The application of criterion (d) of IB04 in relation to rural start-up projects has been queried. The policy is designed for 'start up' (therefore not existing) projects in rural areas, where it has been demonstrated that there is no suitable site within nearby settlements and there are site specific reasons for the proposed location.

On p.47 para 1.4 clarification is given that the policies within the draft Plan Strategy should be read in conjunction with the SPPS and the RDS. Further, para 1.5 indicates 'the whole plan must be considered when assessing development proposals.' DE03 in addition to other policies within the plan apply as detailed within Paragraph 4.19 of the clarification for IB04.

In terms of a 'rural start up project', para 4.15 identifies uses which would be considered in the countryside e.g. agricultural based, food production, machinery repairs etc. These uses also apply to criterion (d).

Although DfI Planning express concerns that any existing building in the countryside is eligible, FODC are satisfied the instances of new start up projects in buildings which require site specific locations with no available sites within nearby settlements would be limited, subject to normal development management considerations.

Main Issue 6:

IB04 should be set within a qualifying context that it will be subject to normal and planning and environmental considerations.

<p><i>Response:</i> Para 1.5 refers ‘the whole plan must be considered when assessing development proposals.’ Natural Environment draft policies and draft policy DE02 – Design Quality apply which seeks to protect and enhance features and assets of the natural and historic environment and landscape.</p>
<p><i>Conclusions:</i> No changes are proposed to the policy.</p>

Draft Policy IB05 – Farm Diversification	
<p>The Council will support the re-use or adaptation of existing farm buildings for farm diversification run in conjunction with the agricultural operations of a farm where:</p> <ul style="list-style-type: none"> a) The farm business is currently active and has been established for at least 6 years; b) The character and scale of operation does not impact adversely on its location; c) It does not have an adverse impact on the natural or built heritage; and, d) It does not have an adverse impact on the workings of the existing farm business. <p>Exceptionally, where it has been demonstrated through submitted information that existing buildings are not available to accommodate the development proposal or are clearly unsuitable for adaptation and re-use, a new building may be permitted. Any new building permitted will be required to cluster, consolidate and integrate with the existing group of farm buildings. Any new buildings away from the farm group will not be permitted.</p> <p>All permissions will have a planning condition linking the approved use to the farm business.</p>	
<p><i>Ref:</i> DPS/115/41 DPS/245/07 DPS/255/05 DPS/277/15</p>	<p><i>Representative: (Main Issue)</i> NIHE (Support) Retail NI (1) Invest NI (Support) National Trust (Support)</p>
<p><i>Main Issue 1:</i> The wording of the policy only seeks to support the re-use or adaption of existing farm buildings. However current policy allows for a proposal. This is more generic and can also consider the use of the land and buildings. Therefore, to co-ordinate policy for securing the orderly and consistent development of land and the planning of that development, an alteration should be made to proposals or development rather than buildings. It is also noted that Policy IB06 uses proposals rather than buildings.</p> <p>Whilst clustering and grouping has always been an important aspect in considering development in the Countryside to reduce the visual impact and</p>	

erosion to the rural character, an exception should be provided for a new building away from the farm group, if it has a significant level of integration and screening, as there would be very limited visual impact and no detrimental harm on rural character (DPS245/07).

Response:

The SPPS in para 6.73 allows for farm diversification schemes but the proposal 'must involve the re-use or adaptation of existing buildings, with new buildings only being acceptable in exceptional circumstances.'

SPPS para 4.30 emphasis the policy approach of buildings being sited and designed to integrate sympathetically with their surroundings... including the approach to cluster, consolidate and group new development with existing established buildings. Similarly, the SPPS para 6.69 advises 'the policy approach must be to cluster, consolidate, and group new development with exiting established buildings and promote the re-use of previously used buildings.'

Conclusions:

It is considered that the draft policy reflects the SPPS. The policy is considered to be sound and no changes are considered to be necessary, however if the commissioner is so minded it is recommended to remove criteria (c) to be consistent with policy IB06, as these matters are covered by other policies of the plan.

Draft Policy IB06 – Agricultural and Forestry Development:

The Council will support proposals for agricultural and forestry development where it has been demonstrated that:

- (a) The farm or forestry business is currently active and has been established for at least 6 years;
- (b) It is necessary for the efficient use of the agricultural holding or forestry enterprise;
- (c) It will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution;
- (d) The proposal is sited beside the existing farm or forestry buildings; and
- (e) The design and materials used are sympathetic to the locality and adjacent buildings.

Where development proposals include a new building, applicants must demonstrate, that there are no suitable existing buildings on the holding or enterprise that can be used.

Exceptionally an alternative site away from existing buildings on the holding or enterprise may be acceptable where it is demonstrated that there is:

- a verifiable, site specific health and safety reason; or

- the siting of the proposed development immediately adjacent to the group of existing buildings would prevent the future expansion of the farm in line with a submitted finance/bank approved business plan.

Development proposals for intensive farming or animal husbandry must demonstrate that it does not result in any significant adverse environmental effects.

<i>Ref:</i>	<i>Representative: (Main Issue)</i>
DPS/022/13	RSPB Northern Ireland (1)
DPS/052/09	Private Individual (5&6)
DPS/053/09	Private Individual (5&6)
DPS/054/02 et al ⁴	Multiple groups & private individuals (2)
DPS/245/08	Retail NI (3)
DPS/250/08	DAERA(NED) (4)
DPS/273/09	Friends of the Earth (5&6)
DPS/277/16	National Trust (7&8)
DPS/317/50	DfI (9)

Main Issue 1:

IB06 has lowered the level of protection afforded to the natural environment by omitting ‘it will not have an adverse impact on the natural or built heritage’ policy test, which was included in PPS 21, CTY12 (DPS/022/13).

Response:

Para 1.5 refers ‘the whole plan must be considered when assessing development proposals.’ Natural Environment draft policies and draft policy DE02 – Design Quality apply which seeks to protect and enhance features and assets of the natural and historic environment and landscape.

Main Issue 2:

The representation considers that FODC should oppose all plans for intensive farming and animal husbandry. Main issues centre around the production of animal excrement and the potential for same to pollute the local water system (DPS/054/02 et al⁴).

Response:

The representation regarding Intensive livestock facilities relates to ‘significant adverse environmental effects’ citing the example of manure/slurry from such facilities being spread on the land and entering our water system. Applications of this nature are subject to EIA regulations which require consultation with relevant authorities. This is part of the development management process.

It would be unreasonable to oppose all plans for intensive farming and animal husbandry.

Main Issue 3:

The policy text uses “must” in several place and seeks to apply a higher threshold than that contained in current policy. Given that paragraph 4.24 highlights that the agricultural and forestry sector are vitally important to the

Council area and should be supported, the policy wording and tests are not aligned and should be based on the current policy wording in Policy CTY12 (DPS/245/08).

Response:

The DPS is bringing forward new operational policy for the Council area. In doing so the Council are required to take account of the SPPS.

The regional strategic policy within the SPPS in respect of Agriculture and Forestry Development, p54, applies. This states that: "New buildings must be sited beside existing farm or forestry buildings on the holding or enterprise. An alternative site away from existing buildings will only be acceptable in exceptional circumstances." The DPS reflects this position and includes additional criterion in relation to the circumstances upon which the exception provision for an alternative site would apply.

Main Issue 4:

The wording in IB06 should be broadened to encompass the range of agricultural development proposals which can result in a significant adverse impact on the environment. Suggested wording is "Agricultural development proposals must demonstrate "

The Policy Clarification for IB06 should include an explanation about the issues surrounding livestock installations and ammonia, as well as clarification on permitted development rights for agricultural buildings. Ammonia (NH₃) is a gas emitted into the air because of many farming activities such as the housing of livestock, the storage and spreading of animal manures and slurries and the use of chemical fertiliser. Air pollution related to ammonia, and the associated nitrogen deposition, is known to have a damaging impact on sensitive habitats, wider biodiversity and ecosystem resilience, as well as human health. Agriculture is the dominant source of ammonia emissions, currently making up 94% of Northern Ireland's current emission levels. Most Northern Ireland's designated sites are exceeding their critical levels, the concentration at which environmental damage occurs (DPS/250/08).

Main Issue 8:

Welcomes policy highlighting that proposals for intensive farming or animal husbandry must demonstrate that they do not result in significant adverse environmental effects. Assessment of individual and cumulative impacts should also be a prerequisite (DPS/277/16).

Main Issue 4 Response:

Policy DE03 – Sustaining Rural Communities allows for a range of development in the countryside which sustain rural communities while protecting and improving the environment'. Para 1.5 refers 'the whole plan must be considered when assessing development proposals.' Other policies within the DPS apply.

It is considered that a paragraph be included within the clarification to highlight the issue of ammonia emissions resulting from agriculture, in particular intensive

agricultural practices. Within this statement, applicants could be directed toward the DAERA website for further information or advised to contact DAERA for advice prior to submission of an application.

Main Issue 8 Response:

Noted. Cumulative effects are considered by the regulatory authority.

Main Issue 5:

The document fails to address the impacts of mining and quarrying and intensive agriculture for neighbouring Council areas or the impact of those sites (existing and proposed) that are located in neighbouring Council areas on your Council area.

Watersheds are shared between north and south and the cumulative impact of potential impacts from extractive industries and industrialised factory farms are not understood with the degree of scientific certainty needed to inform a robust planning process. In this regard ammonia, nitrates and ammonia pollution from your Council area (from intensive agriculture) is likely to be adversely affecting the Republic of Ireland but nowhere are these land, air and water trans frontier impacts assessed. This is in breach of the SEA Directive, ESPOO Convention and Gothenburg protocol. In this regard the Habitats Regulation Assessment is fatally flawed (DPS/052/09, DPS/053/09, DPS/273/09).

Response:

No further details were provided as to whether the impacts to which they refer were positive or negative or indeed to which impacts they refer be it economic, social or environmental. No evidence has been submitted to demonstrate any negative impact of existing sites in either FODC or neighbouring Council areas.

DAERA is the regulatory body and reducing ammonia levels across NI is a key Departmental priority. Applications of this nature are subject to EIA regulations and consultations with relevant authorities including DAERA are required.

Furthermore, both the HRA and SA/SEA consider the potential for transboundary effects (e.g. the HRA considers the potential for transboundary effects on International sites in adjoining jurisdictions). As such, further consideration of this issue will be given in the topic paper on Assessments.

Main Issue 6:

The Council should introduce a policy presumption against approval for any new intensive factory farms for the following reasons:

Reason 1: NIEA figures demonstrate that over 90% of protected sites, including international sites such as SPAs, SACs and Ramsar, are already being damaged by nitrates and ammonia, the principal source of which is intensive farming.

Reason 2: There is a transboundary major pollution problem from nitrates, phosphorous and ammonia that this problem has not been assessed in your SEA or HRA, rendering these documents unlawful.

Reason 3: A cumulative assessment on the impacts of all intensive factory farms in the Council area is carried out to develop a scientifically accurate baseline against which all future Environmental Impact Assessments for extractive industries can be reliably assessed.

Reason 4: The Council must carry out a review of extant consents for intensive factory farms to comply with the legal requirements under Regulation 45, 46, 50, 51 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 to ensure compliance with Article 6 of the Habitats Directive.

Reason 5: An objective assessment is carried out of existing unregulated and unassessed factory farms in your Council area to enable you to assess potential damage from pollution (DPS/052/09, DPS/053/09, DPS/273/09).

Response:

DAERA refer to the National Atmospheric Emissions Inventory publication ‘Air Pollutant Inventories for England, Scotland, Wales, and Northern Ireland: 1990 – 2016’ Figure 61 reveals large areas of FODC to the west and south east have ammonia emissions in the bottom bracket of 0-0.05t/5x5km. By comparison extensive areas in central Mid Ulster have levels of greater than 4t/5x5km, the highest category mapped.

As detailed in the Sustainability Appraisal of the LDP Draft Strategy “there are no anticipated significant negative effects of the policies or proposals of the LDP draft strategy either with regards to any individual policy or proposal or when considered cumulatively. This includes transboundary effects”. Further consideration of this issue will be given in the topic paper on Assessments.

DAERA have been working since 2016 on reducing the levels of ammonia whilst facilitating sustainable development of a prosperous agri-food industry. DAERA have set up a Project Board to develop and implement an action plan on Ammonia, due to be published imminently.

Applications of this nature are subject to EIA regulations and consultations with relevant authorities including DAERA are required. In considering any proposal for intensive livestock production, the Council will take account of relevant published advice and any comments provided by statutory consultees.

Main Issue 7:

Welcomes the fact that Policy IB06 relates to established active farms and such proposals must be necessary. However, it is suggested that the policy should include a criterion that development should not have an adverse impact, individually or cumulatively on visual amenity, landscape and biodiversity (DPS/277/16).

Response:

Para 1.5 refers ‘the whole plan must be considered when assessing development proposals.’ Other policies within the DPS address these matters.

Main Issue 9:

In relation to new agricultural buildings the siting of such buildings away from the main group of farm buildings is more relaxed than strategic policy direction and should be supported by robust evidence base where deviation occurs (DPS/317/50).

Response:

The SPPS states under paragraph 6.73 (bullet point 11) that: provision should be made for development on an active and established (for a minimum 6 years) agricultural holding or forestry enterprise where the proposal is necessary for the efficient operation of the holding or enterprise. New buildings must be sited beside existing farm or forestry buildings on the holding or enterprise. An alternative site away from existing buildings will only be acceptable in exceptional circumstances.

The DPS provides detail of the exceptional circumstances provided for in the SPPS. Both of the circumstances are in line with the clarification provided under CTY10 for a House on a farm. As such it is considered to be a reasonable approach to addressing an exception which the SPPS introduces.

Conclusion:

The policy is considered to be sound, however if the commissioner is so minded it is recommended to add the following words to the final sentence of Policy IB06: “...particularly through increased ammonia emissions”.

It is also proposed that the following additional text should be included in the policy clarification to highlight the issue of ammonia emissions resulting from agriculture, particularly intensive agricultural practices:

1. Ammonia (NH₃) is a gas emitted into the air as a result of many farming activities such as the housing of livestock, the storage and spreading of animal manures and slurries and the use of chemical fertiliser. Air pollution related to ammonia, and the associated nitrogen deposition, is known to have a damaging impact on sensitive habitats, wider biodiversity and ecosystem resilience, as well as human health. As such, applicants are recommended to make contact with DAERA for further information and advice prior to submission of a planning application.

Town Centres and Retailing

Draft Policy TCR01 – Town Centres	
<p>The Council will support proposals for new retail development within the Primary Retail Core (PRC) where defined. For other locations, a sequential approach to site selection will be applied in the following order of preference:</p> <p>a) Within the Town Centre boundary; b) Edge of Town Centre boundary (i.e. adjoining it); and c) Out of centre locations (i.e. outside the Town Centre boundary) where sites are accessible by walking, cycling and public transport.</p> <p>Proposals for other town centre uses (cultural and community facilities, leisure, entertainment and businesses) shall follow the sequential order (a) to (c).</p> <p>All applications including extensions for retail development and town centre uses above a threshold of 500m² gross external area which are outside the Primary Retail Core shall be accompanied by:</p> <p>a) a full assessment of retail impact as well as need; or b) in the case of a Local Town, a full assessment of retail impact in relation to the relevant Main Town Centre within its catchment area.</p> <p>Outside town centres, permission may be granted for a small-scale convenience shop where it can be demonstrated that:</p> <ul style="list-style-type: none"> • it meets a defined local need which cannot be met within an existing centre; • it will not adversely affect the vitality and viability of existing centres within its catchment; and • it does not exceed 200m² gross retail floorspace. 	
<p><i>Ref:</i> DPS/005/01 DPS/010/01 DPS/11/01 DPS/104/01, 02 DPS/106/01, 02 DPS/108/02 DPS/115/42 DPS/121/01 DPS/140/01 DPS/238/06 DPS/265/15 DPS/245/09, 10, 18, 11, 12, 19, 17</p>	<p><i>Representation:(Main Issue)</i> Jigsaw Planning [ASDA Enniskillen] (01) Fane Valley (02 – 07) Elm Grange Ltd (09) Gravis Planning [Ccp Iv Erneside Holding SARL] (13), (10) Gravis Planning [Ccp Iv Omagh Holding SARL] (11, 13) McNally (14) NIHE (23) MBA Planning [Lidl NI] (17) Dessie O’Neill (16) Private (24) J Dolan MLA (08) Retail NI (15 Supports), (12), (18), (19), (20), (21), (22)</p>
Main Issue 1:	

Inclusion of ASDA store within Enniskillen town centre sought, whilst welcoming TCR01, specifically need for those applications for above a threshold of 500m² gross external area outside the PRC to be accompanied by an RIA and for local towns also requiring an assessment of retail impact in relation to the relevant main town centre within its catchment (DPS005/01).

Response:

No evidence was presented as to why the ASDA store on Derrychara Road should be included in the town centre or why its inclusion would 'reflect the significance of the store and its relationship with the town centre'.

The proposed town centre boundary in Enniskillen has not changed from the current town centre boundary.

Main Issue 2:

No Development Opportunity Sites (DOS) designated as part of the town centre for Omagh as part of LDP Strategy. Request that client's land be identified as a Development Opportunity Site (DPS010/01).

Response:

The approach taken is in line with regional strategic policy contained in the SPPS, which sets out that Planning Authorities must 'secure a town centre first approach for the location of future retailing and other main town centre uses' (para 6.271).

Specific land use designations and their locations will be dealt with at the Local Policies Plan stage.

Main Issue 3:

The SPPS policy provides a town centre first approach, it does not promote a Primary Retail Core (PRC) first approach. There is no SPPS policy support for a Retail Impact Assessment (RIA) to be carried out to protect the PRC (DPS010/01).

Response:

The approach taken reflects regional strategic planning policy in the SPPS, para 6.281 which stipulates the sequential order which planning authorities must require applications for main town centre uses to be considered i.e.

- Primary retail core;
- Town centres;
- Edge of centre;
- Out of centre locations, only where sites are accessible by a choice of good public transport nodes.

A number of issues were raised relating to the proposed threshold of 500m² outside the PRC and the threshold of 200m² for small convenience shops as follows:

Main Issue 4:

FODC rely on the Nexus Report (*Retail and Commercial Leisure Needs Assessment*) to support its 500m² threshold. Alternative figures suggest the policy threshold for the PRC is too low. The figures are misleading as they are for the entire town centre and not the average for the PRC. Modification suggested 1000m² (DPS010/01).

Main Issue 6:

If the Council's inclusion of a 500m² threshold (referring to 4th and 5th bullet points of TCR01) in response to the representation made at POP stage, this would be inappropriate as the representation appears to be concerned that the retail proposals of 999m² could be located in small town centres ... instead of introducing a retail impact test (DPS010/01).

Main Issue 7:

Suggest 500m² threshold for gross retail floorspace for small scale convenience shops in substitute for 200m² used in last bullet point (DPS010/01).

Main Issue 13:

The only clarification given in the DPS of the upper limit of 500m² for the requirement a full retail impact assessment is deemed to be in keeping with the existing scale of retail development in the Council area where the average unit sizes in Enniskillen and Omagh Town Centres in 2016 was 276m² and 197m² respectively. The average unit size should not form the basis for determining the threshold above which assessment of retail impact and need are required since assessments of retail impact consider the likely impact of a retail proposal on a centre or core area as a whole and not on individual units – DPS104/01 and DPS106/01.

Main Issue 17:

Approach seeking RIA - as well as need - for retail development above 500m² outside the PRC but within town centres not in accordance with the SPPS – DPS121/01].

Main Issue 19:

Suggests 300m² threshold introduced for a full assessment of Retail Impact Assessment as well as need for any additional Retail Warehousing outside town centre boundary (DPS245/11).

Main Issue 20:

The threshold to be applied to small scale convenience shops (outside town centres) is too small at 200m² and is not consistent with the threshold for ancillary shops associated with Petrol Filling Stations (PFS). This should be amended to 250m² to be consistent and reflect the wider range of products and services that small shops now provide along with the change in consumer behaviour to undertake more frequent basket (top-up) visits at a variety of locations (DPS245/12).

Responses to Main Issues 4, 6 and 13:

The SPPS paragraph 6.283 allows for Planning Authorities to apply a lower threshold to the requirement to carry out a retail impact and need assessment taking into account local circumstances such as the size, role and function of their town centres.

The inclusion of a 500m² gross external floor area threshold for the need for a RIA was considered sufficient to reflect the scale of development currently found within our two main towns as outlined in Local Development Plan Draft Plan Strategy para 4.35.

In line with the SPPS which advocates the need for a RIA for proposals above 1000m² outside our town centres, FODC evidence demonstrates that it is appropriate and measured to apply a 500m² threshold to the PRC given the average unit size in Enniskillen and Omagh town centres is 276m² and 197m² respectively⁵. The representation identifies comparison stores as being above the average yet fails to acknowledge retail services have an average of 119m² in Enniskillen and 84m² in Omagh.

The Retail and Commercial Leisure Needs Assessment report (March 2017) indicated 1800 – 2200m² net of convenience floorspace and 2,300 – 3600m² net of comparison goods floorspace would be required in Enniskillen up to the year 2030. Omagh had no further capacity for convenience goods at least until the year 2030 and capacity for 1400 – 2200m² net for comparison goods floorspace in Omagh. An update to the retail needs assessment (March 2020) which took account of the latest population and expenditure data and ‘commitments,’ indicated a small surplus of up to 1900 m² of convenience floorspace in Enniskillen and up to 200m² elsewhere in the District (outside Omagh) to the year 2030. Significant negative capacities for comparison floorspace are forecast for both Enniskillen and Omagh as well as negative capacity for convenience floorspace in Omagh. The approach taken by FODC is in line with regional planning guidance contained in the SPPS, para 6.283 which states ‘in preparing a LDP councils will have flexibility to set an appropriate threshold for their area, above which all applications for such development should be accompanied by an assessment of retail impact and need’.

The Council agree the purpose of the RIA is to give an indication of the likely impact of a retail proposal on a centre or core area as a whole. Proposed units which are larger in size than the average unit in either of the two main towns are likely to have an increased impact on the area as a whole.

Response to Main Issue 7:

No evidence has been provided to justify more than doubling the gross retail floorspace suggested. The proposed 200m² is considered sufficient to encourage development in a sustainable fashion without consequence to the existing town centres, based on existing small-scale convenience provision within the main towns, subject to fulfilling criteria laid out in bullet points of TCR01. Table 5 below

⁵ Fermanagh & Omagh Retail and Commercial Leisure Needs Assessment – March 2017 p30-31

gives an indication of the size of the most recent approvals within our two main settlements outside of the existing town centres:

Table 5: Recent commercial approvals outside town centres, within settlements

Reference	Address	Previous Gross Sales Floor Area (m ²)	Proposed increase to sales floor area (m ²)	New Gross Sales Floor Area (m ²)	Status
LA10/2016/0467/F 1 x hot food bar 1 x bulky goods retail warehouse	Cornagrade Road, Enniskillen	Change of Use	Change of use	125 226	Approved 09/02/2017
LA10/2019/0180/F	ASDA, Enniskillen	0 (new pod unit outside ASDA)	18	18	Approved 15/05/2019
Average gross retail sales floor area:				123m²	

Response to Main Issue 17:

The regional strategic objectives of the SPPS include 'secure a town centre first approach for the relocation of future retailing and other main town centre uses'; adopt a sequential approach to the identification of retail and main town centre uses in Local Development Plans; ensure LDPs and decisions are informed by robust and up to date evidence in relation to need and capacity.

The SPPS states in para 6.283 that 'councils will have the flexibility to set an appropriate threshold for their area, above which all applications for such development should be accompanied by an assessment of retail impact and need'.

The SPPS also provides for the planning authority to choose to apply a lower threshold taking into account local circumstances.

Response to Main Issue 19:

The SPPS retained the town centre first approach and sequential testing including the need for those over 1000m² to be accompanied by a full assessment of retail impact as well as need.

FODC have introduced a requirement for those proposals which would result in greater than 500m² gross external area which are outside the PRC to carry out a full assessment of retail impact as well as need. Omagh and Enniskillen were ranked 18th and 25th largest towns of Northern Ireland in the 2011 census. The impacts of larger retail provision will obviously be more keenly felt in our two main towns than many of the larger towns throughout Northern Ireland.

An additional 300m² test for the need for a Retail Impact Assessment for retail warehousing outside town centres is considered unnecessary. The SPPS is silent on the issue of Retail Warehousing whilst PPS 5 suggests such development would be considered acceptable in those circumstances where a RIA could be provided.

No evidence was submitted as to the need for such a requirement.

FODC remain committed to the promotion of our established town centres in a sustainable fashion.

Response to Main Issue 20:

Table 6 below highlights shops ancillary to a Petrol Filling Station (PFS) approved in the district since May 2009. Those approved within the town centres (and the proposed Lisnaskea town centre) had an average gross retail floorspace of 241m². Those shops approved outside the town centres but within the settlement limits averaged 310m².

Table 6: Sample of extant approvals of shops ancillary to PFS (excluding those ancillary to large supermarkets).

Reference	Address	Previous Gross Sales Floor Area - m ²	Proposed increase to sales floor area	New GSFA (m ²)	Status
Town Centre Locations					
K/2014/0342/F	Dromore Road, Omagh	150	150	300	Approved 12/2014
LA10/2018/1155/F	Campsie, Omagh	180	40	220	Approved 03/2019
LA10/2017/0011/F	Lisnaskea (proposed TC)	150	88	238	Approved 12/2017
LA10/2018/1069/F	Derry Road, Omagh	254	218	472	Approved 29/10/2018
Average new Gross Retail Sales Floor Area in town centres: 308m²					
Reference	Address	Previous Gross Sales Floor Area - m ²	Proposed increase to sales floor area	New GSFA (m ²)	Status
Within Settlements, outside of town centre:					
LA10/2018/0297/F	Dublin Road, Enniskillen	238	105	343	Approved 11/2018
LA10/2016/0327/F	Rossorry Church Road, Enniskillen	194	83	276	Approved 11/2017
LA10/2015/0577/F	Derrygonnelly Road, Enniskillen	60	363	423	Approved 10/06/2016

Average Gross Retail Sales Floor Area within settlement limits but outside of town centres: 347m²					
L/2009/0296/F – Approved Jan 2011 -was excluded as the PFS was ancillary to large supermarket in Enniskillen.					
LA10/2018/0709/F on Irvinestown Road, Enniskillen with 330m ² gross RFA is live at time of writing (07/19).					
Countryside Locations:					
LA10/2018/0335/F	Tattyreagh, Omagh	78	45	123	Approved 06/2018
LA10/2016/0778/F	Castle Archdale, Fermanagh	128	21	149	Approved 09/2016
Average Gross Sales Floor Area in the Countryside:				136m²	
Village Locations:					
LA10/2017/0242/F	Cullion Road, Tempo	373	0	373 (storage 116)	Approved 04/2018
L/2014/0580/F (extension to existing PFS)	Clones Road, Newtownbutler	668	17	685	Approved 05/2018
Average Gross Sales Floor Area in Villages:				529m²	
<p>Shops ancillary to a PFS in the villages had the highest average figures for gross retail floor space at 529m². Shops at a PFS in the countryside averaged 136m² gross retail floor area.</p> <p>Shops ancillary to petrol filling stations sell a range of goods from household fuels, confectionary, hot food, newspapers and fuel and have increasingly become a destination for ‘top up’ shopping/eating at the expense of our town and village centres.</p> <p>The Council accepts that the threshold to be applied to small scale convenience shops in TCR01 does not match that applied to a Petrol Filling Station in TCR05. Accordingly, the Council would recommend reducing the threshold in bullet point 2 of TCR 05 to read ‘not in excess of 200m² gross retail floorspace’.</p> <p>This amended figure allows for proposals to compete with those shops not associated with a PFS as listed in Table 5 and would address the trend towards ever increasing PFS retail provision.</p>					
Main Issue 5:					
There are no sites available within the PRC in which a new development could locate (DPS010/01).					
Response:					
No evidence was presented to substantiate the view that there were no sites available within the PRC within which a new development could locate. Proposals					

for new retail development may include redevelopment of an existing site or a cumulative development incorporating two or more units into one site.

The policy allows for such instances and is in line with regional planning policy contained within SPPS para 6.281.

Main Issue 8:

Either or both RCA01 (Rural Community Areas) and Town Centres and Retail Strategy should be amended to allow for small retail opportunities in DRCs or RCAs (DPS265/15).

Response:

Rural Community Areas are located within the open countryside and as such it would not be a sustainable approach to adapt either policy to make provision for small retail opportunities within them.

The Council's Spatial Growth Strategy sets out a Settlement Hierarchy, the purpose of which is to deliver development in a more sustainable manner (LDP para 6.3).

Main Issue 9:

Considers that District Centres should be identified within the Draft Plan Strategy in Enniskillen, specifically on Cornagrade Road.

Disagrees with aspects of the RCLNA, in particular, how it accounts for potential for inflow / cross border trade, and therefore maintains that there is greater capacity for retail floorspace over the plan period.

Considers that the town centre boundary should be reduced, with the Former Thompsons Feed Yard Site removed as due to several constraints, it is not viable for retail development (DPS11/01).

Response:

The draft Plan Strategy has not identified District Centres within its retail hierarchy as it is not considered that there are any locations in either Enniskillen or Omagh which currently fulfil the functions of a District Centre. However, the retail hierarchy does identify Local Neighbourhood Centres, and these will be identified in the Local Policies Plan.

A summary of the rationale for estimating cross border trade is explained in paras 5.21 – 5.28 of RCLNA. Further information and details of how weighting was applied can be found at pages 5-9 of the Appendices document.

No evidence has been provided to demonstrate the former Thompson yard would be unsuitable for development over the lifetime of the plan.

Main Issue 10:

As a result of excluding Erneside Shopping Centre from the PRC, the shopping centre would find it more challenging to obtain planning approval for new retail development since it would have to demonstrate compliance with new policy tests if draft Policy TCR01 is adopted, i.e. assessing sites within the Primary Retail Core first and an assessment of retail impact and need. It also fails to provide any justification, explanation or rationale for its exclusion from the PRC and therefore the PRC allocation is not founded on a robust evidence base (DPS104/02).

Response:

Only those proposals including extensions for retail development and town centre uses above a threshold of 500m² gross external area which are outside Enniskillen's PRC will require a full assessment of retail impact as well as need.

The original Erneside Shopping Centre was previously included within a 'commercial core' as designated in the Fermanagh Area Plan in 1997. Para 6.276 of the SPPS emphasises the importance of retaining and consolidating district and local centres and ensuring their role is complementary to the role and function of our town centres.

The scale of Erneside Shopping Centre has increased since its approval in 1988, increasing its impact on retail provision within the proposed PRC of Enniskillen.

Main Issue 11:

If the retail park (Omagh Showgrounds) is excluded from the PRC it would find itself in a more disadvantaged location than before since new retail development at the retail park would have to demonstrate compliance with the new retail policies of draft Policy TRC 01 if adopted, i.e. assessing sites within the Primary Retail Core first and an assessment of retail impact and need. There appears to be no sound planning reason to propose such a small compact Primary Retail Core area (DPS106/02).

Response:

No previous PRC was designated in Omagh. New proposals in the retail park would only have to provide a full assessment of retail impact as well as need where the gross external area exceeded 500m². A PRC is designated to protect the Primary Retail Core of the town and not the ancillary clusters of retail development found throughout the town centre. The Showgrounds Retail Park is physically detached from the proposed PRC by 390m walking distance, the River Strule, Sedan Avenue and visually by South West College.

Main Issue 12:

Physical and historical constraints of both town centres are also a consideration. It may be advisable to undertake a 'call for sites' consultation exercise to identify redevelopment sites or where sites could be amalgamated to provide sufficient space for larger convenience and comparison retail units within the town centre' (DPS245/10).

<p><i>Response to Main Issue 12:</i> The Local Development Plan Draft Plan Strategy stage sets out a vision for Fermanagh & Omagh, a set of objectives to deliver the vision and a strategy for the growth of the area.</p> <p>The Council consider the Local Policies Plan stage to be a more appropriate time to consider the need for a call for sites as the LPP deals with local policies and site-specific proposals in relation to the development and use of land in the District.</p> <p>The SPPS although advocating the 'call for sites' consultation exercise in para 6.286 is silent on the timing of same: '<i>as part of the process of identifying sites to be allocated for town centre uses in the plan, councils should undertake a call for sites consultation exercise</i>'.</p>
<p><i>Main Issue 15:</i> Retail NI is fully supportive of the sequential approach to retailing and main town centre uses. It has been demonstrated to work in both Enniskillen and Omagh town centres, which benefit from a lack of any significant out of town competition and high levels of independent traders (DPS/245/09)</p>
<p><i>Response to Main Issue 15:</i> FODC welcome the support for town centre first sequential test as proposed, in accordance with the SPPS para 6.281.</p>
<p><i>Some of the representations raised issues relating to the local town centres as follows:</i></p> <p><i>Main Issue 14:</i> The representation seeks the Church of Ireland and 4 buildings at Lower Main Street, Carrickmore included within the proposed town centre boundary. Also seeks SPAR shop on Drumnakilly Road included as well as lands on Creggan Road a further 275m eastwards as far as St Columbkille's Church (DPS108/02).</p> <p><i>Main Issue 16:</i> Proposed town centre boundaries for local towns, proposed boundary lines are drawn too tightly to existing development, little analysis has been done regarding retail activity of local towns. No attention has been given to encourage growth or expansion of 'smaller towns'. Recommend town centre boundaries be removed to enable more flexibility for future development (DPS140/01).</p> <p><i>Main Issue 18:</i> The proposed Local town Centre maps 'appear to be constrained with several existing convenience stores, petrol filling stations and main town</p>

centre uses either straddling (Lisnaskea) or just outside of the proposed town centre boundary (Carrickmore and Dromore)' (DPS245/18).

Response to Main Issue 14:

The representation requests the Spar Shop on Drumnakilly Road be included within Carrickmore town centre as representation states the two shops account for 'much of the commercial business of Carrickmore'. The retail pattern of development on the northern side of the road extends as far as the junction with Mullanmore Road, justifying the inclusion of Centra within the town centre. That to the south is clearly broken by the large residential dwelling and garden with 80m frontage set back off the road directly opposite Centra (1a Main Street).

It is the Council's aim, in line with regional strategic policy, to encourage retail development back into the centre of the proposed town centre boundary rather than along its periphery.

On Creggan Road, only one property beyond the proposed limits is currently paying non-domestic rates. The characteristic of the road is almost exclusively residential dwellings at roadside in modest plot sizes. No justification or reason was offered as to why the town centre boundary should extend 275m towards the north east.

Response to Main Issue 16:

Whilst the representation claims town centre boundaries have been drawn 'too tightly' and that 'little analysis had been done' regarding retail activity of local towns, no evidence has been presented to substantiate either claim.

Retail development outside town centres may still be permitted, subject to providing a full assessment of retail impact as well as need or in the case of our local towns, a full assessment of retail impact in relation to the relevant main town centre within its catchment area.

Fermanagh & Omagh District Council Retail and Commercial Leisure Needs Assessment (March 2017) identified negative capacity for convenience provision in Omagh and only limited provision in Enniskillen (1800–2200 m²) up until 2030 did not currently exist for shopping.

The report also identified capacity for comparison goods in Omagh is estimated at 1,400-2,200m² and estimated between 2,300 and 3,600m² for Enniskillen up to the year 2030. These findings support retaining existing boundaries given the limited anticipated extra demand for retail provision over the plan period.

Response to Main Issue 18:

Local town centre maps were drawn to consolidate and protect the historic built form of our local towns. Larger developments on the edge of our local towns have become more common in recent decades as modern developments seek larger, more easily accessible sites. In some instances, the creation of those larger sites on the periphery of the local town has come at a cost to the traditional commercial

core of the local towns. By creating a town centre which reflects that historic commercial core of the local towns and guiding development towards it in the first instance, FODC seek to encourage the revitalisation of our local towns rather than the unchecked proliferation of retail development.

In Carrickmore and Dromore more recent retail provision lies just outside the town centre boundary as proposed. Both of these facilities are distinctly removed from the established retail provision of Main Street/Church St area of Dromore and Main Street area of Carrickmore.

Main Issue 21:

The SPPS approach to retailing and town centres was that ‘Planning Authorities must adopt a town centre first approach for retail and main town centre uses.’ The author quotes example of four extant ... commitments for additional convenience retailing which have ‘consumed an estimated turnover of £110.4m’. Also quotes the figure as an example of speculative schemes in the town centre inhibiting future development (DPS245/17).

Response:

There is no mechanism nor reason for treating speculative applications any differently to those for a ‘definite’ business proposal. Where an applicant submits an outline or full planning application, they are under no obligation nor requirement to indicate whether they intend to proceed with a full application or commence development within 5 years of the date of their outline application.

It would be entirely unreasonable and unpractical to require same.

Main Issue 22:

Retail NI seek the replacement of the word ‘shall’ with ‘must’ in para 4.31, encouraging a mandatory requirement to have the principle focus for retail growth and other town centre uses within Omagh and Enniskillen town centres (DPS245/19).

Response:

No change considered necessary, proposed policy in keeping with SPPS para 6.275: ‘LDPs should include a strategy for town centres and retailing and contain appropriate policies and proposals that must promote town centres first for retail and other main town centre uses’.

Main Issue 23:

Housing Executive supports a town centre first and sequential approach to retailing. A strong town centre aids the development of sustainable communities.... ‘designation of a town centre and a primary retail core can ensure a range services, facilities and employment opportunities are located in highly accessible areas, providing a sense of place.’

Would like to see LDP promote a mix of uses in the centre and believe town centre living could be encouraged. Facilities should be provided to support high living standards.. including open space, health and education and community services should be provided. ...environmental improvements

<p>and high-quality urban design that is pedestrian friendly will encourage visitors to town centres (DPS115/42).</p>
<p><i>Response:</i></p> <p>FODC welcome the support for town centre first sequential test as proposed, in accordance with the SPPS para 6.281. The remaining matters can be given further consideration at LPP stage.</p>
<p>Main Issue 24: Omagh will have a particular retail problem, when the schools join the health services in out of town centre locations - particularly in the food and beverage sectors (DPS/238/06).</p>
<p><i>Response:</i></p> <p>Comment noted. A sequential approach will be applied to new retail developments outside the town centre. An 'Out of centre location' is the least preferred location for such a proposal. Town Centre Health Checks will also be undertaken as part of monitoring of the Plan.</p>
<p><i>Conclusion:</i></p> <p>The policy is sound. No changes are required.</p>

<p>Draft Policy TCR02 – Primary Retail Frontage:</p>	
<p>Proposals for non-retail uses at ground floor level within the primary retail Frontage (PRF) will only be permitted where they do not:</p> <ul style="list-style-type: none"> a) create a new continuous frontage of three or more non-retail units; or b) result in unacceptable loss of retail floorspace; or c) undermine the shopping function of the PRF as a result of the accumulation of non-retail uses; and d) they contribute to the daytime economy; and e) retain an active shop window display i.e. shop window display for goods, not dominated by large generic stickers/poster displays. 	
<p><i>Ref:</i> DPS115/43 DPS245/13 DPS317/51, DPS/317/84</p>	<p><i>Representative: (Main Issue)</i> NIHE (Support) Retail NI (Support) Dfl (1)</p>
<p>Main Issue 1: Criterion (b) is subjective, further detail would be helpful. In (e) no indicators have been included for monitoring shop window displays under section 7 (monitoring and review). This section may be better placed in guidance (DPS/317/51, DPS/317/84).</p>	
<p><i>Response to Main Issue 1: (Dfl)</i></p>	

<p>The Council proposes as part of the monitoring framework, to undertake annual Town Centre Health Checks through which any trends in the proportion of retail and non-retail uses within the Primary Retail Frontage would be identified.</p>
<p><i>Conclusion:</i> The policy is sound. Town Centre Health Checks will be used as part of the monitoring framework on an annual basis.</p>

<p>Draft Policy TCR03 – Local Neighbourhood Centres:</p> <p>Within existing local neighbourhood centres, additional retail provision either through replacement or expansion will be permitted provided:</p> <ul style="list-style-type: none"> • it is not for the sale of comparison goods; • it does not exceed 100m² gross retail sales floor area; and • there would be no adverse impact on town centres in the catchment. 	
<p><i>Ref:</i></p> <p>DPS115/44 DPS245/14</p>	<p><i>Representative: (Main Issue)</i></p> <p>NIHE (Support) Retail NI (1)</p>
<p>Main Issue 1: The threshold to be applied is too small at 100sqm and we suggest a modification to 150sqm (gross retail sales floor area). Taking account of the likely turnover of a single unit or the cumulative effect of multiple units, it could not reasonably be suggested that it would have an adverse impact on town centres within the catchment, and the third criterion should be removed (DPS245/14).</p>	
<p><i>Response:</i> Whilst Retail NI agree comparison goods should not be sold at Local Neighbourhood Centres, they suggest a 50% increase in the gross retail sales floor area with no evidence base. They consider that ‘it could not reasonably be suggested that it would have an adverse impact on town centres within the catchment’.</p> <p>This of course depends on the number of units and the number of local neighbourhood centres and their capacity for expansion. This could be reviewed as part of the final analysis and justification at Local Policy Plan stage.</p> <p>The physical extent of a local neighbour centre will also dictate the degree to which its impact is felt on the relevant town centre.</p>	
<p><i>Conclusion:</i> Table 5 provides a summary of recent approvals for retail outside town centres but within settlement limits where Local Neighbourhood Centres are traditionally located. The hot food bar and ‘pod’ at ASDA average just over 70m² gross retail</p>	

floorspace as examples of non-comparison retail floor area. The policy is sound. No changes are required.

Draft Policy TCR04 – Villages and Small Settlements:

Proposals for new retail development within villages and small settlements will be permitted provided:

- **it is to meet a local need and which sustains rural communities; and**
- **it is keeping with the size and character of the settlement**

<i>Ref:</i> DPS245/15 DPS257/01 DPS265/05 DPS317/85	<i>Representative: (Main Issue)</i> Retail NI (Support) Morrison (Support) Dolan J MLA (2) Dfl Planning (1)
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Main Issue 1:

Policy may benefit from inclusion of further bullet point stating: ‘that proposals would be permitted provided there is no adverse impact on town centres within the catchment’ (DPS317/85).

Response:

It is considered appropriate to safeguard the town centres within the catchment of our villages. Whilst development is encouraged within the Local Towns, Villages and Small Settlements, this development should not be at the expense of our town centres.

Main Issue 2:

SP02 should be modified to include DRC designation making TCR04 relevant to DRCs. Enacting this policy would do away with rural post offices and shops that already exist (DPS/265/05).

Response:

The proposed policy will not impact upon existing facilities.

DRCs are not part of the settlement hierarchy classification. Rural Community Areas are located within the open countryside and as such it would not be a sustainable approach to adapt either policy to make provision for small retail opportunities within them.

The Council’s Spatial Growth Strategy sets out a Settlement Hierarchy, the purpose of which is to deliver development in a more sustainable manner (LDP para 6.3).

Conclusion:

The policy is essentially sound. However, minor contextual changes are required to address Main Issue 1. If the Commissioner is so minded, the following bullet point (*italics*) should be added to the policy: -

Proposals for new retail development within villages and small settlements will be permitted provided:

- it is to meet a local need and which sustains rural communities;
- it is keeping with the size and character of the settlement; and,
- it would not have an adverse impact on town centres within the catchment.

Draft Policy TCR05 – Petrol Filling Stations:

The Council will support a proposal for a petrol filling station which is inside the settlement limits and outside town centres and where any proposed shop is:

- **limited to a single shop ancillary to the use as a petrol filling station; and**
- **not in excess of 250m² gross retail floorspace.**

Outside settlement limits, a proposal for a petrol filling station will only be supported in the following circumstances:

- **it is located along a dual carriageway route which is not currently served by existing petrol filling stations; and**
- **a clear and compelling need and safety case can be demonstrated.**

Ref:
DPS025/01
DPS245/12,
16
DPS/317/83,
86

Representative: (Main Issue)
Agent (1)
Retail NI (2,5)
Dfl Transport NI (3) p.72 of representation
Dfl Planning (4)

Main Issue 1:

Considers that there is no justification for the floorspace cap on Petrol Filling Stations shops of 250m². Such shops are a modern convenience and complementary to town centres. As such the policy should be modified to state that any proposal (outside town centres) above 250sqm should be supported by a retail assessment that considers the proposal's impact and need; and delete the text relating to petrol stations outside settlement limits (DPS025/01).

Response:

Table 6 shows recent full applications for new shops approved ancillary to PFS in the district. The three units outside town centres, within settlement limits averaged 347m² gross retail floorspace. Whilst the Council appreciate the convenience associated with such shops, this convenience cannot be at the expense of our town centres. Encouraging development in a sustainable manner cannot include

permitting retail expansion to allow doubling of gross retail floorspace as evident in Table 6. The average of the original store, prior to further development, across each permission in Table 6 equated to 225m².

Therefore, a reduced threshold at 200m² gross retail floorspace is considered sufficient to provide adequate retail provision ancillary to a PFS outside of town centres without the shop necessarily becoming an attraction in its own right.

The Council consider it remains reasonable to expect drivers to travel at least 12 miles along the main traffic route network before reaching a PFS as per current policy. No evidence was submitted to substantiate a removal of same as requested.

Main Issue 2:

Policy should retain flexibility to assess site specific circumstances and could introduce a RIA as well as assessment of need for any proposal >250 sq. m to provide robust consideration (DPS/245/16).

Response:

The proposed amendment, through the submission of an RIA and an assessment of need, seeks to allow a grouping of additional services.

The important role of petrol filling stations has been recognised in planning policy. It is also the intention of policy that any shops which are ancillary to the main use as a petrol filling stations remain a secondary element of the development and not a destination in their own right.

The more recently approved stores above now include delicatessens, post offices, off licences, solid fuel sales and hot food bars. The wide range of functions combined with convenient, readily accessible free parking at each store adds significantly to their attractiveness. The average size of the examples in Table 6 above (outside the town centre) is over almost 13% above that of those within the town centres, increasing the probability those facilities would have a detrimental effect on the town centres.

The average distance of the three premises above from the town centre boundary was 0.64 miles or just over 1km.

Main Issue 3:

It is questioned if bullet point on p112 regarding 'it is located along a dual carriageway route which is not currently served by existing petrol filling stations' is 'fair and reasonable' (DPS/317/83).

Response:

The cumulative effect this retail provision has the potential to detract from existing town centres and settlements. FODC have made provision for future road schemes which may be brought forward in the life time of the Plan to allow for PFS along their route.

Exceptionally, the Council suggest amending TCR05 to add policy provision as follows: 'where it has been demonstrated to the satisfaction of the Council that there exists a need for a PFS outside settlement limits and the proposal has been accompanied by a full assessment of retail impact as well as need in relation to existing settlements within its catchment. Shops ancillary to PFS outside settlements will be limited to 200m² gross retail floorspace'.

Main Issue 4:

May benefit from inclusion of further bullet point stating, 'that proposals would be permitted provided there is no adverse impact on town centres within the catchment' (DPS/317/86).

Response:

The Council concurs with DfI that the following suggested wording would contribute to added protection to our town centres and be in keeping with SPPS para 6.271 to secure a town centre first approach:-

'proposals would be permitted provided it has been demonstrated there is no adverse impact on town centres within the catchment'.

Main Issue 5:

The 200sq m threshold to be applied to small scale convenience shops is too small and is not consistent with the threshold for ancillary shops associated with Petrol Filling Stations (PFS). This should be amended to 250sqm to be consistent and reflect the wider range of products and services that small shops now provide along with the change in consumer behaviour to undertake more frequent basket (top-up) visits at a variety of locations (DPS245/12).

Response:

Small scale convenience shops are, by their very nature, small scale. More recently the size of the shop ancillary to petrol filling stations has become increasingly larger as the range of goods and services they offer has increased from confectionary based to bakery, fast food and household supplies.

The Council have proposed reducing the threshold in the second bullet point of TCR05 to 200m² as per response to Main Issue 1 of TCR05 above to provide consistency between TCR01 and TCR05 and to attempt to mitigate against the ongoing trend of out of town centre PFS shops expanding and increasingly undermining the role of our town centres.

Conclusion:

In response to issues raised, minor contextual changes are required to the policy. If the Commissioner is so minded to consider these at IE, these proposed changes are as follows:

1. Amend bullet point 2 of TCR05 to read 'not in excess of 200m² gross retail floorspace.' to correspond to that of the final bullet point in TCR01 (Town

Centres) relating to small scale convenience shops outside town centres to promote uniformity.

2. Add bullet point allowing exceptional cases for Petrol Filling Stations outside settlement limits as follows: “and where it has been demonstrated to the satisfaction of the Council that there exists a need for a PFS outside settlement limits and the proposal has been accompanied by a full assessment of retail impact as well as need in relation to existing settlements within its catchment. Shops ancillary to PFS outside settlements will be limited to 200m² gross retail floorspace”
3. Add further bullet point that “proposals would be permitted provided it has been demonstrated there is no adverse impact on town centres within the catchment”.

The Council will support a proposal for a petrol filling station which is inside the settlement limits and outside town centres and where any proposed shop is:

- limited to a single shop ancillary to the use as a petrol filling station; and
- not in excess of 200m² gross retail floorspace.

Outside settlement limits, a proposal for a petrol filling station will only be supported in the following circumstances:

- it is located along a dual carriageway route which is not currently served by existing petrol filling stations;
- a clear and compelling need and safety case can be demonstrated;
 - *and where it has been demonstrated to the satisfaction of the Council that there exists a need for a PFS outside settlement limits and the proposal has been accompanied by a full assessment of retail impact as well as need in relation to existing settlements within its catchment. Shops ancillary to PFS outside settlements will be limited to 200m² gross retail floorspace;*
 - *proposals would be permitted provided it has been demonstrated there is no adverse impact on town centres within the catchment”.*

Tourism

Tourism – Context and Justification	
<p>4.44 Both the RDS and SPPS promote a sustainable approach to tourism development. This requires policies which facilitate appropriate development opportunities and safeguard tourism assets from harmful development. Sustainable tourism development includes tourist accommodation and tourist amenities.</p> <p>4.45 The tourism product across our Council area is well defined in terms of attractions. The Council area is home to the Marble Arch Caves UNESCO Global Geopark which is the world’s first cross border Global Geopark, Cuilcagh Mountain, the Ulster American Folk Park, Devenish Island, the Fermanagh Lakelands and Belleek Pottery. It includes part of the Sperrin Area of Outstanding Natural Beauty (AONB), one of the most unique landscapes in Northern Ireland.</p> <p>4.46 Our outstanding natural environment enables a range of outdoor activities such as hiking, mountain bike riding, cruising, and other water-based activities to be undertaken which differentiates the Council area from other destinations. It also has a rich historic environment which includes country parks and historic houses.</p> <p>4.47 Tourism plays an integral part of rural regeneration and diversification and is also important to our towns and villages helping to sustain local attractions such as museums, galleries, festivals and art and craft workshops through contributing to economic development, conservation and urban regeneration. A wide range of tourist accommodation which includes hotels, guest houses, caravan parks and camping sites is available across the Council area.</p> <p>4.48 While the Council area has tourism strengths and is attractive to many visitors there are several challenges such as its seasonality with the majority of visits and value from tourism experienced in the four summer months. Within Omagh there is a limited accommodation supply such as hotels and accommodation suited to ‘activity’ tourism such as hostels.</p>	
<p><i>Ref:</i></p> <p>DPS/022/14 DPS/238/05 DPS/317/125</p>	<p><i>Representative:(Main Issue)</i></p> <p>RSPB (1) Private individual (3) Dfl (2)</p>
<p>Main Issue 1: It is disappointing that the context and justification section makes no reference to the international conservation designations like Special Protection Areas (SPAs) or Ramsar, which form an integral part of FODC’s unique natural environment. (DPS/022/14)</p>	

Response:

Paragraph 4.45 of the policy clarification states that the tourism product across our Council area is well defined in terms of attractions. A tourism attraction is a place which draws visitors by providing something of interest or pleasure, including tourism assets which can be regarded as any feature associated with built or natural environment which is of intrinsic interest to tourists.

Paragraph 1.5 of the Draft Plan Strategy states that the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry picked' and used in isolation; all relevant parts of the plan must be considered.

Draft Policy NE01 – Nature Conservation deals with development in sensitive areas including SACs, cSACs, SPAs, pSPA, listed or proposed Ramsar sites, ASSIs, national nature reserve or nature reserve, areas or features of local importance for nature conservation including wildlife refuges, local nature reserves and SLNCIs.

Draft Policy NE02 – Protected Species and their Habitats deals with development which are likely to harm a protected species and their habitats.

Draft Policy NE03 – Biodiversity deals with development proposals which would have an unacceptable adverse impact upon priority species or priority habitats identified in by the Council's Local Biodiversity Action Plan.

Main Issue 2:

No reference to promoting or supporting walking, cycling, and meeting the needs of people whose mobility is impaired and providing adequate and convenient access to public transport. Safe and convenient access arrangements to the public road that do not prejudice road safety should also be referenced. (DPS/317/125)

Response:

Integrating sustainable modes of transport including walking and cycling and minimise the impact of car parking along with other transportation issues are a material consideration when determining planning applications for all forms of tourism development which would be addressed by other policies of the draft Plan Strategy (e.g. policies DE02, TR01, TR02, TR03, TR04, TR05, TR06)

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

The suggested references and wording are therefore not required as addressed in other parts draft Plan Strategy.

Main Issue 3:

Commentary in respect of the tourism economy being healthy in our area but that this seems to be related to specific locations. No plan to broaden the scope to other areas, asking how to encourage tourists to visit the town centres during their trip to Omagh of Enniskillen areas. Cites lack of facilities for parking of tourist buses in Omagh town centre and that this must impact on bringing tourist currency to the retail outlets in the town centre. DPS/238/05

Response:

Paragraph 6.48 of the policy clarification of TR02 – Car Parks and Service Provision states that there will be a requirement at some facilities, especially those based on tourism, to provide coach parking and as such this is reflected within the current published parking standards. Where a particular need has been substantiated, this can be addressed at LPP stage.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Conclusions:

No amendments are proposed.

The Tourism Strategy

4.49. To establish the Council area as a ‘Must Visit’ destination, the Council aims to sustain and increase the number of visitors to the area, and to capitalise upon and further develop the area’s tourism assets, facilities and infrastructure in a sustainable manner without adversely impacting upon the landscape, historic environment and built environment. For example, appropriate protection will be afforded to Cuilcagh Mountain and the unspoilt upland areas of the Sperrin AONB.

4.50. It is anticipated that promotion of key tourism assets such as the unique lakelands which are rich in terms of both natural and heritage assets, the Marble Arch Caves UNESCO Global Geopark and the Sperrins will result in increased visitor numbers and in turn, create increased demand for sustainable tourism development which includes tourist accommodation and tourist amenities. In keeping with the Plan’s Growth Strategy the best locations for new accommodation and facilities are within the settlements, particularly Enniskillen and Omagh whilst contributing to economic development, conservation and urban regeneration. These main towns also provide the focus for shopping and entertainment.

<p>4.51. Outside of settlements, tourism development will be directed towards tourism hubs which are located at a recognised significant tourism attraction. Tourism hubs are areas throughout our Council area where clusters of existing tourism development have become established or are likely to be provided as a result of tourism initiatives. The Plan Strategy seeks to consolidate and build upon existing tourism assets, amenities and attractions by enabling complementary forms of sustainable tourism development. This will act to enhance the tourism offer and experience in the Council Area by linking our valuable natural, built and cultural heritage and other tourism assets at a more local level.</p> <p>4.52. In the remaining countryside, we will support our rural communities and the rural economy by facilitating appropriately sited and designed tourism development through farm diversification schemes, the re-use of rural buildings and appropriate redevelopment and expansion proposals for tourism proposals. Extensions will be supported where they are in keeping with the nature and scale of existing tourist amenities and the landscape has the capacity to absorb the proposed development.</p> <p>4.53. Alongside promoting growth in the tourism sector, the Council will seek to protect existing tourism provision in the Council area and safeguard our tourism assets and accommodation from inappropriate development or from a change of use to non-tourism uses.</p>	
<p><i>Ref:</i> DPS/022/115 DPS/261/02 DPS/317/125</p>	<p><i>Representative: (Main Issue)</i> RSPB (1, 2) Alastair Keys (4) Dfl (3)</p>
<p><i>Main Issue 1:</i> Makes reference only to protecting impacts in the landscape, historic and built environment – there is no mention of the natural environment – not only to protect its visual quality, but regard should also be had to nature features, including habitats and species. Species, habitats, landscapes and green spaces form a network of visitor attractions, which are of great importance to the local economy. (DPS/022/14)</p>	
<p><i>Response:</i> Under the Policy Clarification of Draft Policy TOU01 – Protection of Tourism Assets and Tourism Development paragraph 4.54 it states that the Council considers a tourism asset to be any feature associated with the built or natural environment which is of intrinsic interest to tourists. Tourism assets within the Council area are of prime importance to the tourism industry and the safeguarding of these assets from inappropriate development is vital in securing a viable and sustainable tourism industry.</p> <p>Biodiversity is dealt with under Draft Policy NE03 – Biodiversity. Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole</p>	

plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 2:

While tourism can often be related to the enjoyment of the natural environment, which is strongly advocated, human activity, can in some instances, have a negative on biodiversity. The LDP should ensure that proposals do not have an adverse impact on biodiversity.

Potential disturbance to key birds from recreational tourism should be considered in close proximity to the Lough Shore. The LDP should steer tourism related development away from sensitive areas. There is a need for a robust policy which protects priority habitats and species as identified in the NI Biodiversity Strategy. (DPS/022/15)

Response:

When determining planning applications for tourism developments the natural environment, protected species and their habitats and biodiversity would be a material consideration which would be addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 3:

No reference to promoting or supporting walking, cycling, and meeting the needs of people whose mobility is impaired and providing adequate and convenient access to public transport. Safe and convenient access arrangements to the public road that do not prejudice road safety should also be referenced. (DPS/317/125)

Response:

Integrating sustainable modes of transport including walking and cycling and minimise the impact of car parking along with other transportation issues are a material consideration when determining planning applications for all forms of tourism development which would be addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Additional criteria are therefore not required.

Main Issue 4:

Strategy needs to take account of what tourists want. (DPS/261/02)

<p><i>Response:</i> Paragraph 4.49 of the Tourism Strategy that the Council aims to sustain and increase the number of visitors to the area and to capitalise upon and further develop the area’s tourism assets, facilities and infrastructure in a sustainable manner.</p>
<p><i>Conclusions:</i> The tourism strategy is considered to be coherent and reflective of the Council’s ambitions in relation to tourism in the district.</p>

<p>Draft Policy TOU 1 – Protection of Tourism Assets and Tourism Development</p>	
<p>A Tourism Assets</p> <p>The Council will not permit any form of development that would, in itself or in combination with existing or approved development, have an adverse impact on the intrinsic character or quality of a tourism asset or any part thereof, or diminish its tourism value.</p>	
<p>B Tourism Development</p> <p>The Council will only permit the loss of any tourism amenity, or any development intrinsically linked to tourism, where this does not provide an important tourism amenity in the locality and it has been demonstrated that the development is not viable in the long term and there is an alternative provision in the locality to offset its loss.</p> <p>Planning permission will not be granted for the change of use of tourist accommodation into a dwelling unless it can be demonstrated that the building is no longer needed or no longer viable for a tourism use.</p>	
<p><i>Ref:</i> DPS/022/15 DPS/054/03 et al⁴ DPS/069/01 DPS/070/01 DPS/115/45 DPS/252/05 DPS/259/13, 14 DPS/271/06 DPS/277/17 DPS/317/52</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) Multiple groups & private individuals (2, 3) Lough Erne Resort (4) Private Individual (5, 6) NIHE (Support) SSE Renewables (9) Private Individual (7, 8) Dalradian (9,10, 11, 12) National Trust (9) DfI (13)</p>
<p>Main Issue 1: This policy is welcomed however it should include a reference to the protection of the natural environment and not just to landscape visual</p>	

character or quality. Asked for the following wording to be added to the policy "...part thereof, 'the natural environment, including biodiversity' or diminish its tourism value" (DPS/022/15)

Response:

Draft policy TOU01 does not make reference to "landscape visual character or quality" as cited in the representation. Instead the policy seeks to protect the intrinsic character or quality of a tourism asset from adverse impact. Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

It should also be noted that, depending on the nature of the tourism asset, the protection of the natural environment may well be considered to form part of the intrinsic character or quality of it. Again, application of the Natural Environment policies will assist in determining this.

Main Issue 2:

Under TOU 1 it should be stated that precious mineral mining should not be permitted in or close to the Sperrin AONB or in areas hydraulically linked to protected waterways, wells or reservoirs. (DPS/054/03 et al⁴)

Response:

Proposals for the extraction of precious minerals mining will be assessed under the policy provisions of MIN01. TOU01 requires the protection of tourism assets and tourism development. This will require an assessment of the proposed development within the context of the nature of the, or any, relevant tourism assets in order to establish whether the proposal would result in an adverse impact on the intrinsic character or quality of the tourism asset.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 3:

Draft policy should also include a commitment that the Council will facilitate the development of an Omagh Sperrin AONB tourism timetabled action plan to embrace what the area has to offer in conjunction with existing providers and led by the community. (DPS/054/03 et al⁴)

Response:

The Tourism Strategy provides the LDP's strategic direction for tourism within the District. It is not within the remit of the dPS to make a commitment to a tourism action plan.

This matter relates to the AONB designation and as such it is considered that the landscape policies within the dPS also apply.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 4:

It would be clearer if the tourism assets were listed. The protection offered to a tourism amenity or development in part B is not strong. The catch all protection offered in TOU01B is too varied a range of interpretation and is not practical. A more practical policy would differentiate and provide measures of protection appropriate to each situation. It is questioned how viability would be tested/demonstrated and if this is a measure of profitability or "need". (DPS/69/01)

Response:

It is not possible to list all of the tourism assets within the Fermanagh and Omagh District Council area. Whilst certain tourism amenities are more frequently used/visited, generate more visitors/income than others, it is not possible to identify criterion to be used to differentiate between tourism amenities in the manner suggested.

It is accepted, however, that the draft policy wording: "where this does not provide an important tourism amenity in the locality" is somewhat subjective both in terms of what is 'important' and 'locality'.

Consideration should be given to rewording the policy to address the issue raised within the representation and to reaffirm the policy intent of protecting tourism assets in the following manner:

"The Council will only permit the loss of any tourism amenity, or any development intrinsically linked to tourism, where it has been demonstrated that there is a sufficient supply of amenities within the area to satisfy demand and /or the facility has been marketed and proven to be no longer viable."

Additional clarification should be provided in respect of the approach to be taken in order to demonstrate that the facility has been marketed and that it is no longer economically viable. This should be provided in the form of a marketing statement and include the following information:

- Independent valuation;
- Sales marketing materials and responses;
- Use/number of visitors/achieved room rate data;
- Business plans;
- Marketing plan, schedule and brochures;
- Investment schedule and plans;
- Details of plans to up-grade/re-position with full costing;
- It is demonstrated that it cannot be used for an alternative tourism use

Appropriate marketing should be undertaken for a reasonable period of time before a planning application for a change of use or redevelopment of an existing tourism/leisure facility is considered. The Council considers that a period of 12

months is an appropriate period, and applicants are advised to submit their planning application within 3 months of completing the marketing exercise to avoid outdated evidence.

Main Issue 5:

Competition can provide tourism benefit by raising standards and providing choice but will TOU 01 B stifle growth by providing too much commercial protection from competition to established businesses that already provide a tourism amenity? Or can a proposed development of a new amenity provide sufficient tourism benefit such that it provides the necessary "alternative provision in the locality to offset the loss" of a pre-existing amenity? (DPS/70/01)

Response:

The aim of TOU01 is to prevent the loss of tourism development where it has been demonstrated that it is not viable in the long term. This does not preclude applications for new proposals under TOU02.

It is acknowledged that the phrase "and that there is an alternative provision in the locality to offset its loss" would have the potential to cause conflict between policies TOU01 and TOU02 and as such it should be removed.

Main Issue 6:

TOU 01 does not provide protection to tourism hubs. In TOU 02 Development is encouraged to consolidate at hubs but the overall quality of a hub is more valuable than the sum of its parts. (DPS/70/01)

Response:

TOU01A provides protection to tourist hubs as the Council will not permit any form of development that would, in itself or in combination with existing or approved development, have an adverse impact on the intrinsic character or quality of a tourism asset or any part thereof, or diminish its tourism value. It is important to recognise what the writer has stated that in considering our tourism assets that the overall quality or value of number of smaller parts of a tourism asset is more valuable than the sum parts. This is particularly relevant to Fermanagh and Omagh which have a number of large-scale tourism assets. As such the policy should be amended to read "...or diminish its tourism value, or part there-of."

Paragraphs 4.50 and 4.51 describe what is a tourism hub.

The Glossary defines a tourism hub as "an area which is located within the vicinity of an existing tourism asset, tourism attraction or in some instances, has tourism accommodation" (PAGE 219). Tourism hubs are located at a recognised significant tourism attraction. The Glossary defines a Tourism Attraction as "a place which draws visitors by providing something of interest or pleasure, including tourism assets which can be regarded as any feature associated with the built or natural environment which is of intrinsic interest to tourists".

Main Issue 7:

Under this policy it states that the Council will not permit any form of development that would have an adverse impact. It is questioned how FODC

can have a sustainable tourism industry, as per SEA but yet fully embrace a toxic mineral extraction industry and wind turbine installation programme causing the industrialisation of the Sperrin, an AONB. (DPS/259/13)

Response:

The potential impact on a tourism asset such as the Sperrin AONB would be a material consideration when determining planning applications for wind energy developments, minerals extraction and tourism developments would be addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 8:

An Creagan which attracts 35,000 per year has not been mentioned and this facility will be decimated with the imposition of the largest cyanide processing plant in Western Europe, similarly the Black Bog. (DPS/259/14)

Response:

TOU01 is to provide protection to Tourism Assets and Tourism Development. The policy does not list any tourism assets or development. TOU01 is applicable to all forms of development which would impact on a tourism asset. In protecting Tourism Assets, the integrity of Tourism Hubs is also protected.

Main Issue 9:

Object to policy in its entirety. Seeking to introduce a policy which seeks to protect tourism assets from inappropriate development. The draft policy is however in conflict with an inconsistent with the approach set out in prevailing regional policy. The policy is seeking to prohibit development which would have an adverse impact on the character of quality of a tourism asset or diminish its tourism value. It fails to identify those tourism assets to which the policy would be applied. In its current form the policy could apply to any location within the district. (DPS/271/06, DPS/252/05)

The wording of TOU01 is inconsistent and in conflict with paragraph 6.262 of the SPPS. TOU01 states "The Council will not permit any form of development that would, in itself or in combination with existing or proposed development, have an adverse impact on the intrinsic character or quality of a tourism asset or any part thereof, or diminish its tourism value". (DPS/271/06, DPS252/05)

Paragraph 6.262 of the SPPS states that "Planning permission should not be granted for development that would in itself or in combination with existing and approved development in the locality, have an adverse impact on a tourism asset, such to significantly compromise its tourism value." (DPS/277/17, DPS/252/05)

Response:

Paragraph 6.262 of the SPPS states that “the safeguarding of tourism assets from unnecessary, inappropriate or excessive development is a vital element in maintaining a healthy tourism industry. To allow such development could damage the intrinsic character and quality of the asset and diminish its effectiveness in attracting tourists.” This is the premise upon which part A of draft TOU01 is based. Paragraph 6.262 of the SPPS also states that “planning permission should not be granted for development that would, in itself or in combination with existing and approved development in the locality, have an adverse impact on a tourism asset, such as *to significantly compromise its tourism value.*” In place of ‘as to significantly compromise its tourism value’ the DPS states: “or diminish its tourism value.” This higher test reflects the impetus within FODC to further develop the district’s tourism base.

The Tourism Development Strategy, Community Plan and Community Action Plan for the Council area identify the need to further develop and enhance the existing tourism product, infrastructure and visitor experiences to international standard within the Council as well as seeking to address a plateau in tourism expenditure within the District at a time when the NI Tourism economy is steadily growing.

Outcome 5: Our economy is thriving, expanding and outward looking and Outcome 8: Our District is an attractive and accessible Place are particularly relevant.

Action 8.4 of the Community Plan Action Plan seeks to develop and implement management plans for the Sperrin AONB and for the Global Geopark in partnership with neighbouring areas.

Main Issue 10:

Representations to the Preferred Options Paper report addressed the following issue;

“Need sustainable rural tourism strategies as opposed to harmful industrialisation. The Sperrins AONB must be better utilised in terms of tourism. Access to several archaeological sites in the Sperrins AONB needs to be improved and these sites developed for tourism and educational purposes. There are many other walking/cycling routes which could be developed in the area”.

The Council’s response to this issue stated that “Fermanagh and Omagh District Council are currently collaborating with Causeway, Coast & Glens, Derry City & Strabane and Mid Ulster Council’s to address a range of themes across the Sperrin AONB”.

Considers that this statement indicates that further work is being undertaken in relation to tourism in the Sperrins but without this evidence the draft policy is unsound. (DPS/271/06)

Response:

The four Councils with a geographic interest in the Sperrins, Causeway Coast and Glens, Derry City and Strabane, Fermanagh and Omagh and Mid Ulster, agreed to embark upon a Future Search exercise as a means of considering the future

approach to partnership working and collaboration with the region. Work is ongoing in this regard.

In working with the other Local Authorities who share responsibility for the Sperrin AONB, areas of common ground were discussed and agreed through the Sperrins Forum set up by Mid Ulster. One such area is Sustainable Tourism where there was an acknowledgement that tourism development is important to the local and regional economy and that the Sperrins are recognised as being a relatively undeveloped destination for tourists. Members acknowledged that there has to be a balance between protecting our most sensitive landscapes and environmental assets and accommodating sustainable tourism development.

It was agreed that each council should bring forward a strategy for tourist development which balances protection of the areas tourism/heritage assets with the economic and recreation benefits of the tourism industry.

Tourism assets are defined within paragraph 4.54 of the policy clarification. Therefore, it is agreed that the policy applies to all tourism assets and, where relevant, can be applied across the district.

Main Issue 11:

TOU01 seeks to prohibit mineral development within the vicinity of tourism assets which contributes to £88m in the District compared to tourism which generated £56.6m in 2017. Further work is still being undertaken in relation to tourism in the Sperrins. Without this evidence the draft policy is unsound.

There should be no blanket ban on minerals development within the AONB in order to protect a tourism asset, particularly given that mineral resources can only be extracted where they are found. Furthermore, the economic benefit of protecting the tourism asset should be weighed against the potential economic value derived from the minerals sector. Has also failed to weigh in the balance the impact on the local economy to such a restrictive policy.

The policy also fails to acknowledge that SPPS does make exception for mineral extraction within an AONB and so seeks to impose a more restrictive approach than proposed within the SPPS. (DPS/271/06)

Response:

Disagree. Draft policy MIN01 and the policy exception within it reflects the SPPS.

Paragraph 6.155 of the SPPS states that

“In preparing LDPs councils should bring forward appropriate policies and proposals that must reflect the policy approach of the SPPS, tailored to the specific circumstances of the plan area. In particular LDPs should:

- ensure that sufficient local supplies of construction aggregates can be made available for use within the local, and where appropriate, the regional market area and beyond, to meet likely future development needs over the plan period;

- safeguard mineral resources which are of economic or conservation value, and seek to ensure that workable mineral resources are not sterilised by other surface development which would prejudice future exploitation;
- identify areas⁶ which should be protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value (including natural, built and archaeological heritage). There should be a general presumption against minerals development in such areas. However, where a designated area such as an Area of Outstanding Natural Beauty (AONB) covers expansive tracts of land, the LDP should carefully consider the scope for some minerals development that avoids key sites and that would not unduly compromise the integrity of the area as a whole or threaten to undermine the rationale for the designation.”

Paragraph 6.164 of the SPPS states that;

“Whilst a general presumption against the granting of planning permission for the extraction and/or processing of minerals will apply in areas protected from minerals development in the LDP, planning authorities may consider whether particular proposals should be justified as exceptions⁴⁴ to the LDP provisions. For example, an exception to minerals development could be justified within an area of constraint where the proposed operations are limited to short term extraction and the environmental / amenity impacts are not significant. In such cases, onsite processing of the excavated material is unlikely to be appropriate.”

⁴⁴ Such an exception will not be applied to unconventional hydrocarbon extraction until there is sufficient and robust evidence on all environmental impacts.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Main Issue 12:

Recommends that the Council should review the evidence base on tourism and the contribution to the local economy and all information relating to tourism assets should be made available. (DPS271/06)

Response:

The tourism topic paper dated October 2018 is an update of the Position Paper prepared and published as the baseline evidence for the Preferred Options Paper (POP) in October 2016 which provided an assessment of the tourism base in Fermanagh and Omagh along with future tourism potential.

Main Issue 13:

Part B i.e. change of use of tourist accommodation to a dwelling...if permitted this provision could impact on the number and distribution of dwellings in the countryside. (DPS/317/52)

Response:

⁶ Normally referred to in Development Plans as ‘Areas of Constraint on Minerals Development’.

It is recognised that the current policy provisions under PPS16 and the SPPS do not seek to protect tourism accommodation in the same manner as tourism assets. It is the intent of the DPS to provide this protection to tourism accommodation. It is not the intent of the policy to enable the change of use of tourism accommodation to residential use at a large scale rather it seeks to fill what is considered to be an existing policy gap.

To address DfI concerns, it is proposed to amend the policy by removing the wording “the building is no longer needed” and to provide additional clarification as to how it should be demonstrated that the accommodation is no longer viable for tourism use.

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded, the Council would suggest amending the wording to address concerns raised in some of the above issues. The proposed changes which are considered to be minor contextual changes, are as follows:

1. Reword (as shown in italics) Part A and B Tourism Development to:

“A Tourism Assets

The Council will not permit any form of development that would, in itself or in combination with existing or approved development, have an adverse impact on the intrinsic character or quality of a tourism asset or any part thereof, or diminish its tourism value, *or part thereof.*

B Tourism Development

The Council will only permit the loss of any tourism amenity, or any development intrinsically linked to tourism, *where it has been demonstrated that there is a sufficient supply of amenities within the area to satisfy demand and /or the facility has been marketed and proven to be no longer viable.”*

2. Additional policy clarification should be provided in respect of the approach to be taken to demonstrate that the facility has been marketed and that it is no longer economically viable. This should be provided in the form of a marketing statement and include the following information:
 - Independent valuation;
 - Sales marketing materials and responses;
 - Use/number of visitors/achieved room rate data;
 - Business plans;
 - Marketing plan, schedule and brochures;
 - Investment schedule and plans;
 - Details of plans to up-grade/re-position with full costing;
 - It is demonstrated that it cannot be used for an alternative tourism use

Appropriate marketing should be undertaken for a reasonable period of time before a planning application for a change of use or redevelopment of an existing tourism/leisure facility is considered. The Council considers that a period of 12

months is an appropriate period, and applicants are advised to submit their planning application within 3 months of completing the marketing exercise to avoid outdated evidence.

3. Remove the wording 'and there is an alternative provision in the locality to offset its loss' from the last line of point B Tourism Development of TOU101 – Protection of Tourism Assets and Tourism Development.
4. Amend the wording of the last sentence of the policy to remove the wording "the building is no longer needed".

Draft Policy TOU 02 – Tourism Development

The Council will support a proposal for tourism development within settlement boundaries which is of a nature, size, scale and design appropriate to the site, the surrounding area and the settlement.

Tourism facilities and self-catering accommodation in the countryside, outside of Special Countryside Areas and the Lough shores, will be supported in any of the following circumstances:

- a) It is a major tourism development which will be of exceptional benefit to the tourism industry within the Fermanagh and Omagh Council area, which requires a countryside location due to its size, site specific or functional requirements and will be of sustainable benefit to the locality.

All planning applications for a major tourism development must be accompanied by a Tourism Benefit Statement demonstrating how criteria (a) is met;

- b) It is in association with and located at an existing and established tourist hub;
- c) It is demonstrated that the development is to be run in association with the tourist amenity or asset;
- d) It would result in the replacement of a visually obtrusive development, when viewed from the Islands Special Countryside Area and lough shores, to an alternative location in a position nearby with the new development similar in size and scale to the existing development and there being substantial visual, landscape and/or heritage benefits.

All proposals including the expansion or extension of an existing tourism development should convert, reuse and or extend an existing building where possible. Where new building/s are justified these should be sited and designed to consolidate with the tourist amenity and/or tourism asset part of the overall tourism hub or attraction.

<p>Proposals for tourist accommodation should be subsidiary in scale and ancillary to the overall tourism hub and the layout, size and design of the units should deter permanent residential use.</p> <p>All permissions for self-catering accommodation will include conditions removing permitted development rights and requiring the units to be used for holiday letting accommodation only and not for permanent residential accommodation.</p>	
<p><i>Ref:</i> DPS/022/16 DPS/054/04 et al⁴ DPS/069/02 DPS/070/02 DPS/113/22 DPS/115/46 DPS/276/06 DPS/277/18 DPS/317/27</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) Multiple groups & private individuals (2) Lough Erne Resort (3) Private Individual (4, 5) DfC (HED) (6) NIHE (Support) Private individual (7) National Trust (8, 9, 10,11) DfI (12, 13, 14)</p>
<p><i>Main Issue 1:</i> It is noted that Draft Policy TOU02 has removed the requirement for the submission of a Sustainable Benefit Statement in addition to the Tourism Benefit Statement stated and have requested that applications are supported by a tourism benefit statement and ‘a sustainable benefit statement’. (DPS/022/16)</p>	
<p><i>Response:</i> There is no need for a sustainability benefit statement as SP01 addresses the issues/requirements of a sustainability benefit statement. A sustainability benefit statement addresses economic, community/social and environmental sustainability which are the three pillars of sustainable development.</p> <p>The plan is underpinned by sustainable development which is addressed in SP01. Paragraph 5.15 of Part 1 of the Council’s Vision and Strategic Objectives states the three pillars of sustainable development are social, economic and environmental factors. Furthering sustainable development requires the balancing of these factors when considering development proposals. The Council’s approach is that sustainable development should be permitted, having regards to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.</p>	
<p><i>Main Issue 2:</i> Although the Tourism Strategy states the promotion of the Sperrins will result in increased visitor numbers and demand for tourist accommodation, the policy seems to be against self-catering accommodation in the countryside which is what many visitors want. (DPS/054/04 et al⁴)</p>	
<p><i>Response:</i></p>	

Disagree with the comment as proposals for Self-catering accommodation in the countryside are addressed under Draft Policy TOU02 – Tourism Development.

Main Issue 3:

TOU02 supports development at “existing and established tourism hubs”, however the location of these is no provided. The definition of a hub is unclear and curtilage of a hub could be impractical to determine on a case by case basis as applications are received. (DPS/069/02)

Response:

The definition of a hub is given in the Glossary as “an area which is located within the vicinity of an existing tourism asset, tourism attraction or in some instances, has tourism accommodation.” In addition, the tourism strategy states that outside of settlements, tourism development will be directed towards tourism hubs which are located at a recognised significant tourism attraction.

It is considered, in light of the comment, that further clarification of a tourism hub may be beneficial. Proposed inclusion of: “A Tourism Hub is located at a recognised significant tourism attraction which clusters with other related or complementary forms of sustainable tourism development which work together to provide an overall tourism product and/or experience.”

Examples of Tourism Hubs within the Fermanagh and Omagh District Council area area: South of Lisnaskea to Crom Estate; Belleek/Castle Caldwell; An Creagan; Gortin Glens; Marble Arch Caves/Cuilcagh/Belcoo; and Killadeas/Lisnarick/Kesh area (includes Castle Archdale).

Main Issue 4:

The policy wording uses the term “Lough shores” but gives no definition or map to identify where this means. Is this entire water edges of all loughs, even within towns? Is the “Lough Shore” referred to in this policy the same as in other parts of the DPS such as OSR04. Lough shores deserve to be given special protection above that provided in proposed AHSV but less than proposed SCA. (DPS/069/02)

Response:

Within this section of the policy the reference to the lough shore is in the countryside as the policy is in relation to development of tourism facilities and self-catering accommodation in the countryside.

There is a need to cross reference with policy OSR04. Under policy OSR04 additional clarification is proposed which is as follows:

“For the purposes of this policy, lough shore is the area set back from the fringe of the shore line of the lough. It will contain both areas of undisturbed woodland and wetland as well as existing access points associated with recreational activities such as fishing, boating, sailing, canoeing and marinas and it will also include existing walking and cycling trails around the lough”.

For the purposes of policy TOU02, the lough shores referred to are those of Lough Erne (both Upper and Lower) as they relate to the Islands SCA designation.

This criterion seeks to bring forward an element of planning gain whereby an existing visually obtrusive development would be removed and replaced, in an alternative location resulting in substantial visual, landscape and/or heritage assets.

Main Issue 5:

Under policy TOU2 it states that “size and design of units should deter permanent use”. It is felt that this is unrealistic and inappropriate and there is no evidence that visitors prefer to stay in accommodation with a different layout or smaller unit size that a permanent home. There is a no evidence that small scale is always a better option/more sustainable than larger units. How will this policy operate compared to rising visitor expectations and NITB standards? A policy which allow a range of accommodation of various sizes would seem more sustainable than a policy with a preference for only small scale cottages. (DPS/070/02)

Response:

The reason for the design requirements and plot restrictions is to deter permanent residential use of tourism accommodation. From the basic Guide to starting self-catering accommodation published by Tourism NI, Quality Advisors will consider two main factors when making an assessment – quality and condition. The policy does not prescribe the unit type, size or layout.

Main Issue 6:

Major concern regarding policy criteria 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. Ask that the following item is added to the policy, “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. (DPS/113/16)

Response:

The potential impact on the historic environment would be a material consideration when determining planning applications for tourism development this would be addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development Proposals. Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Additional criteria are therefore not required.

Main Issue 7:

Requested clarification as to what does ‘ancillary to’ mean in relation to tourist provision and what does ‘the Plan’s Growth Strategy’ mean. (DPS/276/06)

<p><i>Response:</i> ‘Ancillary to’ means subsidiary or secondary to the existing tourist provision.</p> <p>The Plans Growth Strategy is section 6 The Spatial Growth Strategy of Part One of the Draft Plan Strategy. It is based in the RDS which aims to achieve balanced and sustainable growth. A key component of the Spatial Growth Strategy is the identification of a Settlement Hierarchy in order to deliver development in a more sustainable manner.</p>
<p><i>Main Issue 8:</i> TOU2 should be definitive of what is appropriate or inappropriate in the countryside. (DPS/277/18)</p>
<p><i>Response:</i> All planning applications will be considered on their own merits. Different types of development may be appropriate in some areas of the countryside compared to other areas of the countryside thus TOU2 cannot be definitive of what is appropriate or inappropriate in the countryside.</p> <p>Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development Proposals..... Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; <u>all relevant parts of the plan must be considered</u>”.</p>
<p><i>Main Issue 9:</i> To strengthen the policy and to reflect the ethos of the SPPS in conserving our rural landscape, we suggest that the beginning of the policy for the countryside section takes the following approach: “Proposals for <i>sustainable</i> tourist development in the countryside will <i>only</i> be permitted outside of Special Countryside Areas and the Lough shores in any of the following circumstances: (1) Major tourism development which will be of exceptional benefit to the tourism industry, which requires a countryside location due to its size or site specific or functional requirements...” (DPS/277/18)</p> <p>Paragraph 6.254 of the SPPS defines sustainable tourism development as balancing the needs of tourists and the tourism industry with conserving the tourism asset. Policy TOU02 should apply the same terminology for consistency and specify at the outset that only sustainable tourism developments would be granted. (DPS/277/18)</p>
<p><i>Response:</i> Agree. For consistency the word ‘sustainable’ should be inserted before tourism development.</p>
<p><i>Main Issue 10:</i> There is an inconsistency with Policy TOU02 and Policy IB05. Policy TOU02 is silent on self-catering accommodation conversion proposals on farms. The omission implies that Council’s intention is that such self-catering</p>

accommodation proposals have to either show that they are located at an existing and established tourist hub or that it is to be run in association with the tourist amenity or asset. If that's the case, then Policy T0U02 would in its current form be inconsistent with Policy IB05 and paragraph 4.23 of the draft plan which clearly states that appropriate farm diversification proposals could include tourist accommodation. (DPS/277/18)

Response:

It is acknowledged that there is a potential unintended conflict in the application of policies IB05 and T0U02 and it is proposed that an additional criterion is added to T0U02 to state that: "The building is suitable for reuse or adaptation under IB05." This intended provision as identified in the representation is detailed in paragraph 4.22 of the DPS which states:

"This policy aims to promote forms of diversification that are suitable in the countryside, including suitable tourism or agri-tourism schemes which are of a scale and nature appropriate to a countryside location."

Main Issue 11:

Support tourism hubs but separate criteria-based policy for tourism hubs would be useful and in particular should include a requirement that individual and cumulative impacts of a tourist development proposal on sensitive rural landscape and on built or natural heritage assets are assessed. (DPS/277/18)

Response:

The definition of a tourism hub is given in the Tourism Strategy (Paragraph 4.51). It is considered, in light of the comment, that further clarification of a tourism hub may be beneficial. Proposed inclusion of: A Tourism Hub is located at a recognised significant tourism attraction which clusters with other related or complimentary forms of sustainable tourism development which work together to provide an overall tourism product and/or experience.

Examples of Tourism Hubs within the Fermanagh and Omagh District Council area area: South of Lisnaskea to Crom Estate; Belleek/Castle Caldwell; An Creagan; Gortin Glens; Marble Arch Caves/Cuilcagh/Belcoo; and Killadeas/Lisnarick/Kesh area (includes Castle Archdale).

When assessing a planning application for a tourism development the individual and cumulative impacts on sensitive rural landscapes and on built or natural heritage assets are material considerations along with other relevant policies.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 12:

Despite the engagement and comments provided to the Council in relation to their initial draft policy on Tourism there is no reference in the policy wording to promote or support walking, cycling, meet the needs of people

whose mobility is impaired, providing adequate and convenient access to public transport, safe and convenient access arrangements to the public road that do not prejudice road safety. (DPS/317/27)

Response:

All tourism development proposals will be assessed using the all relevant policies in the transportation section (TR01, TR02, TR03, TR04, TR05 and TR06).

Additionally, Draft Policy DE02 – Design Quality will apply. Paragraph 2.11 of the Policy Clarification states that is important to promote sustainable modes of transport whilst seeking to ensure that road safety is maintained and that there is safe and efficient movement of traffic. The Council recognises the importance of ensuring that all new developments are well connected to existing public transport routes.

Main Issue 13:

The second paragraph of the policy states that tourism facilities and self-catering accommodation in the countryside will be supported in circumstances where ‘it is a major tourism development which will be of exceptional benefit to the tourism industry....’ In contrast, the SPPS (6.260) states that ‘...acceptable tourist development in the countryside may include appropriate self-catering accommodation, particularly in area where tourist amenities have become established or likely to be provided as a result of tourism initiatives....’ Draft Policy T0U02 suggests that ‘tourism facilities’ and ‘self-catering accommodation’ in the countryside are in themselves considered to be a major tourism development and of exceptional benefit to the tourism industry as opposed to being located in an area which has become established or likely to be established as a result of tourism initiatives. (DPS/317/27)

Response:

It is accepted that the policy, as structured within the plan could be interpreted as indicating that self-catering accommodation constitutes major tourism benefit. As such it is proposed to amend the structure of the policy as set out below:

“The Council will support a proposal for tourism development within settlement boundaries which is of a nature, size, scale and design appropriate to the site, the surrounding area and the settlement.

Tourism Facilities and self-catering accommodation in the countryside, outside of Special Countryside Areas and the Lough shores, will be supported in the following circumstances:

- a) It is in association with and located at an existing and established tourist hub;*
- b) It is demonstrated that the development is to be run in association with the tourist amenity or asset;*
- c) It would result in the replacement of a visually obtrusive development, when viewed from the Islands Special Countryside Area and lough shores to an alternative location in a position nearby with the new development similar in*

size and scale to the existing development and there being substantial visual, landscape and/or heritage benefits;

Proposals for tourist accommodation must be subsidiary in scale and ancillary to the overall tourism hub and the layout, size and design of the units should deter permanent residential use.

Exceptionally a major tourism development which will be of exceptional benefit to the tourism industry within the Fermanagh and Omagh Council area, which requires a countryside location due to its size, site specific or functional requirements and will be of sustainable benefit to the locality.

*All proposals including the expansion or extension of an existing tourism development should convert, reuse or extend an existing building where possible. Where new building/s are justified these **must** (amended from should) be sited and designed to consolidate with the tourist amenity and/or tourism asset part of the overall tourism hub or attraction."*

Main Issue 14:

Criterion (c) of the draft policy seeks demonstration that a major tourism development is to be run in association with the tourist amenity or asset. The safeguarding of assets from unnecessary, inappropriate or excessive development is a vital element in maintaining a healthy tourism industry. To this end, Council is reminded that planning permission should not be granted for development that would, in itself or in combination with existing and approved development in the locality, have an adverse impact on a tourism asset, such as to significantly compromise its tourism value. (DPS/317/27)

Response:

This is addressed in TOU 1 A. Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Conclusions:

The policy is sound. However, it is recognised that improvements are needed to the structure and wording of the policy. Therefore, if the Commissioner is so minded, the Council would suggest the following minor contextual changes to the policy and policy clarification: -

1. Inclusion of additional wording (shown in italics): A Tourism Hub is located at a recognised significant tourism attraction which clusters *with other related or complementary forms of sustainable tourism development which work together to provide an overall tourism product and/or experience.*

Examples of Tourism Hubs within the Fermanagh and Omagh District Council area: South of Lisnaskea to Crom Estate; Belleek/Castle Caldwell;

An Creagan; Gortin Glens; Marble Arch Caves/Cuilcagh/Belcoo; and Killadeas/Lisnarick/Kesh area (includes Castle Archdale).

2. Proposed that an additional criterion is added to TOU02 to state that: *The building is suitable for reuse or adaptation under IB05.*
3. It is proposed to amend the structure of the policy as follows: -

“The Council will support a proposal for sustainable tourism development within settlement boundaries which is of a nature, size, scale and design appropriate to the site, the surrounding area and the settlement.

Tourism Facilities and self-catering accommodation in the countryside, outside of Special Countryside Areas and the Lough shores, will be supported in the following circumstances:

- a) It is in association with and located at an existing and established tourist hub;
- b) It is demonstrated that the development is to be run in association with the tourist amenity or asset;
- c) It would result in the replacement of a visually obtrusive development, when viewed from the Islands Special Countryside Area and lough shores to an alternative location in a position nearby with the new development similar in size and scale to the existing development and there being substantial visual, landscape and/or heritage benefits.
- d) The building is suitable for reuse or adaptation under IB05.

Proposals for tourist accommodation must be subsidiary in scale and ancillary to the overall tourism hub and the layout, size and design of the units should deter permanent residential use.

Exceptionally a major tourism development which will be of exceptional benefit to the tourism industry within the Fermanagh and Omagh Council area, which requires a countryside location due to its size, site specific or functional requirements and will be of sustainable benefit to the locality.

All proposals including the expansion or extension of an existing tourism development should convert, reuse or extend an existing building where possible. Where new building/s are justified these **must** (*amended from should*) be sited and designed to consolidate with the tourist amenity and/or tourism asset part of the overall tourism hub or attraction.”

Draft Policy TOU 03 – New Build Hotel, Guest House and Tourist Hostel outside Settlement Boundaries

The Council will support a proposal for a hotel, guest house or tourist hostel in the countryside in the following circumstances;

- a) In line with policy HE09 the change or use, re use or conversion of an unlisted locally important building or vernacular building.
- b) the replacement of an existing unlisted and non-vernacular rural building which is of permanent construction within or at a tourism hub, excluding ancillary domestic buildings or agricultural buildings. The existing building and its replacement should both be of sufficient size to facilitate the proposed use;
- c) where it would result in the replacement of a visually obtrusive development, when viewed from the Islands Special Countryside Area and lough shores, to an alternative location in a position nearby with the new development similar in size and scale to the existing development and there being substantial visual, landscape and/or heritage benefits;
- d) a new build proposal on the periphery of a settlement where a supporting statement demonstrates that it is a firm rather than speculative scheme and there is no suitable site within the settlement or any nearby settlement.

Where a site on the periphery of a settlement is permitted the Council will require sites that are in a degraded or derelict state or which contain existing buildings to be redeveloped in the first instance.

Any proposal on a greenfield site will only be permitted where this will not dominate the settlement or have a detrimental impact on rural character.

The extension or expansion of an existing hotel, guest house or tourist hostel will be supported where the proposal will not result in the major extension of the existing curtilage and any extension or new buildings are subordinate to the existing buildings and integrate as part of the overall development.

<p><i>Ref:</i> DPS/022/17 DPS/115/47 DPS/261/02 DPS/277/19, 20, 49</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) NIHE (Support) Keys (5) National Trust (2,3, 4)</p>
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Main Issue 1:
Natural heritage has been overlooked within this policy and asks for policy wording to be amended as follows (additional wording bold and underlined) ‘Any proposal on a greenfield site will only be permitted where this will not dominate the settlement or have a detrimental impact on ‘the natural environment, including biodiversity and’ rural character’.

Suggested to also include additional criteria as follows; e) The development proposal does not result in a net loss of biodiversity. (DPS/022/17)

Response:

The potential impact on the natural environment and biodiversity will be a material consideration when determining planning applications for this type of development and is addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Additional criteria are therefore not required.

Main Issue 2:

It would be helpful if periphery was defined. (DPS/277/49)

Response:

On reflection of the comment made, the second line of the policy clarification at paragraph 4.66 should read as “However, where a firm proposal exists, and it is demonstrated that there is a lack of suitable land within the settlement, a site on the periphery may be considered. The third line “A site as close as possible to the settlement is more sustainable than a remote site” should be deleted.

‘Periphery’ is defined as the outer limits or edge of a defined settlement.

Policy DE06 – The Setting of Settlements would also apply which states “The Council will not support development proposals, outside of the existing settlement limits, which mar the distinction between as settlement and the surrounding countryside or that otherwise results in urban sprawl”.

Proposals should take account of the existing landscape setting to prevent against the coalescence between adjacent built-up areas and in providing a rural setting to the built-up area.

Main Issue 3:

To strengthen the policy it is suggested that the beginning of the policy is revised to state that “proposals for hotels, guest houses or tourist hostels will *only* be permitted in the countryside in the following circumstances...” (DPS/277/19)

Response:

It is agreed that the use of ‘only’ is in line with the SPPS.

Therefore, the first line of the policy should read as “The Council will *only* support a proposal

Main Issue 4:

There should be criteria that such development must not have an adverse visual effect on the landscape and on the character of the rural area or on features of nature conservation significance. (DPS/277/20)

Response:

The potential adverse visual effect on the landscape and on the character of the rural area or on features of nature conservation significance will be a material consideration when determining planning applications for New Build Hotel, Guest House and Tourist Hostels in the Countryside this is addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Additional criteria are therefore not required.

Main Issue 5:

No mention of Lough Erne, access to lakes important as is ability to stay and eat close to them. Clearly it is really important to protect the natural asset but there does need to be more thought put into how that can be done successfully whilst allowing some development on or close to the shore. (DPS/261/02)

Response:

Whilst the Tourism Strategy mentions a number of key tourism assets within the District, including the unique lakelands at para.4.50, it does not seek to identify these individually. The policies in relation to Tourism within the draft Plan Strategy seek to enable appropriate forms of tourism development within the District. Whilst Lough Erne is recognised as a tourism attraction it is also an asset which must be protected from excessive or inappropriate development. Policy OSR04 would apply.

Conclusions:

The policy is sound. However, minor contextual amendments are required to both the draft policy and policy clarification. If the Commissioner is so minded to consider these at IE, these changes (*in italics*) are as follows:

The Council will *only* support a proposal for a hotel, guest house or tourist hostel in the countryside in the following circumstances;

- a) In line with policy HE09 the change or use, re use or conversion of an unlisted locally important building or vernacular building.
- b) the replacement of an existing unlisted and non-vernacular rural building which is of permanent construction within or at a tourism hub, excluding ancillary domestic buildings or agricultural buildings. The existing building and its replacement should both be of sufficient size to facilitate the proposed use;

c) where it would result in the replacement of a visually obtrusive development, when viewed from the Islands Special Countryside Area and lough shores, to an alternative location in a position nearby with the new development similar in size and scale to the existing development and there being substantial visual, landscape and/or heritage benefits;

d) a new build proposal on the periphery of a settlement where a supporting statement demonstrates that it is a firm rather than speculative scheme and there is no suitable site within the settlement or any nearby settlement.

Where a site on the periphery of a settlement is permitted the Council will require sites that are in a degraded or derelict state or which contain existing buildings to be redeveloped in the first instance.

Any proposal on a greenfield site will only be permitted where this will not dominate the settlement or have a detrimental impact on rural character.

The extension or expansion of an existing hotel, guest house or tourist hostel will be supported where the proposal will not result in the major extension of the existing curtilage and any extension or new buildings are subordinate to the existing buildings and integrate as part of the overall development.

1. The policy clarification, para. 4.66 should read as “However, where a firm proposal exists, and it is demonstrated that there is a lack of suitable land within the settlement, a site in the periphery may be considered. *The periphery is defined as the outer limits or edge of a defined settlement.*
2. The third line “A site as close as possible to the settlement is more sustainable than a remote site” should be deleted.

Draft Policy TOU 04 – Holiday Parks, Touring Caravan and Camping Sites

The Council will support a proposal for a new holiday park or touring caravan and camping site outside of Special Countryside Areas and the lough shore in the following circumstances;

- a) the proposal is located at a tourism hub;
- b) where it would result in the replacement of a visually obtrusive development, when viewed from the Islands Special Countryside Area and the lough shore, to an alternative location in a position nearby with the new development similar in size and scale to the existing development and there being substantial visual, landscape and/or heritage benefits;
- c) the redevelopment of an existing group of redundant buildings, excluding ancillary buildings or agricultural buildings, which are of permanent construction within or in close proximity to a tourism hub. The new development should be similar in size and scale to the existing buildings;

- d) adequate provision is made for communal open space (normally around 25% of the site area) as an integral part of the development;
- e) all proposals should provide for varied range and type of accommodation;
- f) any ancillary buildings are of a scale, size and design reflective of the rural character of the locality and form an integral part of the overall development;
- g) where the development will provide a high quality layout, design and landscaping in accordance with Appendix 4.

Proposals should be subsidiary in scale and ancillary to the overall tourism hub and any extension to an existing facility should not result in the major expansion of the existing curtilage and must be subordinate in scale and ancillary to the existing development on site.

A condition will be attached to any approval for touring caravan and camping sites to limit the use for touring purposes only. Any planning approval for a holiday park which includes caravans and self-catering units will be subject to conditions restricting the units for holiday purposes only and not to be occupied as a person’s sole, or main place of residence.

<p><i>Ref:</i> DPS/022/18 DPS/069/03 DPS/113/22, 26, 17 DPS/115/48</p>	<p><i>Representative: (Main Issue)</i> RSPB (1) Lough Erne Resort (2) DfC (HED) (3, 4, 5) NIHE (Support)</p>
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Main Issue 1:
It is not only greenfield sites which are important for natural heritage interests, old buildings and vacant sites can present invaluable opportunities for biodiversity, and as such great care and attention should be given to retaining the site’s biodiversity in any new build or re-development. Ask for an additional criterion to be added to the policy to include h) It will not have an adverse impact on the natural environment or result in a net loss of biodiversity. (DPS/022/18)

Response:
 The potential impact on the natural environment and biodiversity will be a material consideration when determining planning applications for holiday parks, touring caravan and camping site and is addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”. Additional criteria are therefore not required.

Main Issue 2:

Development is encouraged at hubs but it is unclear if a policy to protect tourism assets, amenities and developments will protect the quality of a hub. (DPS/069/03)

Response:

TOU01A provides protection to tourist hubs as the Council will not permit any form of development that would, in itself or in combination with existing or approved development, have an adverse impact on the intrinsic character or quality of a tourism asset or any part thereof, or diminish its tourism value.

Main Issue 3:

Major concern regarding policy criteria 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. Ask that the following item is added to the policy, “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. (DPS/113/22)

Response:

The potential impact on the historic environment will be a material consideration when determining planning applications for tourism development and is addressed by other policies of the draft Plan Strategy.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Additional criteria are therefore not required.

Main Issue 4:

Considers that criteria c) 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 could be misinterpreted to enable a case to be established to seek the demolition of locally important buildings and/or structures. Suggested the following 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.” (DPS/113/26)

Response:

Locally important buildings are afforded protection under HE09 – Change of Use, Conversion or Re-use of an Unlisted Locally Important Building or Vernacular Building.

Criteria c) of Draft Policy TOU04 refers to the redevelopment of an existing group of redundant buildings which is in line with paragraph 6.260 SPPS which states

that appropriate tourism development in the countryside such as the re-use of rural buildings and appropriate redevelopment and expansion proposals for tourism purposes. There is no reference to demolition.

It is acknowledged that the second sentence of Criterion C goes beyond the SPPS and it is considered that following alternative wording be used so as to more fully align with Regional Strategic Policy: 'Exceptionally, where it has been demonstrated through submitted information that existing buildings are unsuitable for adaptation and re use, a new building which is similar in size and scale to the existing buildings may be permitted'.

Main Issue 5:

Paragraph 4.69 of the Policy Clarification reads more like a statement of intent, rather than to clarify the policy or aid the decision-making process. (DPS/113/17)

Response:

It is recommended that paragraph 4.69 of the policy clarification be removed as it does not provide any policy clarification. Move the wording to the end of paragraph 4.47 of the Tourism – Context and Justification.

Conclusions:

The policy is sound. However, minor contextual amendments are required to both the draft policy and policy clarification. If the Commissioner is so minded to consider these at IE, these changes (*in italics*) are as follows:

The Council will support a proposal for a new holiday park or touring caravan and camping site outside of Special Countryside Areas and the lough shore in the following circumstances;

- a) the proposal is located at a tourism hub;
- b) where it would result in the replacement of a visually obtrusive development, when viewed from the Islands Special Countryside Area and the lough shore, to an alternative location in a position nearby with the new development similar in size and scale to the existing development and there being substantial visual, landscape and/or heritage benefits;
- c) *exceptionally, where it has been demonstrated through submitted information that existing buildings are unsuitable for adaptation and re use, a new building which is similar in size and scale to the existing buildings may be permitted;*
- d) adequate provision is made for communal open space (normally around 25% of the site area) as an integral part of the development;
- e) all proposals should provide for varied range and type of accommodation;
- f) any ancillary buildings are of a scale, size and design reflective of the rural character of the locality and form an integral part of the overall development;
- g) where the development will provide a high quality layout, design and landscaping in accordance with Appendix 4.

Proposals should be subsidiary in scale and ancillary to the overall tourism hub and any extension to an existing facility should not result in the major expansion of

the existing curtilage and must be subordinate in scale and ancillary to the existing development on site.

A condition will be attached to any approval for touring caravan and camping sites to limit the use for touring purposes only. Any planning approval for a holiday park which includes caravans and self-catering units will be subject to conditions restricting the units for holiday purposes only and not to be occupied as a person's sole, or main place of residence.

Move paragraph 4.69 of the policy clarification to the end of paragraph 4.47 of Tourism – Context and Justification. Paragraph 4.47 should read as follows;

Tourism plays an integral part of rural regeneration and diversification and is also important to our towns and villages helping to sustain local attractions such as museums, galleries, festivals and art and craft workshops through contributing to economic development, conservation and urban regeneration. A wide range of tourist accommodation which includes hotels, guest houses, caravan parks and camping sites is available across the Council area. *Holiday Parks, Touring Caravan and camping sites make an important contribution to the economy and the overall provision of tourist accommodation within the Council area.*

Minerals Development

Minerals Development – General Comments	
<i>Ref:</i>	<i>Representative: (Main Issue Number)</i>
DPS/024/01	FP McCann Ltd (9)
DPS/052/02,03,04	Private Individual (2,3,4)
DPS/053/02,03,04	Private Individual (2, 3, 4)
DPS/054/05 et al ⁴	Multiple groups & private individuals (5)
DPS/110/06	Tracey Concrete Ltd (7)
DPS/110/08	Tracey Concrete Ltd (6)
DPS/111/06	B McCaffrey & Sons Ltd (8)
DPS/256/01	Green Party (1,2)
DPS/259/06	Private Individual (13)
DPS/273/02, 03,04	Friends of the Earth (2,3,4)
DPS/278/01	Private Individual (10)
DPS/285/02	Private Individual (11)
DPS/322/04, 05, 06	Quinn Building Products Ltd (7,12)
<i>Main Issue 1:</i> The policy presumption in favour of mineral exploitation “in any area” that may be “particularly valuable to the economy” as contained in 6.157 in the SPPS is regarded as exceptionally permissive and needs to be challenged by more sustainable policies in the local development plan. (DPS/256/01)	
<i>Response:</i> This is a matter for future policy makers in central government to address through either a review of all or part of the SPPS. The SPPS applies to the whole of Northern Ireland and LDPs must take account of its provisions. It recognises in paragraph 6.148 that minerals, including valuable minerals, are an important resource and also make an important contribution to the economy. Sustainable development does not prevent us from using and capitalising on such resources so long as it is balanced against the need to safeguard the environment.	
<i>Main Issue 2:</i> A moratorium should be put in place for new extractive industries (quarries and minerals) until a number of criteria are met (DPS/052/04, DPS/053/04 DPS/273/04),	
<i>Response:</i> This specific issue of representation DPS256 requests a moratorium to be placed on new extractive industries until a series of regulatory and legal criteria set out at (a) to (j) have been met. It is the Council's view that this is neither reasonable or appropriate at this stage of the LDP process.	
<i>Main Issue 3:</i> The policies should follow international best practice as set out in a number of points (DPS/052/02, DPS/053/02, DPS/273/02)	

<p><i>Response:</i> The issue raised in this representation relates to a series of points (2.1 to 2.8) about international best practice which the Council should follow. The comments have been noted.</p>
<p><i>Main Issue 4:</i> There should be a policy presumption against the exploration and extraction of precious minerals given their destructive impacts on communities, landscape and ecosystems and provides five reasons for this (DPS/052/03, DPS/053/03, DPS/273/03)</p>
<p><i>Response:</i> The LDP is required to take account of strategic policy as set out in the SPPS. The SPPS acknowledges (paragraph 6.157) that the exploitation of minerals valuable to the economy may create environmental effects which are particular to the methods of extraction or treatment of that mineral, but it specifically states that there will not be a presumption against their exploitation in any area. It continues that, 'however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning.' The only exception and where there is a definite presumption against their exploitation, is unconventional hydrocarbon extraction.</p>
<p><i>Main Issue 5:</i> The Draft Strategy totally fails to acknowledge the toxic impact of the highly poisonous substances involved in gold mining: cyanide, arsenic, mercury, cadmium, zinc, chromium and the in perpetuity risk of discharge of these substances into waterways, land and into the atmosphere. (DPS/054/05 et al⁴)</p>
<p><i>Response:</i> All mineral development applications are subject to consultation with a wide range of statutory consultees. This includes the HSENI and Public Health Agency who will advise where there are safety and health risks and the requirement for compliance with the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003 (COSHH) and the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 (COMAH).</p>
<p><i>Main Issue 6:</i> Within settlements, there is a need for buffer zones around existing sites which manufacture pre-cast concrete products (DPS110/08).</p>
<p><i>Response:</i> As this issue relates to a manufacturing process, draft Policy IB03 Development incompatible with Industrial and Business Uses would apply. This states that 'A development proposals in the vicinity of an existing or approved industry and/or business use may not be permitted where it would be incompatible with or would prejudice the future operations of the industry or business.' A specific need for buffer zones may be considered at the Local Policies Plan stage and in consultation with Environmental Health.</p>

<p><i>Main Issue 7:</i> The Council appears to have ignored information requested and provided by industry operators and relied upon information from DfE that is not appropriate for establishing the additional value that can be applied to mineral resources and the subsequent wider contribution to the local and regional economy. No assessment has been undertaken of the value added process. (DPS110/6)</p>
<p><i>Response:</i> The Council has relied upon currently available information which, as acknowledged later in this paper, has its limitations. There is no requirement under the SPPS to undertake an assessment of the value-added process.</p>
<p><i>Main Issue 8:</i> The Plan has not considered the supply requirements of customers outside the Council area e.g. in the Republic of Ireland (DPS/111/06)</p>
<p><i>Response:</i> This is partly addressed under MIN01 - Issue 1. Whilst the SPPS at paragraph 6.155 does refer to the need to ensure that sufficient local supplies of construction aggregates can be made available for use within the local, and where appropriate, the regional market area and beyond, the council currently only has limited information on this area. The establishment of a Regional/NI Minerals Working Group to co-ordinate data gathering for minerals from across all 11 council areas will hopefully address the deficit of information. However, it is unclear if information will be gathered about markets outside NI/UK.</p>
<p><i>Main Issue 9:</i> Clarification is required of the meaning of “valuable minerals” as it is not clear if policies MIN01 and MIN02 relate to all minerals or only precious metals (DPS/024/01)</p>
<p><i>Response:</i> A definition of valuable minerals is provided by DfE’s Minerals Information Paper (Appendix 1). Valuable minerals include metalliferous minerals such as lead, copper and zinc and precious metals such as gold, silver and platinum. Draft policies MIN01 to MIN03 relate to all minerals including valuable.</p>
<p><i>Main Issue 10:</i> Positive view taken of approach to minerals development in the Plan as something that will produce a vibrant economy in the area and refers to benefits of Tara Mines at Navan, Co Meath. Mineral royalties should also be, or at least partly be, returned to the Council, similar to Scotland. (DPS/278/01)</p>
<p><i>Response:</i> The introduction of mineral royalties can only be made through legislation enacted by the NI Government.</p>

Main Issue 11:

Concerns expressed about proposed gold mining activity in close proximity to Greencastle. (DPS285/02)

Response:

This issue relates to a current planning application for Underground valuable minerals mining and exploration, surface level development including processing plant and other associated development and ancillary works (Reference LA10/2017/1249/F) which is being considered by the Department for Infrastructure as it has been determined that the proposed development would be regionally significant. Issues of concern regarding this proposal will be considered as part of the planning application process.

Main Issue 12:

Absence of acknowledgement of the contribution made by the cement industry in Fermanagh and in particular, the content of Policy M1 of the Fermanagh Area Plan. (DPS/322/05)

Response to Main Issue 12:

The Draft Plan Strategy is the first of two documents which will comprise the Local Development Plan. The second document is the Local Policies Plan. The Local Policies Plan will contain local policies, site specific zonings and local designations. It will not be published until the Draft Plan Strategy is adopted. Until both documents are adopted, the Fermanagh Area Plan (FAP) 2007 will remain in place for the exception of a number of designations which are outlined in Appendix 9 of the Draft Plan Strategy. Policy M1 in FAP will continue in operation until the Local Policies Plan stage. Consideration will be given to whether the policy should be retained in the Local Policies Plan.

Main Issue 13:

As FODC is a member of Nuclear Free Local Authorities, it is vitally important that the council specifically rejects higher activity radioactive nuclear waste being stored in a Geological Disposal Facility situated in the District and this should be included in policy. (DPS/259/06)

Response to Main Issue 13:

Whilst the Council opposes any plans for a Geological Disposal Facility in any part of Ireland, it would not be possible to include a draft policy to this effect after the Draft Plan Strategy has been published as such a policy has not been subjected to wider public consultation.

Conclusions:

No changes are proposed in response to the issues raised.

Draft Policy MIN01 – Minerals Development

The Council will support proposals for minerals development where it is demonstrated that they do not have an unacceptable adverse impact upon: -

- i) the natural environment;
- ii) the landscape and visual amenity;
- iii) the historic environment;
- iv) the water environment;
- v) public safety, human health and amenity of people living or working nearby; and
- vi) road safety and convenience of road users.

Within Areas of Constraint on Mineral Development, one or more of the following criteria must be met in addition to the above:

- vii) the proposal involves an extension to an existing minerals development; or
- viii) the minerals development will provide building materials that are substantially for the restoration and repair of built conservation interest in the local area; or
- ix) the mineral is of high value; or
- x) the mineral is of limited occurrence and there is no reasonable alternative source outside the ACMD; AND
- xi) the development is for less than 15 years duration.

Commercial peat extraction will not be permitted under this policy.

All minerals development applications must include the proposed details of restoration and aftercare of the site in accordance with Policy MIN02. Applications for new and extended quarries within ACMDs must be accompanied by a landscape and visual impact assessment.

<i>Ref:</i>	<i>Representative (Main Issue Number):</i>
DPS/021/01	The Crown Estate (2)
DPS/022/19, 20, 48	RSPB (8,9)
DPS/024/02	FP McCann Ltd (1)
DPS/049/03	Causeway Coast and Glens Borough Council (21)
DPS/051/11	Declan McAleer MLA (10)
DPS/052/05, 11	Private Individual (5, 16)
DPS/053/05,11	Private Individual (5, 16)
DPS/054/06 et al ⁴	Multiple groups & private Individuals (7)
DPS/105/01	QPANI/Minerals Product Association NI (1)
DPS/109/10	Begley MP (10, 13)
DPS/110/01,02, 03	Tracey Concrete Ltd (1,17)
DPS/111/01,02, 03	B McCaffrey & Sons Ltd (1,14,17,18)
DPS/113/18	DfC Historic Environment Division (HED) (11)
DPS/126/04	T White (12)
DPS/238/03	Private Individual (5)
DPS/239/01	Private Individual (5)

DPS/248/01 DPS/250/07	Minerals and Petroleum Branch (1,2) Natural Environment Division, DAERA (Support re commercial peat)
DPS/259/01, 02, 03,04	Private Individual (10,11,19, 20)
DPS/271/02, 03	Dalradian Gold Ltd (1,2)
DPS/273/05,11	Friends of the Earth (5,16)
DPS/274/001	C McGinn (15)
DPS/276/04	Private Individual (7)
DPS/277/21	National Trust (5,6)
DPS/278/01	Private Individual (Support)
DPS/285/04	Private Individual (7)
DPS/286/04	Private Individual (7)
DPS/317/53, 87	DfI Strategic Planning Directorate (3,4)
DPS/322/01	Quinn Building Products Ltd (1)
<p>Main Issue 1: The extent/size of the Areas of Constraint on Mineral Development (ACMDs) and lack of supporting evidence that the ‘essential’ adequate and steady supply of minerals can be met from the remaining parts of the District. The policy conflicts with and is inconsistent with the approach set out in prevailing regional policy.</p> <p>The LDP has not considered the scope or identified areas where some minerals development that avoids key sites within the ACMD can be undertaken. There is a need to identify why particular areas of the proposed designation are vulnerable to minerals development. Inappropriate to allocate large areas as ACMDs without also safeguarding areas of economic or conservation value.</p> <p>(DPS/024/02, DPS/105/01, DPS/110/01, DPS/110/02)</p>	
<p><i>Response:</i> The Fermanagh and Omagh Council area contains numerous international and regionally designated important sites of nature conservation interest, archaeological remains and areas of scenic landscapes such as the Sperrin AONB and Fermanagh Lakelands. Whilst recognising that the minerals industry is important to the economy, minerals development can also have an adverse impact on these areas and it is therefore important that a balance is achieved between the need for specific minerals development proposals and the need to safeguard the environment.</p> <p>The SPSS requires councils when preparing the minerals section in the LDPs to bring forward appropriate policies to ensure that sufficient supplies of construction aggregates can be made available for use within the local, and where appropriate, the regional market area and beyond, to meet likely future development needs over the plan period.</p> <p>To address this, the Council (on the advice of the Mineral Products Association NI, formerly QPANI) wrote to all known quarry and mining operators (including peat extraction, gold mining) in the District in December 2016/January 2017 seeking</p>	

mineral resources information relating to 41 quarries/mines. The information requested included yearly extraction rates, remaining reserves (Metric Tonnes), potential to expand and anticipated demand to the end of the plan period 2030. Of the 41 quarries/mines, only information relating to 25 quarries was received, of which 7 were advised as being 'no longer active'. The quality of data relating to the remaining 18 (approx.53% of active quarries/mines) varied with not all respondents providing data on reserves.

In relation to limestone and sandstone, it would appear that there are ample reserves remaining for the duration of the plan period and, in the case of limestone, well beyond the plan period. Of those responses which related to sand and gravel quarries, it was estimated that remaining reserves totalled approximately 1,855,000 tonnes. However, given that data came from only 50% of existing sand and gravel quarries, this is likely to be an underestimate. It is also noted that whilst there is a significant 'resource' of sand and gravel within the Sperrin Mountains, the majority of working sand and gravel quarries are located outside the Sperrin AONB portion of the District.

The responses received were also provided to Minerals & Petroleum Branch on request to help inform the compilation of their Annual Minerals Statement 2017. This is the most recently published information provided by DfE. Their data is related to mineral production and value of the minerals produced and there is no information about mineral reserves. DfE's website also states in relation to the Annual Minerals Statements that "due to variations in responses for individual years, the information presented should not be assumed to represent trends in output over this period". Notably, there are no annual statements for the years 2011-2014.

Our letter to the quarry and mining operators also sought their views as to potential sites of important mineral reserves which would merit protection as Mineral Safeguarding Areas. None of the respondents provided details on this.

The Council acknowledges the generally good quality of data received from those who did respond to our request for information. However, the fact remains that many of them did not respond and so it is difficult to build up a complete and accurate picture of reserves in the district. Furthermore, there is an absence of data which shows the flow of supply and demand for minerals – how much originates and is retained within the district itself, and how much is supplied elsewhere across Northern Ireland or beyond. Conversely, the flow of aggregates into the district is also not known. The absence of this 'supply and demand chain' should be addressed through the establishment of a Northern Ireland Minerals Working Group by DfE.

An estimate of aggregate requirements can be made based on the number of houses to be built over the plan period and the projected growth. Applying a figure of 50 tonnes of aggregate per dwelling (4,300 homes up to 2030) or 14 tonnes of aggregate per head of population (119,867) suggest that a minimum figure of 1,893,180 tonnes of sand and gravel aggregates would be required over the plan period. There are 2.46 million tonnes of sand and gravel permitted reserves available over the next 10 years which will more than meet this requirement.

The Council's proposed policies are based on currently available information and taking into account its Vision of a district "where our outstanding natural, built and cultural heritage is cherished and sustainably managed". The draft policy does not seek to place a ban on quarrying or mining activities within ACMDs but is a pragmatic response to protecting the best of our natural environment, and in particular those landscapes, including the Sperrin AONB which are important to our tourism industry. It clearly provides for a number of exceptions including proposals involving an extension to an existing minerals development, a mineral that is high value or a mineral that is limited in occurrence. Existing quarries which fall within an ACMD can continue to quarry based on their existing permissions. If there is a need to extend an existing operation, this will be fully considered against all the criteria set out at i) to vi).

Furthermore, the LDP will be reviewed every 5 years providing an opportunity to assess the reserves available and to review the designation as necessary.

Main Issue 2:

There is no evidence base for the proposed 15 year time limit for mineral development within ACMDs. The policy does not reflect on the impact of such restriction on the development of quarries for aggregates required to meet essential demand for local construction. It also fails to understand the economic model for the development of mines for high value metalliferous minerals.

**The approach of only allowing working in 15 year periods is not realistic or practical given the scale of workings and the upfront investment that is required to set up and operate modern mineral sites. It would be more logical to include a periodic review mechanism enabling review of environmental matters and management at 15 years to enable any issues to be resolved at such a point in time and any permission to be reviewed in light of modern operating, restoration and aftercare conditions.
(DPS/021/01, DPS/248/01)**

Response:

The SPPS advises at paragraph 6.164 that an exception to minerals development could be justified within an area of constraint where the proposed operations are limited to short term extraction and the environmental/amenity impacts are not significant. No definition of 'short term' is offered. Due to concerns about the impact of quarrying on sensitive landscapes and the Council's promotion of the Sperrin AONB as a recreational and tourism destination, it was considered appropriate to apply a 15-year time limit on minerals development. In the policy clarification, it is quite clear that if activities continue beyond this, a new application may be submitted and subject to the necessary supporting evidence and environmental information.

This provides an opportunity for the Council to assess all information afresh, including taking account of the most up-to date environmental information. The basis for the 15 years is derived from The Planning Act (NI) 2011 which makes provision for the Review of Old Mineral Planning Permissions (ROMPS) every 15 years. In line with the rest of the UK, this was to provide an opportunity to

upgrade the relevant planning consent as many permissions granted in the past typically did not have conditions which made adequate provision to meet environmental protection standards or restoration measures. However, the Act requires further legislation in the form of an Order before ROMPS can be undertaken.

ROMPS is well embedded in the planning systems of the other three regions in the UK. In England, all mining sites including any extensions to sites granted after the initial minerals planning permission, are subject to periodic reviews of planning permissions. This is to help ensure that the sites operate to continuously high working and environmental standards. An Environmental Statement is required to provide an up-to-date assessment of the likely significant environmental effects of the whole of the remaining permitted development over the lifetime of the permission.

In the absence of ROMPS, the Council is committed to ensuring that within sensitive landscapes such as the AONB, high environmental standards and protection are maintained.

Main Issue 3:

The stricter approach to commercial peat extraction, which deviates from regional policy, requires robust evidence to support it. (DPS/317/53)

Response:

Domestic peat cutting under turbarry rights is traditional in many areas of Northern Ireland. Commercial peat cutting (extraction of peat for sale) requires planning permission and is different in nature and scale. The use of peat through commercial extraction is primarily related to horticulture, as either a growing media or soil conditioner, and mainly removes peat from lowland raised bogs because of their deep peat layer. The extraction process involves the stripping of peat-forming vegetation, drainage and extraction which results in carbon being released to the atmosphere. Research indicates that despite restoration measures of milled bog surfaces, the peat archive (including rare and vulnerable species) which had developed over thousands of years can never be restored.⁷

Peatland acts as an important carbon sink. Stripping of peat not only leads to the release of this carbon but also removes the carbon sink, exacerbating global warming and climate change. Climate change itself also poses a direct threat to peatlands particularly on damaged areas, with increased summer temperatures leading to increased fire risks which can damage the habitat and high rainfall events which further erode bare peat surfaces.

Elsewhere in the UK, there have been increasing calls to phase out the use of peat in horticulture and to end commercial peat extraction. In 2010, the Department for Environment, Food and Rural Affairs set out proposals – now adopted by the UK Government – for retail supplies in England to be peat-free by 2020 and for commercial horticulture to end peat use by 2030. There are now many alternatives

⁷ IUCN UK Committee Peatland Programme Briefing Note No. 6

to peat composts – including some high-profile brand names - which are already widely available in garden centres across the UK.

The document 'Conserving Peatland in Northern Ireland - A Statement of Policy' (1993) set out the Government's policies for protecting and conserving peatland in Northern Ireland. It was recognised that extraction of peat for horticulture is a well-established industry in NI but it is not indefinitely sustainable and results in the loss of peatland with ensuing environmental consequences. An undertaking was given that the Government in Northern Ireland will play its part in achieving a reduction in the dependency on peat in horticulture. The thrust of Government policy was towards protecting peatland sites of recognised nature conservation value (through declaring remaining areas of intact lowland raised bog as ASSIs). Away from ASSIs, permission for the extraction of peat will only be granted where 'there is little nature conservation value and where the amenity of the area is not prejudiced by the operations'.

Raised bogs, mires and fens are recognised by the EU Habitats Directive and many vulnerable and valuable sites have received strict protection under this Directive as Special Areas of Conservation (SACs). Similarly, sites with significant numbers of notable bird species can be classified as Special Protection Areas (SPAs) under the EU Birds Directive and, together with SACs form a network of important European sites known as Natura 2000. In NI, most of these sites are also Areas of Special Scientific Interest (ASSIs). It is also noted that Annex 1 of the EU Habitats Directive includes two lowland raised bog habitats: active raised bog and degraded raised bog. The inclusion of degraded habitats within Annex 1 underlines the rarity and importance of recoverable lowland raised bog.

The district has 8 peat extraction sites, some of which have been operational since the 1990s. The area covered by these sites, which are all on lowland raised bog, is approximately 221 hectares. Most recently, a site for peat extraction was approved (Ref LA10/2018/0619/F) north of Drumnakilly Road, Omagh, comprising an area of 5.44 hectares. This has a time limit condition attached (to 20th February 2029) and includes a Habitat Restoration and Management Plan.

Extraction of peat at these sites is likely to continue for many years to come. Whilst the SPPS states at paragraph 6.158 that 'permission for the extraction of peat for sale will only be granted where the proposals are consistent with the protection of boglands valuable to nature conservation interests and with the protection of landscape quality particularly in AONBs,' the Council considers that given the concerns about Climate Change, the commercial extraction of peat on any bogland should not be permitted. An effective means of ensuring that the use of peat in horticulture is phased out is to prevent the creation of new commercial peat extraction sites in the District. This will assist in protecting from future exploitation those remaining areas of lowland raised bog which are not covered by a nature conservation designation.

Main Issue 4:

More reference to public safety is needed and, in relation to residential amenity, separation distances (DPS/317/87)

Response:

Separation distances/buffer zones may be appropriate in specific circumstances where it is clear that, based on site specific assessments and other forms of mitigation measures (such as working scheme design and landscaping) a certain distance is required between the boundary of the minerals extraction area and occupied residential property.

The current practice of the Council is that where necessary, appropriate separation distances between minerals and waste developments and occupied residential property or other sensitive receptors and/or other mitigation measures will be required, as determined on a site-specific, case-by-case basis. The Council's view is that it is not necessary to specify separation distances in policy as the circumstances of each case may differ.

Main Issue 5:

Concern expressed about the permissive nature of this policy and what is meant by “unacceptable”. The policy exceptions in the ACMDs are so generous that they are not exceptions. ACMDs should have a definitive presumption against any extractions. Policy MIN01 should be re-worded to set a clear presumption against mineral development in an ACMD in line with SPPS and only in exceptional circumstances should such proposals be allowed. (DPS/052/05, DPS/053/05, DPS/273/05, DPS/238/03, DPS/239/01)

Response:

In considering a minerals development proposal, an environmental statement will have to show acceptable environmental impacts. Proposals will need to address, amongst other considerations, landscape and visual impacts taking into account the relevant policies in Natural Environment, Historic Environment, impacts on local communities, public health, amenity of people living or working nearby, disturbance from noise, blasting and vibration and potential pollution of land, air and water. Where it is judged that there are impacts not acceptable to the Council, planning permission will be refused, unless the developer can demonstrate adequate means of mitigation or the impacts can be addressed through planning conditions.

The Council is not opposed to the inclusion of the additional wording regarding a 'presumption against mineral development in an ACMD' as this would be in keeping with the SPPS (3rd bullet point, paragraph 6.155).

Main Issue 6:

Policy MIN01 should clearly state that peat extraction will not be permitted within or outside ACMDs. Separate policy should also be provided to protect peatland areas from inappropriate development in the interests of nature conservation and climate change. (DPS/277/21)

Response:

It is not clear if this is in relation to all peat extraction or just commercial peat extraction. The Council does not consider it necessary to refer to 'within or outside ACMDs'. Consideration will be given to affording protection to active peatland under draft policy NE03.

Main Issue 7:

Concern expressed about the impact of mining for precious metals such as gold and silver which have different extraction methods to sand and aggregates. The Draft LDP also fails to acknowledge that Omagh Sperrins is an area identified by GSNI as high in radon gas and mining for gold would release more radioactive contaminants into the air causing additional cancers. (DPS/054/06 et al⁴, DPS/276/04, DPS/285/04, DPS/286/04)

Response:

All mineral development applications are subject to consultation with a wide range of statutory consultees. This includes the HSENI and Public Health Agency who will advise where there are safety and health risks and the requirement for compliance with the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003 (COSHH) and the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 (COMAH).

Main Issue 8:

Whilst the statement that ‘commercial peat extraction will not be permitted under this policy’ is welcomed, for the avoidance of any doubt, further clarity should be provided to indicate that this includes new or extended sites, or renewal of extant permissions. (DPS/022/19, 48)

Response:

The Council accepts that the additional suggested wording ‘This includes new or extended sites or renewal of extant permissions’ following the statement ‘Commercial peat extraction will not be permitted under this policy’ would provide more clarity.

Main Issue 9:

With reference to paragraph 4.80 of the policy clarification, suggests that this could lead to a piecemeal approach to mineral development within ACMDs as an application could effectively bypass the other policy tests set out at vii) to xi). Suggests the inclusion of the following wording “including demonstrating an *ability to meet one or more of criteria vii) to xi) above*”. (DPS/022/20)

Response: To improve clarification of this policy, the Council having considered this issue would propose an alternative wording to address the concerns raised. Rather than stating that ‘the Council will consider a new planning application etcetera,’ the wording should be ‘will require a new planning application’. Thus, the full sentence would read as follows:

“However, if during the extraction phase, a mineral resource is found to be more extensive than originally indicated, the Council will require a new planning application to extend the life of the quarry/mine. This will be subject to the policy criteria set out above including vii) to xi), and the provision of the necessary supporting evidence and environmental information.”

Main Issue 10:

Public health and the environment must be strongly protected in the Council's Minerals Development policy. The use of cyanide for mining purposes should be forbidden and the same protection from fracking set out in MIN04 should be afforded to the use of cyanide. (DPS/051/11, DPS/109/10, DPS/259/04)

Response:

Several representations raised concerns about the use of cyanide for mining purposes and that this should not be permitted. Reference is made to the European Parliament resolution of 27 April 2017 on the Implementation of the Mining Waste Directive (2006/21/EC). This Directive introduced measures to prevent or minimise adverse effects on the environment and risk to health from the management of waste from the extractive industries. Amongst a series of points and statements made in regard to the implementation of this Directive, reference is made to a resolution of 5 May 2010 on a general ban on the use of cyanide mining technologies in the European Union. However, it should be noted that to date the Commission has not proposed a ban of cyanide in mining as the Mining Waste Directive "includes precise and strict requirements which should ensure an appropriate safety level of the mining waste facilities. The limit values for cyanide storage as defined in the Directive are extremely low and imply in practice the need to destroy most of the cyanide used before its storage".

The Mining Waste Directive is transposed into NI law under the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015. In addition, the Water Framework Directive includes cyanides among the main pollutants listed in Annex VIII and prohibits direct discharges of pollutants into groundwater and requires the achievement of good ecological and chemical status of surface waters. The Directive is transposed in Northern Ireland through the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017.

Existing regulatory requirements, through planning, environmental and health and safety regulation, seek to ensure that waste is managed in a way that ensures safety and does not cause harm to the environment and public health.

Main Issue 11:

The term 'unacceptable' in the opening statement provides a weaker policy test than strategic policy and should be amended to read "The Council will support proposals for minerals development where it is demonstrated that they do not have an adverse impact upon..." (DPS/113/18)

The term 'unacceptable' should be removed as it is subjective. (DPS/259/01)

Response:

The SPPS acknowledges in paragraph 6.159 that proposals for mineral development can have adverse impacts on the environment and on the amenity and well-being of people living in proximity to operational sites. This is also acknowledged in representation DPS248 (Minerals and Petroleum Branch). To amend the policy to the proposed wording implies that a proposal would only be supported where it is demonstrated that it would not have any adverse impact.

This would not be correct. It is the role of the planning process when assessing any proposal that any potential adverse effects are considered along with the need for any mitigation measures. It is implicit within the draft policy (as within all the draft policies) that planning conditions to avoid or mitigate impacts will be considered in order to make an otherwise unacceptable development, acceptable. In line with the SPPS, where adequate means of mitigation cannot be demonstrated, planning permission should be refused. Therefore, no amendment is proposed in respect of this issue.

Main Issue 12:

The cumulative effects of minerals development must be assessed in relation to all aspects of mineral exploration and extraction. Proposed additional criteria after (i) to (vi) as follows: ‘and (vii) where the cumulative effects of such proposals on i) to vi) above have been assessed for all minerals developments regardless whether those developments are classed as permitted development or temporary development.’ (DPS/126/04)

Response:

The Council considers that this is a reasonable amendment to the policy in order to prevent an unacceptable concentration of minerals development in a particular area. Particular regard would need to be given to the cumulative impact within sensitive landscapes such as AONB and AoHSVs.

Main Issue 13:

In regard to peat extraction, the policy should support people who ‘cut turf’ for domestic purposes provided it is carried out with as little environmental or biodiversity impact as possible. (DPS/109/10)

Response:

The policy is specifically referring to commercial peat extraction and does not restrict the cutting of turf for domestic purposes.

Main Issue 14:

The policy should be flexible in stating that continued growth and sustainable expansion (for existing operators) within the ACMDs will be supported. (DPS/111/03)

Response:

The policy provides flexibility to existing operators by including as amongst its exceptions, the provision for a proposal involving an extension to an existing minerals development.

Main Issue 15:

There are no baseline studies in relation to air and water quality before mining development took place. The plan suggests that the council will be supportive only of sustainable development and dismisses that completely with the policy FLD01 where one of the exceptions in Undeveloped areas is the extraction of mineral deposits and necessary ancillary development. Considers the defence of the policy (Min 01) to allow minerals extraction is because of strong economic case and argues this is a flawed concept given

**the potential cost of destruction to other activities in the region.
(DPS/274/01)**

Response:

The exceptions contained within draft Policy FLD01 reflects the content of the SPPS as well as Policy FLD 1 contained in the current PPS 'Planning and Flood Risk.' It is recognised that in certain cases, a range of development types including for example agricultural development and minerals development, has to be in such locations as alternative lower flood risk sites would be neither practicable nor available. In all cases, a Flood Risk Assessment (FRA) is required which must demonstrate measures that will be taken to manage and mitigate the identified risks. Proposals for mineral development will also be required to be accompanied by an Environmental Statement under the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. The purpose of this is to assess any potential impacts on a range of environmental factors including air quality and water quality.

Main Issue 16:

**It is premature for FODC to develop a robust, defensible and comprehensive minerals policy until all issues are resolved, legal obligations fulfilled, baselines established and orderly planning is carried out. Deeply concerned about the permissive policy supporting minerals in draft policy MIN01 and how ACMD have been portrayed. All ASSIs, SACs, SPAs, Ramsar sites, area of archaeological importance, AONBs, wetlands, watersheds etc. should have a presumption against exploitation for all extractive industries.
(DPS/052/05, DPS/052/11, DPS053/05, DPS 053/11, DPS/273/05, DPS/273/11)**

Response:

The Draft Plan Strategy is supported by a range of topic papers and has been subjected to a Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA), and a Habitats Regulation Assessment (HRA). The sites referred to which are regionally and nationally important due to their wildlife, scientific value or heritage interests also act as areas of constraint on mineral development and are identified on the main Proposals Map.

Main Issue 17:

Questions the reasoning for designating proposed constraints on minerals and not upon 'areas of wind turbine constraint' or 'areas of residential development constraint' (DPS/110/02, 3, DPS/111/03)

Response:

The SPPS makes provision for identifying areas which should be protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value and that there should be a general presumption against minerals development in such areas (paragraph 6.155 of the SPPS).

The Draft Plan Strategy has introduced other forms of constraint. Policy RE01 Renewable and Low Carbon Energy Generation contains a Wind Energy Strategy which identifies areas with Highest, Limited and No Underlying Landscape Capacity for wind energy development and provides guidance on the type of development that may be appropriate within these areas.

Development in the countryside, including residential development, will be managed through a series of policies which seek to sustain rural communities and whereby development can be integrated appropriately within the rural landscape. However, where there are exceptional landscapes, we have identified proposed Special Countryside Areas (SCAs). Within these areas, development will only be permitted in exceptional circumstances (Policy L02).

Main Issue 18:

Balance of protecting the environment versus mineral development has been weighed heavily in favour of protecting the environment. (DPS/111/01)

Response:

The Council is satisfied that it has taken a balanced approach to minerals development and has acknowledged in the Context and Justification section to Minerals Development the benefits of minerals to the economy and also that the extraction of minerals can affect communities and the environment. This means minimising and mitigating effects on communities; identifying and protecting sensitive environmental assets and landscapes from minerals development and ensuring sites are restored to a high standard and enhance the value of the wider environment. This is in keeping with the SPPS.

Main Issue 19:

The second part (vii) to (xi) should be removed as they are explicitly related to precious metals and minerals as re-defined by FODC (DPS/259/02)

Response:

This issue claims that the Council has redefined the meaning of minerals as essentially precious metals and minerals. In planning policy, the general heading of Minerals includes precious metals such as gold and silver, metalliferous minerals such as lead, copper and zinc; aggregates (sand and gravel) and common rock types such as basalt and sandstone; and energy minerals (e.g. oil, gas, coal, peat) and hydrocarbons as their main use is to produce energy.

The definition of minerals provided at 4.72 in the Plan Strategy is found in the Planning Act (NI) 2011(Part 15 Supplementary, Interpretation 250).

Criteria (vii) to (xi) relates to all minerals (precious and metalliferous metals; aggregates, rock and energy minerals). Further information on these is contained in the Department for Economy's paper which was provided to councils to inform their Preferred Options Papers and is available on their website.

Criteria (vii) to (xi) sets out a number of exceptions for a proposed minerals development in an ACMD. This includes where a mineral is of high value e.g. lead, gold, zinc as they are essential for a wide range of manufacturing industries. But it also includes where the mineral e.g. local stone, is important for restoration and repair of built conservation interest or the mineral is of limited occurrence and there are no reasonable sources outside the ACMD. An example of this is Magnesian Limestone in the Lough Macnean Valley (an ACMD as defined in the current Fermanagh Area Plan 2007). This mineral is used as a specialist animal

feed additive. Therefore, the policy is not explicitly related to precious metals and minerals.

In light of the above issue and other issues raised in relation to valuable minerals, the Council considers it would be appropriate to accommodate within MIN01 the policy approach of the SPPS to provide clarity in the policy. Paragraph 6.157 of the SPPS states that there will not be a presumption against the exploitation of valuable minerals in any area, however, in considering a proposal where the site is within a statutory policy area, due weight will be given for the reason for the statutory zoning. The exception to this would be Special Countryside Areas, due to their limited extent wherein the quality of the landscape and unique amenity value is such, that development should only be permitted in exceptional circumstances.

Main Issue 20:

In terms of policy clarification, paragraphs 4.75 - 4.80 should be deleted as they are providing the planner with methods to circumvent the restrictions of point (i) to (vi) (DPS/259/03)

Response:

Paragraphs 4.75 to 4.80 provide clarification on how the criteria set out in the policy will be considered and applied in assessing proposals.

Main Issue 21:

MIN 01 is noted. Has concerns regarding the pressure that the blanket ACMD designation (across the entire AONB) and the associated minerals policy approach would place on the CC&GBC. (DPS/049/03)

Response:

Council notes the concern registered by CC&GBC. However, it does not agree that the approach taken within the dPS would result in any pressure on the CC&GBC. Whilst both Councils have a share in the Sperrin AONB, the approach taken within the DPS is not at odds with the discussions at the Sperrin Forum. It is also noted that the CC&GBC is not contiguous with the Fermanagh and Omagh District Council boundaries.

Conclusion:

Having considered the above, the Council has concluded that the policy remains sound. However, taking account of the comments raised in representations, it is considered that the policy would benefit from improved wording. Therefore, if the Commissioner is so minded to accept some minor contextual changes, the following are proposed:

- (i) 'Within Areas of Constraint on Mineral Development, there is a presumption against mineral development, unless one or more of the following criteria can be met in addition to the above:'
- (ii) Commercial peat extraction, including proposals for new or extended sites or renewal of extant permissions shall not be permitted.
- (iii) Proposed additional criteria after (i) to (vi) as follows: 'AND (vii) In all cases, the cumulative effects of such proposals on i) to vi) have been assessed for all minerals developments regardless whether those developments are

<p>(iv)</p> <p>(v)</p> <p>(vi)</p> <p>(vii)</p>	<p>classed as permitted development or temporary development. (Existing (vii) to (xi) renumbered (viii) to (xii))</p> <p>Following criteria (vii) add “In considering a proposal for the extraction of valuable minerals including metalliferous minerals, where the site is within a designated area in the Local Development Plan, due weight will be given to the reason for the statutory zoning. There will be a presumption against their exploitation within designated Special Countryside Areas.</p> <p>Replace (v) the mineral is of high value, with “the mineral is valuable”</p> <p>Paragraph 4.80 – “However, if during the extraction phase, a mineral resource is found to be more extensive than originally indicated, the Council will require a new planning application to extend the life of the quarry/mine. This will be subject to the policy criteria set out above including (viii) to (xii), and the provision of the necessary supporting evidence and environmental information.”</p> <p>Add policy clarification for valuable minerals as follows: Valuable minerals refer to high value metalliferous minerals such as gold, silver, diamonds, lead and copper. Exploitation may create environmental effects which are particular to the methods of extraction or treatment of that mineral. In considering a proposal where the site is within a designated site, due weight will be given to the reason for the designation. There will not be a presumption against their exploitation in any area apart from within designated Special Countryside Areas.</p> <p>Exploration for such high value metalliferous minerals can usually be carried out under the current permitted development legislation. However, where planning permission is required, full consideration will be given to the potential environmental impacts and any risks posed to safety or human health.</p>
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Draft Policy MIN02 – Restoration and Aftercare	
<p>All applications for mineral development must be accompanied by satisfactory proposals for:</p> <ul style="list-style-type: none"> • the final restoration scheme and proposed future land use; • timescales for completion of restoration including details of completion of individual phases of restoration where a progressive scheme is proposed; • aftercare arrangements once restoration is complete; and • site management arrangements including security during and after the process of restoration. <p>A restoration and aftercare bond or other financial provision will be required to ensure full restoration and reinstatement of the site should the developer fail to implement the previously agreed restoration plan. All materials used should be overburden and materials taken from within the site. The importation of materials to fill and restore sites will not normally be permitted.</p>	
<p><i>Ref:</i> DPS/021/02 DPS/022/21 DPS/024/03</p>	<p><i>Representative (Main Issue Number):</i> Crown Estate (Noted) RSPB (4) FP McCann Ltd (1)</p>

DPS/054/07 et al ⁴	Multiple groups & private individuals (2)
DPS/105/02	QPANI/Minerals Product Association NI (1,5)
DPS/110/05	Tracey Concrete Ltd (1)
DPS/111/04	B McCaffrey & Sons Ltd (1)
DPS/259/05	Private Individual (6)
DPS/271/04	Dalradian Gold Ltd (3)
DPS/317/54	Dfl Strategic Planning Directorate (1)
DPS/322/02	Quinn Building Products Ltd (1)

Main Issue 1:

Further explanation on the application of the bond is required. No evidence has been provided to justify the introduction of any restoration or aftercare bonds. There is no mention of this requirement within any NI regional policy and in Great Britain, a financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases. (DPS 317/54, 024/03, 105/02, 111/04)

Response:

Financial guarantees provide a means of ensuring that key obligations are met in the event that the developer is unable or unwilling to comply with the approved plans. They are used elsewhere in the UK and are an important means of providing reassurance to local communities that decommissioning, restoration, aftercare and mitigation obligations will be met should a liquidation or significant planning breach occur.

A mechanism for financial guarantees is provided for under Regulations 8 and 15 of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 to deal with the management of extractive waste. Regulation 8 requires that no operations involving the management of extractive waste shall commence until a financial guarantee is provided by the operator to the council. The purpose of the financial guarantee shall be to ensure that — (a) all conditions on the planning permission pertaining to the management of extractive waste, including after-closure conditions, are met; and (b) there are funds readily available at any given time for the rehabilitation of the land affected by the waste facility, as described in the waste management plan.

Where planning permission for relevant development is subject to a condition, Regulation 15 requires a Council to: -

- (a) calculate the financial guarantee on the basis of - (i) the likely environmental impact of the waste facility, taking into account in particular the classification of the waste facility, the characteristics of the waste and the future use of the rehabilitated land, and (ii) the assumption that independent and suitably qualified third parties will assess and perform any rehabilitation work needed;
- (b) determine the form of the financial guarantee and may accept the provision of a guarantee from an industry-sponsored mutual guarantee fund or equivalent; and
- (c) Periodically review the size of the guarantee and adjust as necessary, in accordance with any rehabilitation work which it may deem necessary on

the land affected by the extractive waste, as described in the approved waste management plan prepared in accordance with Regulation 6.

The policy clarification at paragraph 4.84, states that ‘the Council will normally require developers to provide a financial guarantee bond or make other financial provision.’ For clarity, it may be more appropriate to insert the word ‘normally’ within the policy itself in recognition that there may be occasions where the Council considers that the restoration proposals have such limited financial requirements as to make such a financial provision unnecessary.

The Council intends to produce supplementary guidance for financial guarantees when the draft Plan Strategy is adopted. In drafting the guidance, the Council would intend to consult with the minerals industry, followed by public consultation. An example of how financial guarantees may be applied is attached in Annex 1 (East Ayrshire Supplementary Guidance: Financial Guarantees, published in February 2017).

Main Issue 2:

Failure of Dalradian to restore the site to its former state and failure of FODC to take any enforcement action (DPS/054/07 et al⁴)

Response:

This is an issue specifically relating to an existing exploratory mining operation near Greencastle. A full planning application for Underground valuable minerals mining and exploration, surface level development including processing plant and other associated development and ancillary works (Reference LA10/2017/1249/F) is currently being considered by the Department for Infrastructure as it has been determined that the proposed development would be regionally significant. The Council takes its responsibility for enforcement powers seriously and investigates all complaints alleging a breach of planning control. This policy would ensure that restoration is carried out.

Main Issue 3:

The draft policy is more onerous than the existing policy position set out in prevailing regional policy as it proposes that materials for the infill and restoration of sites should be sourced from within the site. (DPS/271/04)

Response:

The policy is aimed at re-using as much materials originating from within the extraction site itself and to reduce the need for transportation of materials. However, it does recognise that in some instances there may not be sufficient materials available from within the site. Hence the inclusion of ‘normally’ within the sentence, ‘The importation of materials to fill and restore will not normally be permitted’. It will be for the quarry operator to demonstrate through a restoration plan how a site will be filled and restored.

Main Issue 4:

Whilst the requirements regarding financial provision for restoration and aftercare are welcomed, the policy clarification under paragraph 4.84 should

<p>include the framework to facilitate regular inspection to ensure such plans are followed through to delivery (DPS022/21)</p>
<p><i>Response:</i> The Council would undertake a monitoring and review of sites where such guarantees are applied.</p>
<p><i>Main Issue 5:</i> The introduction of any restoration or aftercare bond should not be considered without full and proper consultation with the Minerals Industry (DPS105/02)</p>
<p><i>Response:</i> The Council will consult with the Minerals Industry when drafting the Supplementary Guidance for Financial Guarantees.</p>
<p><i>Main Issue 6:</i> The council should insist on realistic public liability insurance cover paid in advance for life of mining operation by the applicant plus, before planning is granted to cover worse case scenario, a bond covering “accidents” during operation. (DPS/259/05)</p>
<p><i>Response:</i> The Council intends to produce supplementary guidance for financial guarantees when the draft Plan Strategy is adopted. In drafting the guidance, the Council would intend to consult with the minerals industry, followed by public consultation. An example of how financial guarantees may be applied is attached in Annex 1 (East Ayrshire Supplementary Guidance: Financial Guarantees, published in February 2017).</p>
<p><i>Conclusions:</i> No changes are proposed.</p>

Draft Policy MIN03 – Mineral Safeguarding Areas	
<p>Mineral Safeguarding Areas (MSAs) will be defined around all mineral reserves/resources in Fermanagh and Omagh that are considered to be of economic or conservation importance. Surface development which would prejudice future exploitation of these mineral resources will not be permitted.</p>	
<p><i>Ref:</i> DPS/021/03 DPS/024/04 DPS/052/07 DPS/053/07 DPS/054/08 et al⁴</p>	<p><i>Representative (Main Issue):</i> The Crown Estate (Support) FP McCann Ltd (1) Private Individual (1) Private Individual (1) Multiple groups & private individuals (4)</p>

DPS/105/03	QPANI/Minerals Product Association NI (1)
DPS/110/04	Tracey Concrete Ltd (2,3)
DPS/111/05	B McCaffrey & Sons Ltd (1,3)
DPS/248/02	Minerals and Petroleum Branch (1)
DPS/271/05	Dalradian Gold Ltd (1)
DPS/273/07	Friends of the Earth (1)
DPS/322/03	Quinn Products Ltd (1, 2, 3)
<p>Main Issue 1: The policy is incoherent and, as these areas have not been identified, it should be removed. The failure to detail MSAs is inconsistent with the decision to identify ACMDs. Without properly understanding the extent of reserves, it is not possible to robustly define areas of ACMDs, as existing operations and known mineral resources will and do exist within these areas and should be safeguarded. (DPS/024/04, 052/07, 053/07, 105/03, 111/05, 248/02, 271/05, 273/07, 322/03.)</p>	
<p><i>Response:</i> The Council has already indicated its intention to identify MSAs at the Local Policies Plan stage and this process will involve discussion with the minerals industry as well as with Minerals and Petroleum Branch/GSNI. It was not feasible to identify MSAs in any meaningful way until improved information is available on the full extent of mineral reserves, where workable resources are present and the supply and demand context. Whilst the primary purpose of ACMDs is to minimise or restrict minerals development in sensitive landscapes, they can also be viewed as a means of safeguarding a mineral resource.</p> <p>The terms ‘reserves, ‘mineral reserves’ or ‘permitted reserves’ usually refer to the remaining resource which has a valid planning permission for working that mineral. Without a valid planning permission, no mineral working can legally take place and the inherent value of a resource cannot be released. These reserve areas have undergone appropriate assessments by the operators to demonstrate that the quality and quantity of the mineral can be estimated to a level of confidence which could reasonably justify planning permission being granted. In Scotland, the use of Mineral landbanks ensures that a stock of reserves, with planning permission, is maintained to provide an adequate supply of minerals over a 10-year period based on current production levels. The decision to safeguard a quarry would be dependent on the supply and demand for that mineral in the market area.</p> <p>For the Council to move towards a system of identifying mineral landbanks, the quality of data provided by minerals operators will be key. Evidence is required to indicate if there is a lack of supply of a particular mineral and what sites/locations should be safeguarded. It also requires an analysis of the markets both inside and outside the council boundaries.</p> <p>The Council did apply a methodology for identifying potential MSAs for sand and gravel which was provided by GSNI/Minerals and Petroleum Branch (Fermanagh and Omagh Aggregate Resource Assessment). The initial findings of this showed a significant reduction in resource availability resulting from infrastructure sterilisation and the creation of numerous fragmented and uneconomic land</p>	

packages. Further refinement involved removal of sand and gravel deposits lying within the Sperrin AONB part of the Council area (proposed ACMD). This reduced the area available for extraction from 38km² to 13km². Although this provides an indication of the surface area of sand and gravel availability, it does not indicate the volume of sand and gravel that may be extracted. It was therefore not considered meaningful to identify areas to be safeguarded without further evidence about all mineral operations in the Council area along with market supply and demand information from across N Ireland. This will only be achieved through the establishment of the Regional/NI Minerals Working Group.

It has also been noted in another representation (DPS021) that the precise extent of the area of deposits required to be safeguarded are currently somewhat uncertain and during early stages of exploration it may not be possible to identify with any great precision the Protection Zone that should be applied. It further states that "GSNI has begun to draw together data necessary to enable an approach to be developed in relation to safeguarding in Northern Ireland and look in more detail at specific localities within individual council areas and such information will provide a stronger basis for definition of MSAs."

Main Issue 2:

The Council have failed to take a balanced approach for minerals development, seeking to assess and identify specific areas of constraint, with no provision for where minerals of economic value will be protected or sustainable minerals development encouraged. (DPS 110/04, 322/03)

Response:

The SPPS states at paragraph 6.155 (2nd bullet point) that LDPs should safeguard mineral resources which are of economic or conservation value. The reasons for not doing so in the Draft Plan Strategy are set out in response to Main Issue 1 above.

Main Issue 3:

Areas most suitable for minerals development should be identified in the Draft Plan Strategy. Three representations suggest sites suitable for this purpose – Tracey Concrete site at Belcoo; sites at Drumquin, Ederney and Knockninny (B McCaffrey & Sons), and a site to south west of Derrylin (Quinn Building Products). (DPS/110/04, 111/05)

Response:

Whilst the SPPS does state at paragraph 6.156 that "in preparing their LDP councils may also identify areas most suitable for minerals development within the plan area", there is no specific requirement for doing so. However, the Council may consider this aspect at the Local Policies Plan stage.

Main Issue 4:

Alarmed that the identification of the extent of MSAs will be undertaken using current geological and mineral resource information and in discussion with the minerals industry as GSNI have worked closely with Dalradian since 2010. The exceptions are also unclear. (DPS/054/08 et al⁴)

<p><i>Response:</i> GSNI are the recognised source for geoscience information and services to inform decision making in Northern Ireland. The minerals industry holds information regarding the supply and demand chain and current reserves. Both provide valuable information that cannot be obtained from other sources and therefore cannot be ignored or bypassed. Specific references to Dalradian's planning application and current operations are not considered relevant to comments about the 'soundness' of the Draft Plan Strategy.</p> <p>The exceptions listed under this draft policy are typical for an MSA and are regarded as minor applications as the sterilisation effect on mineral resources is likely to be negligible.</p>
<p><i>Conclusion:</i> No changes are proposed.</p>

Draft Policy MIN04 – Unconventional Hydrocarbon Extraction	
<p>The Council will not permit exploitation of unconventional hydrocarbon extraction until it is proved that there would be no adverse effects on the environment or public health.</p> <p>Exploratory works for unconventional hydrocarbon which do require planning permission will be considered under draft Policy MIN 01.</p>	
<p><i>Ref:</i> DPS/002/01 DPS/006/01 DPS/022/22 DPS/052/08 DPS/053/08 DPS/054/9 et al⁴ DPS/055/01 DPD/056/01 DPS/060/01 DPS/063/01 DPS/064/01 DPS/067/01 DPS/112/01 DPS/126/03 DPS/129/01 DPS/130/01 DPS/131/01 DPS/132/01 DPS/248/03</p>	<p><i>Representative (Main Issue):</i> Private Individual (2) Fermanagh Fracking Awareness Network (FFAN) (2) RSPB (2) Private Individual (2) Private Individual (2) Multiple groups & private individuals (Support) (3) FFAN (4) Private Individual (4) David Scott (2) Carroll O'Dolan (4) FFAN (4) Private Individual (4) FFAN (4) T White (4) Private Individual (4) Private Individual (4) Private Individual (4) Corralea Activity Centre (4) DfE Minerals and Petroleum Branch (1)</p>

DPS/265/02 DPS/273/08 DPS/274/02 DPS/277/22	Jemma Dolan MLA (2) Friends of the Earth (2) Colm McGinn (5) The National Trust (support)
<p><i>Main Issue 1:</i> The wording of Draft policy MIN04 is not consistent with either that applied to other Minerals Development in MIN01 or the text relating to the extraction of unconventional hydrocarbons in the SPPS. Draft policy MIN01 uses the words ‘unacceptable adverse impact’ whereas MIN04 refers to ‘no adverse effects’. Recommends that the wording should reflect the SPPS but replacing the final phrase “...on all environmental impacts” with the wording “on all associated impacts on the environment and human health”. (DPS248/03)</p>	
<p><i>Response:</i> The SPPS wording in paragraph 6.157 states that “in relation to unconventional hydrocarbon extraction there should be a presumption against their exploitation until there is sufficient and robust evidence on all environmental impacts”. The Council considers that given the public concerns about the effects of unconventional hydrocarbon extraction, the wording of the draft policy MIN04 is more robust than the SPPS. The wording therefore remains unchanged.</p>	
<p><i>Main Issue 2:</i> The logic of the second part of the policy with regards exploratory works is questioned. The precise wording of paragraph 6.157 of the SPPS should be replicated in the draft policy. Exploratory works should not be treated differently to extraction works. Policy clarification at paragraph 4.89 should include “presumption against the granting of planning permission for the exploration and extraction of unconventional hydrocarbon” (DPS060).</p> <p>The policy should be amended to read “The Council will not permit unconventional hydrocarbon extraction, not its exploratory works, until it is proved that there would be no adverse effects on the environment or public health in any process involved with the exploitation of unconventional hydrocarbon extraction” (DPS 052/08, 053/08, 265/02, 273/08)</p>	
<p><i>Response:</i> Mineral exploration for all purposes is granted permission by virtue of Class A of Part 16 to the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO). It consists of development on any land for a period not exceeding four months of the drilling of boreholes, the carrying out of seismic surveys, or the making of other excavations for the purpose of mineral exploration. Under the current GPDO, this would include exploratory works for unconventional hydrocarbon.</p> <p>Under Regulation 7 of the GPDO, the Council may remove permitted development rights where the proposal is likely to have significant environmental effects. In such cases, a planning application will be required to fully assess whether a proposal would cause serious detriment to the amenity of an area or would cause serious nuisance to inhabitants of a nearby residential building. The statement within the policy provides for those occasions when exploratory works are not considered to</p>	

be permitted development and how they will be assessed under draft policy MIN01. Until there is a change to the GPDO, the Council does not have the authority to place an outright restriction on exploratory works for unconventional hydrocarbon. The Council will still have the option to remove permitted development rights where the proposal is likely to have significant environmental effects.

Main Issue 3:

This is a positive policy but as mining is similar to fracking, the Council should adopt a presumption against the granting of planning permission for mining of precious metals anywhere in the Council area. (DPS/054/9 et al⁴)

Response:

To adopt the approach of a presumption against the granting of planning permission for mining of precious metals anywhere in the Council area would be contrary to the SPPS.

The LDP is required to take account of strategic policy as set out in the SPPS. The SPPS (paragraph 6.157) acknowledges that the exploitation of minerals valuable to the economy may create environmental effects which are particular to the methods of extraction or treatment of that mineral but it specifically states that there will not be a presumption against their exploitation in any area. It continues with, 'however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning.' A statutory zoning would include, for example, an AONB. The only exception and where there is a definite presumption against their exploitation, is unconventional hydrocarbon extraction.

Main Issue 4:

The definition of fracking needs to be more strictly defined and the following definition should be inserted into the policy clarification

“also known as hydraulic fracturing or fracking; which means the generation of mechanical fractures in rock below the surfaces by means of the physical process of pumping fluid at high pressure into the rock via a petroleum wellbore for the purpose of enhancing the flow of all hydrocarbons between the rock and the wellbore.” (DPS 056/01, 063/01, 064/01, 067/01, 112/01, 126/03, 129/01, 130/01, 131/01, 132/01)

Response:

The Council has no objection to inclusion of the following additional wording within the Policy Clarification **“also known as hydraulic fracturing or fracking; which means the generation of mechanical fractures in rock below the surfaces by means of the physical process of pumping fluid at high pressure into the rock via a petroleum wellbore for the purpose of enhancing the flow of all hydrocarbons between the rock and the wellbore.”**

Main Issue 5:

The implied acceptance of fracking for natural gas is flawed. The technology will be interfered with in areas of high rainfall such as Fermanagh and

Tyrone and health implications are strongly negative. Example given Fort Worth, Texas. (DPS274/02)

Response to Main Issue 5:

The draft policy as written reflects the intent of the SPPS. No acceptance of fracking is implied, and this is clearly stated in the Policy Clarification.

Conclusion:

Having considered the above, the Council has concluded that the policy remains sound.

Within the Policy Clarification, the following minor change is proposed:

“This process means the generation of mechanical fractures in rock below the surfaces by means of the physical process of pumping fluid at high pressure into the rock via a petroleum wellbore for the purpose of enhancing the flow of all hydrocarbons between the rock and the wellbore.”

The words ‘**and actual**’ should also be deleted from paragraph 4.89.

Historic Environment

Draft Policy HE01 - Historic Environment Overarching	
<p>The Council will only support development proposals which affect a heritage asset or its setting where it is satisfactorily demonstrated how the proposal would conserve, protect and, where possible, enhance the significance of the asset or its setting.</p>	
<p><i>Ref:</i> DPS/009/01 DPS/113/02,11 DPS/115/49 DPS/277/23 DPS/317/55</p>	<p><i>Representative (Main Issue)</i> Historic Monuments Council (1) Dept. of Communities – Historic Environment Division (2) NI Housing Executive (Supports) The National Trust NI (Supports) Department for Infrastructure (3)</p>
<p><i>Main Issue 1:</i> The focus of the policy is not on the historic environment itself and its protection and conservation, but on the circumstances in which development proposals would be allowed. The policy approach is therefore contrary to the cautious approach to management and protection of the HE and the SPPS (DPS/009/01).</p>	
<p><i>Main Issue 2:</i> Believes the historic environment is not receiving appropriate strategic policy consideration as set out in the RDS and SPPS.</p> <p>The overall suggestion is that the policy and clarification is omitted in its current form. The clarification is considered to need a complete rewrite to become actual policy specific to archaeology. Particular reference is made to the following:</p> <p>(i) The policy does not take sufficient account of RDS RG11 and SPPS 6.10 and 6.11 and representations made by HED when consulted on the POP and on draft policies (as part of the Project Management Group). (RDS: RG11 refers to the Regional Development Strategy, Regional Guidance 11 which is: Conserve, protect, and, where possible, enhance our built heritage and our natural environment)</p> <p>(ii) The evidence supplied in the SA is not robust to justify being taken, demonstrates no clear understanding of the existing distinct policies and does not outline a clear rationale for this new area specific policy proposal. The policy is also not in line with the POP.</p> <p>(iii) The policy facilitates developments instead of protecting the historic environment and there are elements of the policy clarification that should be policy and additional text is required.</p>	

(iv) The policy is vague and contradictory in its wording supporting “development proposals which “affect” a heritage asset” where it is demonstrated that it “protects, conserves and enhances”.

(v) Para 5.5 - Considers this reduces an important strategic policy (SPPS 6.10) to clarification and attempts to amalgamate an archaeological policy concern with other issues. There are instances where it may not be necessary to provide all necessary information in advance.

(vi) Para 5.6 - Considers the wording “mitigation measures...can provide the basis for the approval of development proposals” is not in line with international obligations on heritage, under the Valetta Convention. Mitigation should be the last resort.

(vii) Furthermore, suggests that Appendix 5 is omitted and instead a line inserted alongside redrafted policy 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 HED guidance. (DPS/113/02,11)

Main Issue 3:

Clarification is required as to the purpose of this policy over and above the remaining Historic Environment policies (HE02 to HE07) as the various aspects of the historic environment warrant different policy approaches as set out in the SPPS (DPS/317/55).

Response to Main Issues 1, 2 and 3:

Considering the issues raised, including from groups which have expert knowledge on the application of policy relating to the historic environment, the view is that the policy should be deleted.

The intention of the policy was to set a basis which would draw together the common factors and issues that could affect any heritage asset (statutory or non-statutory) and provide an overarching framework for all subsequent HE policies. This included the principle that, no matter what the heritage asset, an application must be supported with a robust and demonstrable understanding of it, and which would then form the basis of any assessment. This attempted to replicate an approach to simplifying historic environment policies which appears to have been successfully undertaken in several other jurisdictions including in the plan-led system in Scotland and England. The type of ‘supporting information’ would then vary based on the nature of the asset (see para 5.5). The policy also sought to enshrine the principle that development could be supported where there is no demonstrable harm and where mitigation may be a route to achieve this.

However, it is clear that this has not been achieved successfully in the opinion of the statutory consultees, and it is considered to be at odds with elements of the SPPS. Therefore, it is suggested that the policy, policy clarification and appendix 5 should be removed. There are elements of the policy clarification, which refer to assessment and evaluation of archaeological remains, which could be incorporated into the clarification of HE02. Similarly, the suggestion of HED (Main Issue 2) of signposting to guidance can be incorporated into the Context and

Justification para 5.4 which already outlines the role of HED. This could be as follows:

“...on certain applications. HED also produces a range of guidance documents which are relevant considerations for development proposals which may affect heritage assets.”

Conclusions:

Delete Policy, Policy Clarification and Appendix 5 and incorporate some of the text into policy clarification for HE02.

Additional text to para 5.4 of the Context and Justification to clarify the guidance available from HED as follows:

...and is a statutory consultee on certain applications. HED also produces a range of guidance documents which are relevant considerations for development proposals which may affect heritage assets.

Draft Policy HE02 – Archaeology

(a) Archaeological Remains of Regional Importance and their settings

Development proposals which would adversely affect archaeological remains of regional importance or the integrity of their settings, including those that would merit scheduling and candidate ASAs, will only be permitted in exceptional circumstances and where the proposal is of overriding importance in Northern Ireland. Such proposals must be accompanied by sufficient and robust information to allow an assessment and evaluation of the extent of the remains and their significance.

(b) Archaeological Remains of Local Importance and their Setting

Development proposals which would adversely affect archaeological remains of local importance or their settings will only be permitted where it is adequately demonstrated that the need for the proposed development clearly outweighs the value of the remains and/or their settings.

<i>Ref:</i>	<i>Representative (Main Issue)</i>
DPS/009/02	Historic Monuments Council (1)
DPS/047/01	Mid Ulster District Council (6)
DPS/113/03	Dept. of Communities – HED (2)
DPS/115/50	NI Housing Executive (Supports)
DPS/116/02	Canavan Associates (3)
DPS/191/01	Private Individual (6)
DPS/259/10	Private Individual (6)
DPS/271/07	Dalradian Gold (4)
DPS/277/2	The National Trust NI (Supports)

<p>4DPS/317/56 DPS/029/01 et al⁸ DPS/054/10 et al⁴</p>	<p>Department for Infrastructure (5) Multiple groups & private Individuals (6) Multiple groups & private individuals (7)</p>
<p>Main Issue 1: The draft policy and clarification, due to its over-simplified approach runs directly counter to and fails to articulate the thrust of the stated central government policies in PPS6 and SPPS. In addition, fails to mention the relevant plans, policies and strategies in adjoining council district namely Creggandevesky and Beaghmore ASAs which run into the Mid-Ulster District Council area (DPS/009/02).</p>	
<p><i>Response:</i> The policy incorporates all the keys aspects of the SPPS. This can be clearly demonstrated by comparing the two documents and the principle elements of the SPPS (NB: Archaeology is covered in only six paragraphs in the SPPS – paragraphs 6.8 to 6.11 and 6.28 to 6.29). The policy condenses much of the PPS6 but, importantly, removes any aspect of the PPS6 which is unnecessary background or is more than adequately addressed within other guidance.</p> <p>It would not be appropriate to reference designations within adjoining districts. The LDP should only provide designation and policies relevant to FODC. Development in adjoining districts would be subject to the LDP policy framework of that district. Development to the edge of FODC, and which may impact on a designation in the adjoining district, would be subject to consultation and assessment of impact on that adjoining designation. The preparation of the dPS has been subject to cross-boundary consultation including a Memorandum of Understanding with Mid-Ulster District Council to enshrine co-operation on policy development (detailed in accompany paper).</p>	
<p>Main Issue 2: While it is considered that policies are generally in line with SPPS (para 6.8 and 6.9), it is considered that for (a) there needs to be some additional wording and some wording can be clarification and for (b) additional clarification is required to make the policy sound. In terms of the structure of the policy clarification Para 5.7 (relating to mitigation) should be the last point and it is noted that there is no reference to Areas of Archaeological Potential as per SPPS 6.29 and no clarity on the legislative requirements regarding Scheduled Monument Consent (DPS/113/03). (NB: Given the nature and extent of the requests for changes these are explored in greater detail under the response section below).</p>	
<p><i>Response:</i> There are numerous requests for additional wording, within policy and policy clarification. All have been reviewed as follows:</p>	

⁸ There are 111 group and private individual representations containing the same content. These are listed in table 9 on page 421 of this paper.

- **Request 1** : That it should be expressly stated that Archaeological Remains of Regional Importance are statutorily protected in policy HE02.

Response: This is not policy, but only background information, which is not relevant to the assessment of applications. As a suggestion it could be added to policy clarification.

- **Request 2:** There is no reference to Areas of Archaeological Potential as per SPPS as per para 6.29 of the SPPS.

Response: It is suggested that additional text, in line with paragraph 6.29 of the SPPS, could be added as policy clarification. It would also be pertinent to detail the intention to assess and identify AAPs at the Local Policies Plan stage.

- **Request 3:** Text should be included to explain the legislative requirements around Scheduled Monument Consent for works that would affect scheduled monuments.

Response: This would not be relevant to the application of this planning policy, as it would not be a material consideration to the determination of any application. SMC is an entirely separate legislative requirements, outside of the planning framework. Separate guidance on this is available from HED who are also responsible for determining SMCs. It is the responsibility of the applicant/developer to ensure they have all necessary consents prior to commencement development.

It is also noteworthy that HED have produced their own extensive guidance on SMC “Scheduled monuments consents: Advice for planning officers and applicants seeking planning permission within the scheduled area of a monument (December 2018)”: <https://www.communitiesni.gov.uk/sites/default/files/publications/communities/hed-scheduled-monument-consent.pdf>

This includes the following at page 2:

Scheduled monument consent and other permissions

Scheduled monument consent is required for works in the scheduled area, regardless of whether planning permission or other permissions have been sought or obtained. Planning permission is a separate matter where applicants should apply to the relevant district council. The level and type of detail required in making an application for scheduled monument consent may differ from what would be required applying for a planning application.

The scheduled monument consent process may run in parallel with the statutory planning process, and such cases are dealt with most effectively if the applications for scheduled monument consent and planning permission are prepared at the same time following early discussions with the Historic Environment Division. Where both scheduled monument consent and planning permission are being sought for a proposal, scheduled monument consent must be determined first.

However, it is considered that there is no basis, in strategic policy or legislation, which supports the final statement of HEDs guidance that “*schedule monument*

consent must be determined first". This is only practice. This does not reflect Annex B of PPS6.

Adding text on SMC would also result in an inflexible document which is at risk of becoming dated over the plan period, for example, if the SMC process, practice or supporting legislation changes. There are many other legislative requirements which are separate to planning. To elevate one (i.e. SMC) above these would not be appropriate.

- **Request 4:** HED suggest that two new sections are added to policy HE02 and as these represent essential strategic policy. These would repeat the wording at para 6.10 and 6.11 [See text box below] of the SPPS. Para 5.7 of the dPS should be omitted.

Response: The text of SPPS para 6.10 and 6.11 are not strategic policy but are more akin to policy clarification.

Para 6.10 of the SPPS is clearly policy clarification. It details an action of the Planning Authority when assessing an application against the policy. It is however partly recognised at HE02 (a) and where it states "...such proposals must be accompanied by sufficient and robust information to allow an assessment and evaluation of the extent of the remains and their significance".

Para 6.11 of the SPPS is also clearly policy clarification. It details an action of the Planning Authority when determining an application against planning policy and where there is an 'affect'.

As such it is suggested that additional policy clarification is provided to replicate the provision of SPPS 6.10 and 6.11, and in combination with para 5.7. This would also replace into policy clarification the provisions removed by deleting HE01 policy clarification (see above).

- **Request 5:** Revised text to HE02 (a) omits the wording, "including those that would merit scheduling and candidate ASAs,". (NB: There is no explanation to accompany this suggested change).

Response: This text reflects SPPS Para 6.8 which details the ongoing scheduling programme and the policy approach should apply to "such sites which, whilst not scheduled presently, would otherwise merit such statutory protection". It is entirely possible that new scheduled monuments or candidate ASAs, are identified over the plan period. This would be in addition to Creggandevosky and extension to Beaghmore ASAs which will be designated when the dPS is adopted and as they are shown on the Proposal Map and referenced within Appendix 9 Table 2 of the dPS.

- **Request 6:** re-wording and additional text to the first part of para 5.9 and in particular:

"ASAs 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 they and their settings are protected.”

Response: The suggested changes, in the main, more accurately reflect the wording at SPPS para. 6.29 and therefore should be included. The exception is that the wording ‘...are likely to...’ should be retained as this does reflect the SPPS.

- **Request 7:** At para 5.9 include specific reference to the ASAs within the district as follows: “The district contains four ASAs, at Topped Mountain, Devenish, Creggandevsky and Beaghmore, the latter two being cross boundary areas of the landscape shared with Mid Ulster Council Area.”

Response: There is reference below para 5.9 that all ASAs are shown on the Proposals Map. To include specific reference within the dPS to the current ASAs would mean that the document would be inflexible if, for example, new ASAs were to be designated at a later stage such as any LDP review. The LPP would be the appropriate place to develop individual policies for each ASA. Any future revision (to the ASAs or new ASAs) would therefore only require a minor revision to the LPP as oppose to a fundamental revision to the dPS.

- **Request 8:** Delete para 5.11 which refers to Statement of Significance for ASAs being a determining material consideration and amend wording to para 5.12 as follows (and to partly replace para 5.11):

“ Within the LPP, in line with SPPS requirements, specific policies will be developed for each of the ASAs 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 ASA this will build on the *Statement of Significance* which will themselves remain a material consideration in assessing the impacts of development proposals on these landscapes.

Response: There is no requirement to refer to the SPPS requirements within this text. Para 1.4 of Part Two details that the policies of the dPS “...should be read in conjunction with the SPPS and the RDS”. Otherwise, the deletion of para 5.11 and the proposed re-wording would be appropriate and as it would help with the understanding of the policy.

- **Request 9:** Amendment to the wording to the last line of para 5.13 (“These can include sites and monuments that are not scheduled, buildings...”).

Response: The proposed change would be appropriate and as it would help with the understanding of the policy.

- **Request 10:** Amendment to the first line of para 5.14.

Response: The proposed change would be appropriate and as it would help with the understanding of the policy.

- **Request 11:** Substantial new text for the policy clarification, which in summary covers: how archaeological considerations are dealt with during the Development Management process (i.e. visit DfC website, informal discussions with HED, council might request additional information (such as an archaeological assessment or evaluation)), and details on AAP.

Response: Much of new text requested goes beyond clarification of the policy and instead provides guidance. It is noted that this is available from HED in their publication “Development and Archaeology: Guidance on Archaeological Works in the Planning Process” (April 2019). As noted above, it is intended that additional text is included to cover archaeological assessments and evaluations and AAPs which would address the other issue raised.

- **Request 12:** Substantial new text for the policy clarification, which in summary covers: how ‘mitigation’ will be considered in the development management process (preference for re-design to preserve remains in-situ first prior to considering license excavation and recording which would be dealt with by way to a programme of archaeological works in line with HED statutory response).

Response: This is an overly detailed clarification on the Development Management process and which fails to realise that the dPS needs to be a flexible document. Any aspect of this practice could be changed at a later date. As above there is enough guidance available from HED on this topic and the role of HED (see ‘Context and Justification’ (para 5.4)). Otherwise, amendments to para 5.7 (see above) will summarise the key aspects of this approach and reflect the SPPS.

- **Request 13:** Substantial new text for the policy clarification, which in summary covers:

Approach when archaeological remains become apparent once approved development has already commenced (i.e. statutory requirement that this is reported to HED and possible need for SMC before continuing work).

Response: The need for SMC is not a planning matter. The course of action is archaeological remains become apparent during development is adequately addressed through HED guidance. Therefore, it is not proposed to take forward this proposed wording.

- **Request 14:** Proposal Map 1 North East should show how these areas (ASAs) transcend the boundary and are partly located in Mid-Ulster. Limiting to the FODC area only is unsound.

Response: See Response to Main Issue 1 above.

Main Issue 3:

Considers that the general presumption against certain large-scale development types (para 5.12) in ASAs is not appropriate and reminder that all proposals should be considered on their merits. In particular wind energy development should not be excluded from ASAs as they may be

appropriately designed and not damage the appearance, character and historic environment of the area (DPS/116/02).

Response:

The policy clarification (at para 5.12) details that “Generally, it is unlikely that ASAs will be able to accommodate large scale development...”. Given this wording this is not considered a ‘presumption’ against large-scale development types and they will still be considered on their merits. This would include wind energy development.

It is noted that this statement at para 5.12 has been developed from the Statements of Significance prepared by HED.

Main Issue 4:

Objects to the policy and the extension of the Beaghmore ASAI (as shown on the Proposals Map) which will be extended to include part of the land proposed for mineral extraction at Curraghinalt and which has been informed by HED assessment (Appendix 3 of which states minerals development in this area would have an adverse impact on open and distant vistas). However, notes that this assessment is in the absence of a visual appraisal of the proposed extension and as such this statement is unsubstantiated. Also noted that HED has raised no concerns regarding the planning application. Requests ASAI extension is deleted (DPS/271/07).

Response:

Firstly, it is noted that the request is for the deletion of the entire policy. This would result in a significant policy gap and would result in an unsound plan which would not be in accordance with the SPPS.

Secondly, it is noted the identification of the extent of the Beaghmore ASAI has been subject to detailed assessment, including fieldwork, by HED and which has been endorsed by HMC. Consideration has been given to issues such as townland and parish boundaries and existing field boundaries to establish the extent of the ASAI (see the HED counter-representation response (ref: CR DPS 010) for further details). The proposed ASAI is therefore clearly based on expert opinion and is evidence based.

Main Issue 5:

Request for further clarification on whether text is missing within the policy box. Para 5.10 (policy clarification) appears to be permissive of development and this contrasts with the policy where development is only allowed in ‘exceptional circumstances’. The use of Statements of Significance in the Countryside Assessment will assist in policy application, however there is no cross reference or glossary definition to signpost this information (DPS/317/56).

Response:

There is no text missing from the policy box and there is no conflict between the policy wording and clarification. The policy clarification (at para 5.12) clearly refers

to Statements of Significance and their role. In addition, amended wording to this paragraph, in line with HED suggestions, will ensure that this role is clear.

Main Issue 6:

Considers that the area of the Sperrin AONB identified as having no capacity for wind energy should be extended to include the area of proposed ASAI at Beaghmore, citing six townlands, in order to preserve the character of the historic landscape.

Proposed ASAI is too small. Proposes additional areas for inclusion within the ASAI. Para 5.12 should be removed. AONB and archaeology must be protected. (DPS/029/01 et al⁸, DPS/047/01, DPS/191/01, DPS/259/10)

Response:

The identification of the extent of the ASAI has been subject to detailed assessment, including fieldwork, by HED and which has been endorsed by HMC. Consideration has been given to issues such as townland and parish boundaries and existing field boundaries to establish the extent of the ASAI (see HED counter-representation response (ref: CR DPS 010) for further details). The proposed ASAI is therefore clearly based on expert opinion and is evidence based. The arbitrary extension of the ASAI to cover a larger area, without basing this on evidence, would not be appropriate.

Main Issue 7:

Development proposals which would adversely affect archaeological remains of regional importance or the integrity of their settings should not be permitted in any circumstances because of the intrinsic historical and cultural value of such remains. No fiscal price can be put on the value of such archaeological remains and their settings. All recorded archaeological sites should benefit from statutory protection, not just designated sites. (DPS/054/10 et al⁴)

Response:

The status of archaeological sites, and if they are statutorily protected in line with legislation, is subject to expert review following a process of identification and assessment. Expressing the policy in the way suggested would be entirely contrary to the SPPS. In the absence of any local evidence to the contrary this approach could not be supported.

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded, the Council suggests that the following minor contextual changes are needed to the policy clarification to aid understanding of the policy:

Proposed changes to Para 5.7

... Scheduled Monuments and Areas of Significant Archaeological Interest (ASAI's). They are statutorily protected.

Proposed changes to Para 5.8

ASAs are areas of particularly distinctive historic landscape. They are likely to 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 they and their settings are protected.

Proposed changes to Para 5.11 and 5.12

Within the LPP, specific policies will be developed for each of the ASAs 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. Where they are in place, this will build on the current Statement of Significance which will themselves remain a material consideration in assessing the impacts of development proposals on these landscapes.

Proposed changes to Para 5.13

These can include sites and monuments that are not scheduled, buildings and structures of Industrial Heritage or Defence Heritage, as well as battle sites.

Proposed changes to Para 5.14

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

Insert New Para after 5.14

The Council will seek all necessary information from applicants to allow well informed planning judgements, particularly where the impact of a development proposal 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 adopt a precautionary approach and refuse planning permission.

Where the Council is minded to grant planning permission for development which will affect sites known or likely to contain archaeological remains, it will ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development. The preferred treatment of archaeological remains affected by development will be considered in the following order:

*preservation of remains in situ;
licensed excavation;
recording, examination and archiving of archaeology by way of condition*

The Council will review existing and identify new Areas of Archaeological Potential (AAP) in the district in the Local Policies Plan. These are areas within the settlement limits, where, based on current knowledge, it is likely that archaeological remains will be encountered during development and change.

Draft Policy HE03 - Listed Buildings and their Settings

a) Alterations and Extensions to a Listed Building

The Council will normally only permit development proposals that affect a listed building or its setting where it can be demonstrated that all of the following criteria are met:

the essential character, integrity and setting of the listed building will be protected, conserved and enhanced;

the detailed design including scale, height, massing, alignment, materials and techniques, are in keeping (traditional and/or sympathetic) with the character and appearance of the listed building and its setting; and

where a change of use is proposed, the use is compatible with the fabric, setting and character of the building.

b) Demolition of a Listed Building

The total or part demolition of a Listed Building will only be permitted in exceptional circumstances where it is demonstrated that:

it cannot be retained in its original or reasonably modified form; and demolition is desirable or necessary, including where the structural integrity of the building is dangerous and beyond repair.

In such cases, appropriate arrangements must be in place for recording the building prior to demolition and for the timely redevelopment of the site.

<i>Ref:</i>	<i>Representative (Main Issue)</i>
DPS/113/04	Dept. of Communities – Historic Environment Division (1)
DPS/115/51	NI Housing Executive (Supports)
DPS/268/01	Ulster Architectural Heritage (2)
DPS/277/25	The National Trust NI (3)
DPS/317/57	Department for Infrastructure (4)

Main Issue 1:

(i) The policy is not consistent with RDS RG11, notably 3.30 and the SPPS, notably 4.26, 5.9, 5.16, 6.13, 6.15 and 6.18. Suggests various amendments to the wording to address this. This includes a suggestion that there are four sub-sections to the policy [(i) alterations and extensions (ii) development in the setting of a listed building (iii) change of use and (iv) demolition of a listed building] instead of two.

In relation to point (b) of the policy considers that, although the wording is taken directly from SPPS para 6.13, this is too easily open to misinterpretation and therefore requests alternative wording which differs from the SPPS.

(ii) Some of the policy clarification also fails to reflect SPPS and suggests additional and alternative wording. This includes: more description on the process for involving the statutory consultee to identify features of significance; that the setting of a listed building is often an essential part of its character and a list of further considerations; structural issues will not be

given substantive weight where this is through neglect; demolition will not be considered in isolation; reference to legislative requirement for a Listed Building Consent and that some of the policy clarification text is included as policy (DPS/113/04).

Response:

(i) Point (a) relates to “all development proposals that affect a listed building or its setting”. This would include a “change of use” (a type of development) and “development in the setting of a listed building” (also a type of development). Therefore, there is no need to expand this out to four sub-sections when it can be dealt with in two and still address the issues outlined in the SPPS. Nonetheless, to address HEDs concern the title of the policy could be amended to include the wording “...and development in the setting of a Listed Building”. It is agreed that there are several examples where the policy wording does not fully align with the SPPS and therefore should be amended. This includes the wording to amend the five bullet points. As noted, wording for point (b) is taken directly from the SPPS. As such, it would not be appropriate to amend this due to HED’s perception that it can be misinterpreted. It is also not appropriate to specify that: “There will be a presumption in favour of retaining listed buildings” as this is not specified in the SPPS and the policy is clear that total or part demolition “will only be permitted in exceptional circumstances”.

(ii) The suggested changes to paragraphs 5.15 to 5.17 are minor and as they assist in clarifying the policy, should be accepted. Many of the requests for additional clarification go beyond simply clarifying how the policy will be applied and are more akin to general guidance. For example, the process of involving the statutory consultee is not relevant as this will be established separately as a Development Management practice note. It would also make the policy inflexible as there is potential that any such guidance or process could change outside of the plan-making process and therefore become irrelevant over the plan period. For example, there are many aspects of the PPSs that no longer reflect the latest thinking on topics or cross-refer to documents/agencies which are no longer relevant or have been superseded. There is more than enough guidance outside of the plan-making process which adequately deals with these more general issues of Listed Buildings and their settings and how development will be assessed (including much produced by HED). Examples are:

Listed Historic Building of Northern Ireland, HED (undated)

The listing process, HED (August 2018)

Guidance on making changes to Listed Buildings: Making a better application for listed building consent, HED (undated)

Guidance on Setting and the Historic Environment, HED (February 2018)

Development Management Practice Note 5: Historic Environment, DfI (September 2017)

Development and Archaeology: Guidance on Archaeological Works in the Planning Process, HED (April 2019)

Main Issue 2:

Concern that the draft policy reduces the policy from 5 points, 8 page (as per PPS6 BH7-11) to a 2 point, 2 page framework. The draft policy omits significant detail and important elements of explanatory justification and amplification that are fundamental to the understanding of the policy.

Notes a significant concern regarding policy HE03 and how the policy now refers to demolition being “desirable or necessary...” and that this was not the case with BH10.

Requests reference to Repair Notices and Urgent Works Notices (Council Powers) which are currently detailed in Annex D of PPS6 (DPS/268/01).

Response:

In developing this policy, the framework of PPS6 was fully reviewed. PPS6 is overly detailed and contains information which is not pertinent to making planning decisions. For example, it includes details of how listed buildings are identified and in what instances LBC is needed.

Otherwise, the practicalities of condensing all this information (as well as all other PPSs and best practice guidance) into a single, manageable and accessible document was at the forefront when drafting policy and providing clarification. As per our POP, it was always envisaged that the policies would be reviewed and combined to meet this aim.

It is also noted that the SPPS which the LDP must take account of, distils the policies of PPS6 into four paragraphs (6.12 to 6.15) and one bullet point at para 6.73. Furthermore, one of the former policies of the PPS6 (BH9 – The Control of Advertisement on a Listed Building) is dealt with as a separate matter under draft policy DE08 (Advertisement and the Historic Environment).

The policy correctly refers to “desirable or necessary”. This wording is taken directly from SPPS para 6.13 and where it states, “Applicants should justify their proposals, and show why alteration or demolition of a listed building is desirable or necessary”. In this respect it is noted that the ‘desirable or necessary’ requirement in relation to ‘alterations’ is not included in the criteria for point (a) and it should therefore be added as an additional criterion.

It is not appropriate to refer to Repairs or Urgent Works Notices within the policy clarification. This is not relevant to the policy, which only deals with applications for development proposals (which require planning permission or listed building consent). While such powers do exist, it would be a corporate decision of the Council on when to use such powers and this would be outside of the LDP process.

Main Issue 3:

While generally supportive of policy considers that the word ‘normally’ should be removed to avoid ambiguity (DPS/227/25).

Response:

In this context, it is agreed that including the word 'normally' would result in ambiguity and given the format of the policy (i.e. clearly criteria based) and therefore should be removed.

Main Issue 4:

Notes that listed buildings and their settings are considered together in the SPPS, whereas draft policy HE03 refers to 'listed building or its setting' which changes the application of the policy. Also, second bullet point under part (b) is in addition to SPPS policy and may alter intent of the strategic policy and therefore the Council should provide evidence to justify this change.

Request clarification of final sentence of para 5.16 (DPS/317/57).

Response:

It is agreed that the policy wording should be amended to reflect the SPPS and refer to the 'listed buildings and their settings'. Similarly, it is agreed that the second part of the second bullet point (b) does not fully reflect the SPPS and should be deleted (as noted above the 'desirable or necessary' test should be replicated at point (a) to best reflect the SPPS).

The final sentence of para 5.16 should be amended to provide clarity. HED suggest similar and this should therefore be taken forward.

Conclusions:

As above it is agreed that the policy should be modified to ensure it fully reflects the SPPS. Minor contextual changes are needed to the policy clarification to aid understanding of the policy.

Proposed changes to Policy HE03:

a) Alterations and Extensions to a Listed Building and development in the setting of a Listed Building

The Council will only permit development proposals that affect listed buildings and their settings where it can be demonstrated that all of the following criteria are met:

the essential character, its special architectural and/or historical interest, integrity and setting of the listed building will be protected, conserved and enhanced;
the proposal makes use of quality materials and techniques (traditional and/or sympathetic) in-keeping with architectural details of the listed building;

The detailed design respects the character and appearance of the listed building and its setting in terms of scale, height, massing, proportion and alignment; and where a change of use is proposed, the use is compatible with the fabric, appearance, setting and character of the building; and the alteration is desirable or necessary.

b) Demolition of a Listed Building

The total or part demolition of a Listed Building will only be permitted in exceptional circumstances where it is demonstrated that:
it cannot be retained in its original or reasonably modified form; and

*demolition is desirable or necessary.
In such cases, appropriate arrangements must be in place for recording the building prior to demolition and for the timely redevelopment of the site.*

*Proposed changes to Para 5.15:
Listed Buildings are buildings or structures (including walls or bridges) of special architectural or historic interest. Prior to...*

*Proposed changes to Para 5.16
In the 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. As such, where consent for the total demolition of a listed building, or any significant part of it, is granted, this should normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for the recording of the building prior to its demolition.*

*Proposed changes to Para 5.17
Furthermore, where...*

Draft Policy HE04 - Conservation Areas

(a) Development within or adjoining a Conservation Area

In the interests of preserving or enhancing the character of a Conservation Area, development proposals including those which may impact upon its setting, will only be permitted where all of the following criteria are met:
the development is in sympathy with the built form of the area and respects the characteristics of adjoining buildings in terms of scale, form, materials and detailing;
the development respects the layout, open space, trees and other landscape features that contribute to the character of the area; and,
important views within, into and out of the area are protected and, where possible, enhanced.

(b) Demolition of an Unlisted Building in a Conservation Area

Development proposals involving the demolition of an Unlisted Building in a Conservation Area will only be permitted where it is demonstrated that the building makes no material contribution to the character or appearance of the area. In such cases appropriate arrangements must be in place for the redevelopment of the site.

<p><i>Ref:</i> DPS/113/05 DPS/115/52 DPS/268/02 DPS/277/26</p>	<p><i>Representative: (Main Issue)</i> Dept. of Communities – Historic Environment Division (1) NI Housing Executive (Supports) Ulster Architectural Heritage (2) The National Trust NI (3)</p>
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DPS/317/58	Department for Infrastructure (4)
<p>Main Issue 1: The policy and policy clarification does not take sufficient account of the SPPS, notably 4.26, 5.9, 5.16, 6.15, 6.18 and 6.189. Suggests various amendments to the wording to address this. There is a general concern that the tests discussed in the clarification result in higher tests than for listed buildings and therefore does not respect the hierarchy of heritage assets. (NB: Given the nature and extent of the requests for changes these are explored in greater detail under the response section below) (DPS/113/05).</p>	
<p><i>Response:</i> There are numerous requests for additional wording, within policy and policy clarification. All have been reviewed as follows:</p> <p>Request: Change the wording “preserving or enhancing” to “enhancing or preserving” as this is the correct test and to ensure the wording reflects para 5.18. Response: The word ordering “preserving or enhancing” fully reflects wording at para 6.19 of the SPPS. Para 5.18 fully reflects the wording (guiding principle) at para 6.18 of the SPPS. As such it is not necessary to include this change.</p> <p>Request: Change first bullet point of (a) to “overall character and appearance of the place” instead of “characteristics of adjoining buildings”. Response: The proposed wording of the policy at bullet point one is fully reflective of the wording at para 6.19 of the SPPS (combination of bullet points 1 and 2). As such it is not necessary to include this change.</p> <p>Request: Change third bullet point of (a) to “important views within into and out of the area are <i>enhanced or preserved</i>” instead of “...protected and, where possible enhanced”. Response: At para 6.18 of the SPPS the reference is “Important views in and out of the Conservation Area should be retained”. At para 6.19 the reference is “protect important views within, into and out of the area”. As such the amended wording from HED does not align with the SPPS but neither does the draft policy wording. A change to “...protected and retained” would be appropriate.</p> <p>Request: Wording at (b) fails strategic requirements and should be changed as follows: “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 or appearance; and where it is demonstrated that the new building enhances the character of appearance of the area. In such cases appropriate arrangements must be in place for the redevelopment of the site.” Response: Para 6.18 of SPPS does include a ‘exceptional circumstances’ test and therefore should be included. The addition of the word ‘existing’ is not required as reference into this text to ‘building’ is clear within the context and reflects wording at para 6.19 of the SPPS. The additional text “and where it is demonstrated that the new building enhances the character or appearance” is not reflective of the SPPS and would be a higher policy test than the SPPS.</p>	

Request: The bullet points listed at para 5.18 provide a greater policy test than currently required within draft policy HE03 (Listed Buildings). Therefore, suggests caution in retaining without adding similar policy tests for HOU03.

Response: There appears to be a lack of understanding from HED in stating that the bullet points at para 5.18 are a 'policy test'. They are clarification only. It is also clear in the preceding wording that these are only a list of examples to guide applicants/developers. It states "measures that may conserve, preserve or enhance...". As such this should be retained.

Request: The second sentence of para 5.19 appears to include a higher policy test that for HE03 (Listed Building). Caution advised in retaining this or there is a need to add a similar test to HE03.

Response: This is agreed and therefore this wording can be deleted. This does not change the effectiveness of the policy as provision exists at (b) "In such cases appropriate arrangements must be in place for the redevelopment of the site" and which is reflective of the SPPS.

Main Issue 2:

Concern that the draft policy reduces the policy from 3 points (as per PPS6 BH12-14 pages 31 - 36) to a 2-point, 2-page framework. The draft policy omits significant detail and important elements of explanatory justification and amplification that are fundamental to the understanding of the policy.

Notes the reduction in the size of the Enniskillen Conservation Area to the north western end and as shown on the proposals map. Also, considers that reference is made to Article 4 Directions (and which should be included in the final plan) (DPS/268/02)

Response:

In developing this policy, the framework of PPS6 was fully reviewed. PPS6 is overly detailed and contains information which is not pertinent to making planning decisions.

Otherwise, the practicalities of condensing all this information (as well as all other PPSs and best practice guidance) into a single, manageable and accessible document was at the forefront when drafting policy and providing clarification. As per our POP it was always envisaged that the policies would be reviewed and combined to meet this aim.

It is also noted that the SPPS, which the LDP must take account of, distils the policies of PPS6 into three paragraphs (6.18 to 6.12) and one bullet point at para 6.73. Furthermore, one of the former policies of the PPS6 (BH13 – The Control of Advertisement in a Conservation Area) is dealt with as a separate matter under draft policy DE08 (Advertisement and the Historic Environment).

It is noted that the Enniskillen CA boundary line as shown at p135 is incorrect. This error was noted on the Council's website when it was first noted as follows: "*A mapping error has also been identified in relation to the boundary of the Enniskillen Conservation Area (page 135). It should be noted that the correct*

Conservation Area boundary as designated is shown in the Enniskillen Conservation Area Design Guide (March 1988)."

It is unnecessary to refer to Article 4 Directions. This simply limits the extent of permitted development rights within a CA, but this would not affect how the policy would be applied. Similarly, while the Council could seek to make an Article 4 Direction this would be conferred under legislation and would be a corporate decision of the Council.

Main Issue 3:

Considers the policy needs to be amended to include additional criteria, in summary: state that character and appearance of the CA must be preserved or enhanced; development proposal should not result in environmental problems such as noise, nuisance or disturbance; development proposals should conform with the CA design guide.

Suggests the first criteria (of (a)) should be strengthened by including reference to height and legibility as further characteristics of adjoining buildings that should be respected (DPS/277/26).

Response:

The additional criteria and amended criteria suggested would not be in line with the SPPS and would introduced new policy tests. The adding of 'height and legibility' to first bullet point of (a) would be adequately addressed by "scale, form..." (height) of the first bullet point and "respects the layout, open space...character of the area" (legibility) of the second bullet point.

Main Issue 4:

Concern that the policy does not reflect that there is a general presumption against the demolition of unlisted buildings within CAs other than in 'exceptional circumstances' and this is not clearly stated within the draft policy (DPS/317/58).

Response:

It is noted that para 6.18 of the SPPS does include a "...general presumption against the grant of...conservation area consent for demolition of unlisted buildings [in a conservation area]". This would be addressed by HEDs suggested addition of the words "...in exceptional circumstances" in criteria (b).

Conclusions:

The policy is sound. However, if the Commissioner is so minded, minor contextual amendments are required to the draft policy and policy clarification.

The Enniskillen Conservation Area boundary should be corrected.

Proposed changes to HE04:

...

important views within, into and out of the area are protected and retained.

...

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 building makes no material contribution to the character or appearance of the area.

Proposed changes to Para 5.19:

...the Council recognises that there may be occasions where it is justified through the provision of sufficient evidence.

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

(a) Development within or adjoining an ATC or AVC

The Council will only permit development proposals within an Area of Townscape Character or Village Character, or affecting its setting, where the following criteria are met:

- the character and unique identity, including the historic built form, of the ATC or AVC is maintained or enhanced; and
- any trees, archaeological or other landscape features are protected and satisfactorily integrated into the design and layout of the development.

(b) Demolition of an Unlisted Building in an ATC or AVC

The demolition of an Unlisted Building in an Area of Townscape Character or Village Character will normally be permitted where the building makes no material contribution to the distinctive character or appearance of the area and appropriate arrangements are put in place for the redevelopment of the site.

<i>Ref:</i>	<i>Representative: (Main Issue)</i>
DPS/113/06	Dept. of Communities – Historic Environment Division (1)
DPS/115/53	NI Housing Executive (Supports)
DPS/277/27	The National Trust NI (2)
DPS/317/68	Department for Infrastructure (3)

Main Issue 1:
The policy and policy clarification does not take sufficient account of the SPPS, notably 5.9 and 6.21. In particular (i) ‘archaeological’ can be removed as it is covered by own policy and additional policy wording (ii) para 5.21, wording not in line with SPPS and ‘reinforce’ should be replaced with ‘maintain’ as different meaning’ (iii) para 5.22, final sentence not in line with SPPS as it refers to ‘retain’ and should say ‘maintain’ and as these have a different meaning (DPS/113/06).

Response:
 The suggested change to policy (a) by removing the word ‘archaeological’, and as this area is covered by other policy provision in the plan, is considered appropriate.

This would also avoid repetition in the plan and would not be detrimental to the overall effectiveness of the policies.

However, there is considered no local evidence to support the suggested introduction of the phrase "...townland or parish boundaries...". This is not currently within the SPPS and does not reflect wording of policies within the PPS6 Addendum.

The suggested changes to the clarification are considered appropriate, as this would mean the wording would align with both the draft policy and the SPPS.

Main Issue 2:

Generally supportive of the policy but requests additional criteria included: development proposal confirms with supplementary design guidance; there is no detrimental impact on the setting of the area; and, there is no significant loss of key views within, into and out of the ATC (DPS/277/27).

Response:

It is not necessary to introduce the suggested additional criteria.

It would not be appropriate to enshrine 'guidance' within policy. Any SPG would be a material consideration given appropriate weight at the decision-making stage.

On review of the SPPS setting is not a relevant consideration in relation to the ATCs or ATVs. It is not necessary to include reference to this within the policy and as such the wording within the first part of the policy "...or affecting its setting..." should be deleted.

There is no need to specify views into and out of an ATC or AVC as a separate criteria. If these views are part of the "character and unique identity" they would be maintained or enhanced.

Main Issue 3:

Notes that there is no legislative requirement for the level of tree protection as set out in this policy. If this is intended to be an overarching protection policy for trees, the Council should consider if this is realistic and, if so, how it relates to the relevant legislation (DPS/317/68).

Response:

It is agreed that there is no statutory protection for trees within ATCs or AVCs (as oppose to trees within a Conservation Area) except where trees, or groups of trees, are protected through TPO legislation. Therefore, 'unprotected' trees within a ATC or AVC could be removed, pruned etc without the need for specific consent of the council or prior to the implementation of a planning permission which seeks to retain trees through condition.

Nonetheless, it is still possible to consider the loss of trees and their protection as part of the normal development management process. An application which would result in the loss or damage of trees which contributes to the distinctive character of an ATC or AVC could be refused planning permission.

<p>It is noted that policy ATC2 (of PPS6 Addendum) included similar reference to trees.</p> <p>The Council could still use its (emergency) TPO powers if trees were identified to be at risk as a result of development and where it was considered that they merit protection.</p>
<p><i>Conclusions:</i> The policy is considered to be sound. However, if the Commissioner is so minded, minor modifications are suggested to the policy and clarification to enhance effectiveness and understanding.</p> <p><i>Proposed changes to HE05:</i> <i>any trees or other landscape features are protected and satisfactorily integrated into the design and layout of the development.</i></p> <p><i>The demolition of an Unlisted Building in an Area of Townscape Character or Village Character will only be permitted where the building makes no material contribution to the distinctive character or appearance of the area and appropriate arrangements are put in place for the redevelopment of the site.</i></p> <p><i>Proposed changes to para 5.21:</i> <i>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.</i></p> <p><i>Proposed changes to para 5.22:</i> <i>In such cases, in order to maintain and enhance the existing unique identity of the ATC/AVC the proposed redevelopment must be sympathetic in scale, massing and design to the remainder of the ATC/AVC.</i></p>

Draft Policy HE06 - Historic Parks, Gardens and Demesnes	
<p>The Council will only permit development proposals within Historic Parks, Gardens or Demesnes, or which may impact upon their settings, where it can be demonstrated that all of the following criteria are met:</p> <p>the development would not lead to the loss of, or cause harm to, the overall character, principal components or setting of the Historic Park, Garden or Demesne, including landscaping and distinct boundary features; and, the development would not adversely impact on views to, from and within, the Historic Park, Garden or Demesne.</p>	
<p><i>Ref:</i></p> <p>DPS/113/07</p>	<p><i>Representative: (Main Issue)</i></p> <p>Dept. of Communities – Historic Environment Division (1)</p>

<p>DPS/115/54 DPS/277/28 DPS/317/59</p>	<p>NI Housing Executive (Supports) The National Trust NI (2) Department for Infrastructure (3)</p>
<p>Main Issue 1:</p> <p>The policy does not take sufficient account of the RDS RG11, notably 3.30 and SPPS, notably paras 6.16 and 6.17. In particular the policy wording focuses on visual appearance only and fails to enable consideration of the original concept and character (DPS/113/07).</p>	
<p>Main Issue 2:</p> <p>Additional criteria suggested (i) ‘the development would not adversely impact on the archaeological, historical and botanical interest of the Historic Park, Garden or Demesne’ as per 6.17 of the SPPS (currently this is policy clarification at para 5.23) and (ii) ‘development proposal not having and adverse impact on the integrity and overall quality and setting of the Historic Park, Garden and Demesne’ (DPS/277/28).</p>	
<p>Main Issue 3:</p> <p>The second bullet point of the draft policy refers to the impact on views to, from and within, the Historic Park, Garden and Demesne; and has a different emphasis to the SPPS (and may weaken the strategic policy intent) (DPS/317/59).</p>	
<p><i>Response to Main Issue 1, 2 and 3:</i></p> <p>Essentially all comments/issues are requesting amendments to the second bullet point. It is agreed that consideration “of views to, from and within...” historic parks etc does not reflect the wording within the SPPS (main issue 3). The wording of this policy should be amended and in particular to recognise consideration of the original concept and character (main issue 1 & 2).</p> <p>Otherwise, in respect of the remaining issues raised by main issue 2, ‘setting’ is covered at the start of the policy (“which may impact upon their setting..”) and policy clarification 5.23 outlines that particular account should be taken of archaeological, historical and botanical interest and this is considered appropriate.</p>	
<p><i>Conclusions:</i></p> <p>The Council considers that minor contextual changes to the policy are required as follows:</p> <p><i>the development would not adversely impact on the integrity and overall quality, understanding, experience and enjoyment of the Historic Park, Garden or Demesne.</i></p>	

Draft Policy HE07 - Local Landscape Policy Areas

<p>The Council will only permit development proposals within or adjoining an LLPA where it is demonstrated that they do not adversely impact on their intrinsic landscape character, visual amenity, and environmental and historic value.</p>	
<p><i>Ref:</i></p> <p>DPS/065/02 DPS/113/08 DPS/115/55 DPS/250/09 DPS/277/29</p>	<p><i>Representative: (Main Issue)</i></p> <p>Private Individual (1) Dept. of Communities – Historic Environment Division (2) NI Housing Executive (Supports) Natural Environment Division, DAERA (3) The National Trust NI (Support)</p>
<p><i>Main Issue 1:</i> The Local Landscape Policy Area around Rathmore Hill, Belleek should be removed as there is no physical evidence to support this designation and as there is a water reservoir and houses already to the summit. As it is close to the main street it would be suitable for development (DPS/065/02).</p>	
<p><i>Response to Main Issue 1:</i> All LLPAs within the FAP will be reviewed at the LPP stage and as part of the process to develop detailed guidance for individual LLPAs (see para 5.26). The identification of LLPAs (or the review of existing LLPAs currently identified within the FAP) would be completed in line with the list of broad criteria at para. 5.24. Additional guidance on identifying / reviewing LLPAs is provided by Natural Environment Division, DAERA. (Methodology for Designating Local Landscape Policy Areas, NIEA – August 2017). It may be the case that some current LLPAs do not meet the criteria and so will no longer be designated at the LLP stage.</p> <p>However, it would not be appropriate to amend an LLPA at this stage without completing a holistic, district-wide review.</p>	
<p><i>Main Issue 2:</i> The policy and policy clarification do not take sufficient account of the SPPS, notably 6.29. In particular, (i) reference only to ‘visual amenity’ is not appropriate as the focus should be wider and (ii) para 5.25 is not appropriate and should be removed. There is no policy basis for the use of LLPAs as buffers and this demonstrates a lack of understanding of the purpose of LLPAs (DPS/113/08).</p>	
<p><i>Response to Main Issue 2:</i> (i) HED suggest the following change to the policy wording:</p> <p>“...landscape character, visual amenity value, and environmental and historic value significance”.</p> <p>It is noted that NED (Main Issue 3) raised a similar concern with the wording of this policy but suggest different wording.</p>	

The SPPS outlines (at para 6.29 bullet point 7) that LLPAs “consist of those features and areas within and adjoining settlements considered to be of the greatest **amenity value, landscape quality or local significance**”. Subsequent to this wording the SPPS outlines a list of ‘features and areas’ which that LLPAs may include (NB: This is replicated in full at dPS para 5.24). Paragraph 6.30 gives further advice that local policies and guidance should “...maintain the **intrinsic landscape, environmental value and character** of such areas”.

The SPPS also refers to LLPAs at para 6.29 bullet point 4 but only in the context of selecting which ‘Listed Buildings’ to show and when they “inform a broader heritage designation... [such as] ...an LLPA...”.

In light of the above, and current wording in policy and the contrary opinions offered by NED and HED, it is suggested that the policy is amended as follows and to reflect the SPPS as closely as possible:

“...intrinsic landscape ~~character~~ quality, visual amenity **value**, and environmental value and character...”

(ii) HED suggest deleting para 5.25 as their understanding of LLPAs is that they are not intended as a way of creating ‘buffers’. It is agreed that this wording does not appear in the SPPS, and there is no reference to LLPAs in the PPSs. However it is noted that the FAP (at clarification to policy Man Env 3) outlines that LLPAs “...function as buffer zones between different uses and help to reduce the likelihood of over intensive development within settlements” and it is this statement that para 5.25 is seeking to carry forward (and particularly as the existing LLPAs within the FAP would have been identified and designated on this basis). [NB: Similar wording is used in other Area Plans including Ards & Down 2015].

It is apparent that HED were not aware of this relevant background and how this has been one possible interpretation of how LLPAs can (and possibly do) serve this function. The statement at para 5.25 is not saying this is the primary reason for LLPAs but can clearly be the result of one, even when this is indirect. To satisfy this objection the wording at para 5.25 could be amended to say:

“**Sometimes** LLPAs can ~~also~~ assist in creating ‘buffers’ between...”

Main Issue 3:

Suggests changes to the policy wording “...and environmental and historic value” should be changed to “...and features of natural, built and cultural heritage value, their views and settings”.

In terms of policy clarification, generally supportive, but notes concerns with following:

Para 5.26 - “that in most cases the existing use of the LLPA should be retained” however as many of the existing LLPAs in the FAP were designated some time ago there have been subsequent changes. The suggestion is an undertaking to resurvey existing LLPAs and designate new.

Para 5.25 - LLPAs can “assist in creating “buffers” between different land uses”, and that while this is sometimes the case considers that the correct designation would be the use of Urban and Rural Landscape Wedges (and suggests review of Belfast CC policies of these and to ensure consistency across all the Councils) (DPS/250/09).

Response to Main Issue 3:

NED suggests the following change to the policy wording:

“...~~environmental and historic value~~ features of natural, built and cultural heritage value, their views and settings”.

As per above this does not align with either HED suggestion or SPPS. Alternative wording is suggested.

(i) As noted above, it is the intention that existing LLPA, which were designated in the FAP, will be reviewed and new LLPAs, across the entire district, may be identified and designated at the LPP stage.

Within this context, the broad suggestion at 5.26 that in ‘most cases’ the existing use should be retained it considered appropriate.

(ii) The background to para 5.25, and reference to ‘buffers’, is discussed above (main issue 2). Suggested changes to wording would address clarify this.

‘Landscape Wedges’ are referred to in the SPPS at para 6.210 where it states that “zoning...should take into account ...identifying and designating areas of open space which perform a strategic function, such as landscape wedges in urban areas”.

There are no areas of existing open space within the settlements (even within the Main Towns of Omagh or Enniskillen) which would satisfy a strategic function such as preventing the coalescence of adjacent places and maintaining their separate character. This is particularly the case when compared to those areas designated as Landscape Wedges within the Belfast CC draft Plan Strategy.

Conclusions:

If the Commissioner is so minded, the Council suggests that the following minor contextual amendments are made to the wording of policy and clarification.

Proposed changes to HE07:

The Council will only permit development proposals within or adjoining an LLPA where it is demonstrated that they do not adversely impact on their intrinsic landscape quality, amenity value, and environmental value and character.

Proposed changes to para 5.25:

Sometimes LLPAs can also assist in creating ‘buffers’ between...

Draft Policy HE08 - Enabling Development	
The Council will only permit 'Enabling Development' in exceptional circumstances and where it can be demonstrated through a Statement of Justification that the proposal will secure the future conservation of a Heritage Asset.	
<i>Ref:</i> DPS/113/09 DPS/115/56 DPS/277/30 DPS/317/60	<i>Representative: (Main Issue)</i> Dept. of Communities – Historic Environment Development (1) NI Housing Executive (Supports) The National Trust NI (2) Department for Infrastructure (3)
Main Issue 1:	
The policy and policy clarification does not take sufficient account of the SPPS, notably 5.9, 5.16, 6.25 and 6.26. Suggests various amendments to the wording to address this.	
This includes:	
<ul style="list-style-type: none"> • revision to avoid use of the word 'future' as this is open to misinterpretation; • bullet points (requirements of a Statement of Justification at para 5.28) should be policy as opposed to clarification; • additional bullet point criteria included; • additional clarification specifying that the Council can bring in outside expert advice to assess financial information contained in a Statement of Justification; • additional clarification outlining the legislative requirements for LBC and Schedule Monument Consent for works to scheduled monuments (DPS/113/09). 	
<i>Response:</i>	
The HED responses seeks to align the policy more to policy ED1 of PPS23. The approach in the SPPS is notably different and does not include the extensive list of criteria, but simply:	
<ul style="list-style-type: none"> - describes what enabling development is at para 6.25 (NB: this is replicated within the Glossary (page 214)); - sets-out the policy test “the justification for allowing the enabling development lies in the over-riding public benefit to the conservation of the significant place and its sustainable future use which would be derived from the implementation of the principal proposal which otherwise would have little prospect of being carried out” (SPPS para 6.26); and, - outlines that Council’s “may bring forward local plan policies to provide flexibility to accommodate such unforeseen imaginative proposals which are clearly in the public interest”. 	
With regards to the points noted by HED:	

- the SPPS uses the word 'future' as in “ ..sustainable future use...” and therefore it would be remiss to replace this without local evidence to suggest a sound reason to do so. The explanation from HED on how this term could be mis-interpreted is not accepted. Para 5.30 details the potential mechanisms available for ensuring the public benefits are delivered (and potentially when they are delivered);

- it could be argued either way that the text (bullet point criteria) at 5.28 is policy or policy clarification. The drafting of this policy has focused on the principal test and how meeting this test would be demonstrated through a Statement of Justification while the bullet points simply clarify what should be included in said SoJ, and as part of the assessment process (as continued by para 5.29);

- It is unnecessary to explain where the Council source any expert advice. It may be internal or external to the Council. This would be a corporate decision of the Council and this does not need to be specified within the policy clarification;

- There is no need to repeat the legislative requirements for LBCs or Schedule Monuments Consent. These are separate to the planning process that this policy deals with (i.e. it is entirely possible for a SMC to be refused outside of the planning process and in no way would the granting of PP or LBC override this). It is entirely the developer/applicant's responsibility to achieve all necessary consents prior to undertaking development. As a comparison, should we go as far as to highlight the need for Building Control approval for any policy which may permit development?

Main Issue 2:

To ensure the policy is consistent with government advice, the head note should also highlight that enabling development would only be allowed in exceptional circumstances where it would be in the over-riding public benefit to the conservation of the significant place and its sustainable future use (as per SPPS paragraph 6.26) (DPS/277/30).

Response:

Reference to this test is contained as policy clarification at 5.28 and 5.30. It could be argued either way if this is policy or clarification.

Main Issue 3:

Notes the list of criteria includes aspects of the existing operational policy, but not all of it, and therefore the full list of criteria should be considered for inclusion within the policy text (DPS/317/60).

Response:

On review there is one issue from ED1 of PPS23 that has not been replicated at 5.28 (“The impact of the enabling development is precisely defined at the outset”). Discussion of main issue 1 above outlines that these bullet points could be policy or policy clarification.

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded, the Council would suggest the following minor amendments to wording, including one additional bullet point added to para 5.28 of the policy clarification.

Proposed changes to HE08:
 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 the proposal will secure the future conservation of a Heritage Asset.

Proposed changes to para 5.28:
 It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests;
 The impact of the enabling development is precisely defined at the outset; and,

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

The change of use, conversion or re-use of an unlisted locally important building or unlisted vernacular building will be permitted if it would secure its upkeep and retention and is sympathetic to the appearance or character of the building and surrounding uses.

Any extensions, alterations or adaptations should not significantly alter the appearance or character of the building.

Ref:
 DPS/022/23
 DPS/113/10
 DPS/115/57
 DPS/277/31
 DPS/317/61

Representative: (Main Issue)
 RSPB Northern Ireland (1)
 Dept. of Communities – Historic Environment Division (2)
 NI Housing Executive (Supports)
 The National Trust NI (3)
 Department for Infrastructure (4)

Main Issue 1:

Notes that it is not only greenfield sites that are important to natural heritage interests, but old buildings and vacant sites can be biodiversity rich and as such care should be taken in retaining the site’s biodiversity when subject to redevelopment including in urban locations. Recommends various design and layout features as routes to enhance biodiversity and that the policy is modified to reflect the above by including wording “... or result in a net loss of biodiversity” (DPS/022/023).

Response:

The issues listed would be adequately addressed by other policies of the plan (and will therefore be material considerations when determining planning applications including where it relates to an Unlisted Locally Important Building or Vernacular building) and there is no need to continually repeat them for all policies.

Policy DE02 outlines that all development will be supported where it will ... “protect and enhance features and assets of the natural...environment...”

Policy NE03 (Biodiversity) relates to all development and that “development proposals which have an unacceptable adverse impact...will not permitted”.

Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

To include these additional criteria would introduce repetition and would not enhance the effectiveness of the policy.

Main Issue 2:

The policy is not consistent with RDS RG11, notably 3.30 and the SPPS, notably 4.26, 5.9, 5.16, 6.24 and 6.67. Suggests various amendments to the wording to address this.

Some of the policy clarification also fails to reflect SPPS and suggests additional wording specifying that any alterations should be kept to minimum necessary and that the word ‘desirable’ at 5.33 does not take sufficient account of the importance of such buildings (DPS/113/10).

Response:

The suggested changes are not significantly different but would enhance the policy and the understanding of the policy and ensure that it appropriately reflects the SPPS. As such it is recommended that the suggested changes are taken forward.

Main Issue 3:

While supporting the policy contend that it should explicitly highlight that extensions, alterations or modifications should have no adverse impact on the locally important or vernacular building (DPS/277/31).

Response:

There is no reference within the SPPS to a policy test of this level in relation to extensions, alterations, and conversions of a vernacular or locally important building.

It is considered that the policy wording (as potentially amended in response to Main Issues 2 above) appropriately reflects the SPPS.

Main Issue 4:

Notes that the policy, in comparison to the SPPS, has removed some wording such as ‘sympathetic’ conversion and ‘suitable’ locally important building of special character or interest. This may weaken the intent of the SPPS policy and the Council should be able to justify the change in emphasis through robust evidence (DPS/317/61).

Response:

It is agreed that the inclusion of the word 'sympathetic' is appropriate to ensure that the policy is in line with the SPPS. This has also been suggested under Main Issue 2.

The SPPS refers to locally important buildings and their conversion in two locations.

Under 'Development in the Countryside' at para. 6.73 "The conversion and re-use of existing buildings for residential use" locally important buildings are not referred to as 'suitable' or 'of special character or interest'. Subsequently, under "The conversion and re-use of existing building for non-residential use" locally important buildings are referred to as "...suitable locally important buildings of special character or interest".

There appears to be no apparent reason for this discrepancy when the remainder of the policy test remains essentially the same. Given this, the policy is considered compliant with the essence of the SPPS.

In addition, Table 7 below provides an analysis of the different terminology used across various sources and that led to the wording of the policy and policy clarification.

Conclusions:

The Council is willing to amend the wording of the policy and policy clarification in order to address issues raised above. Therefore, if the Commissioner is so minded, the following minor contextual changes are proposed:

Proposed changes to HE09:

The change of use, sympathetic conversion or re-use of an unlisted locally important building or unlisted vernacular building will be encouraged. Proposals will be required to secure its upkeep and retention and ensure that no significant harm or loss is caused to the appearance or character of the building and its setting. The following criteria must be met:

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 extensions, alterations or adaptations are sympathetic to the scale, massing and architectural style of the building and should not significantly alter the appearance or character of the building.

Proposed changes to para 5.33:

However, outside of these areas, retention of these types of buildings is encouraged as these heritage assets represent a continued understanding of the history of our district at a local level. As such, 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.

<p>Table 7: There are several different definitions across the PPSs, SPPS and Other guidance which relate to non-listed historic buildings. The following compares the differences between these and how this has informed the definition used within the Draft Plan Strategy.</p>			
	Vernacular	Historic building of local importance	Locally Important Buildings ...of special interest or character
PPS6	<p>Para 9.1: <i>The vernacular buildings of Northern Ireland have developed as a response to local economic and social circumstances, using simple styles and largely local materials. They have a natural place in our towns, villages and smaller settlements and help give the countryside its personality.</i></p>	N/A	[Locally Important Buildings are mentioned in LLPA para 2.23 but not defined]
PPS21	<p>Annex 2: <i>Rural vernacular or traditional architecture is the construction of small plain buildings in the countryside (particularly before 1925) where the dominant influence in siting, materials, form and design is the local ‘folk tradition’. Such vernacular buildings will have been typical, i.e., of a common type in any given locality and will lack the individualistic and ‘educated’ design features that characterised international fashions in formal architecture during the same period.</i></p> <p>Annex 2 also provides a list of primary and secondary characteristics for rural vernacular dwellings and which is taken from ‘A Sense of Loss – The Survival of Rural Traditional Buildings in Northern Ireland’ published by DOE 1998.</p> <p>Non-listed Vernacular Dwellings are referred to in policy CTY3 – Replacement Buildings.</p>	N/A	N/A

<p>SPPS</p>	<p>Footnote 10 Page 41 (topic Archaeology and Built Heritage):</p> <p><i>Vernacular buildings reflect the local ‘folk tradition’ and are typical of a common type of building in a particular locality, generally pre 1925. For more detail refer to ‘A Sense of Loss – The Survival of Rural Traditional Buildings in Northern Ireland’, published by DOE, March 1998.</i></p>	<p>Footnote 11 Page 41 (topic Archaeology and Built Heritage):</p> <p><i>A historic building of local importance, is a building, structure or feature, whilst not statutory listed, has been identified by the council as an important part of their heritage, due to its local architectural or historic significance.</i></p>	<p>Para 6.73 (topic Development in the Countryside):</p> <p>In relation to “The conversion and re-use of existing buildings for residential use”: <i>...locally important building (such as former school houses, churches and older traditional barns and outbuildings).</i></p> <p>In relation to “The conversion and re-use of existing buildings for non-residential use”: <i>...suitable locally important building of special character or interest (such as former school houses, churches and older traditional barns and outbuildings).</i></p> <p>[Also mentioned in LLPA but only as Locally Important Building]</p>
	<p>The SPPS (para 6.24) also discusses Non-designated Heritage Assets as:</p> <p><i>...a non-designated heritage asset such as an unlisted vernacular building, or historic building of local importance...</i></p>		
<p>OTHER SOURCES</p>	<p>The HED document ‘Historic Building of Local Importance’ (2017) states that vernacular buildings are “<i>identified based upon a definition of their typical characteristics rather than upon their architectural or historic significance</i>”.</p> <p>It goes on to say that “<i>some unlisted vernacular buildings could therefore be regarded as of sufficient importance to be included on a list of historic buildings of local importance, but some may not</i>”.</p>		
<p>HOW THIS IS ADDRESSED IN THE DRAFT PLAN</p>	<p>Locally Important Buildings are buildings which have a degree of significance (architectural or historic) meriting consideration in a planning decision but which are not formally designated. They can include buildings such as former school houses and churches and older traditional barns and outbuildings; or past records of industry, such as mills or former banks.</p> <p>Vernacular buildings tend to be houses or farm buildings that were built by local people without the intervention of formally trained architects. They were built with traditional techniques and the design responded to the climate and availability of materials, often with a simple form and</p>		

<p>STRATEGY POLICY HE09</p>	<p>plan. Further guidance on what constitutes a vernacular building is available at Appendix 3 [NB: this is taken from DoE document “A Sense of Loss – The Survival of Rural Traditional Buildings in Northern Ireland” (March 1998)]. Vernacular buildings (which are not formally designated) can also be Locally Important Buildings where they are regarded as having a degree of significance. However, as vernacular buildings are identified by their typical characteristics, rather than their significance, this is not always the case.</p>
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Natural Environment

Draft Policy NE01 - Nature Conservation	
<p>(a) The Council will not support any development that will adversely affect the conservation objectives and integrity of a SAC, cSAC, SPA, pSPA site or a listed or proposed Ramsar site unless it is demonstrated that:</p> <ul style="list-style-type: none"> (i) any adverse effect can be avoided through mitigation and (ii) no alternative solutions exist; and (iii) it meets a social, environmental or economic benefit of national or regional importance and compensatory measures are provided. <p>(b) Any development affecting an ASSI, national nature reserve or nature reserve will only be supported where it would not adversely affect the integrity of the site or the qualities for which it has been designated or where any significant adverse effects on the qualities for which it is designated are clearly outweighed by social, environmental or economic benefits of national or regional importance.</p> <p>(c) Any development that will adversely impact on areas or features of local importance for nature conservation including wildlife refuges, local nature reserves and SLNCIs, will only be supported where it is demonstrated how such adverse impact can be avoided or mitigated.</p>	
<p><i>Ref:</i> DPS/022/24; 25 DPS/115/58 DPS/187/04 / DPS/214/04 / DPS/224/04 DPS/250/01 DPS/259/11 DPS/277/32 DPS/317/62 DPS/054/13 et al⁴</p>	<p><i>Representative: (Main Issue)</i> Royal Society for the Protection of Birds (RSPB) (1, 2) NIHE (Northern Ireland Housing Executive) (Supports) McCrory - Townlands Residents Association/ Mothers Voice for Justice / Standing our Ground Women of the Sperrins (3) DAERA (Natural Environment Division) (1, 2) Private Individual (6) National Trust (4) Department for Infrastructure (5) Multiple groups & individuals (3)</p>
<p><i>Main Issue 1:</i> <u>Subsuming/combining of guidance into shorter policy</u></p> <p>(i) By subsuming PPS2, NH1, NH3 & NH4 and corresponding paragraphs of the SPPS 6.175-6.178, 6.183-6.188, and 6.189-6.190 respectively into a single policy, FODC has effectively weakened the protection they afford to the natural environment.</p> <p>(ii) Draft Policy NE01 does not take adequate account of Natural Heritage policy as laid out in the SPPS and PPS2. In their present form, these policies weaken the protection given under SPPS and PPS2.</p>	

(iii) Any attempt to generalise or summarise tests across the natural heritage resource hierarchy should be avoided as it could result in the inadvertent raising of a policy test threshold, which in turn could result in a higher level of impact or affect being acceptable, and thereby lowering the protection afforded to the natural environment in the granting of planning permission. In this regard, the test is 'not likely have a significant effect', whereas Draft Policy NE01 states 'adverse effect'. (DPS/022/24, DPS/250/01)

Response:

In order to simplify the experience for the reader, we have attempted to utilise more user-friendly language in relation to policy which when seen in the context of legislative language, can be complex and therefore challenging to interpret. User testing within Planning and feedback from within Council led to furthering this approach.

Nevertheless, as evidenced by the representations made and referred to above, there is reason to be concerned that some protection will be diminished due to subsuming of numerous policies into a single shorter policy. This gives the potential to dilute the protection afforded to the natural environment, for the sake of brevity. Considering the representation made highlighting this issue, re-expansion into separate policy headings is more appropriate.

Main Issue 2:

Diminished protection for European/National designated sites, including deviation from the precise legal jargon legislated by the various directives in law:

(i) Care must be exercised by FODC in the language it uses to highlight the policy tests it will utilise for internationally designated sites, as the syntax used in these policy tests is not interchangeable between the different levels of the policy hierarchy for natural heritage resources.

(ii) It is recommended that part (a) of Draft Policy NE01 be amended to ensure compliance with the wording of the SPPS, PPS 2 and relevant legislative provisions. In this context, Policy NH 1 of PPS 2 should be copied across in full to Draft Policy NE01. Also related to part (a) is paragraph 5.39 and this should be included within the main policy narrative consistent with Policy NH1 of PPS 2 and paragraphs 6.175-6.178 of the SPPS.

(iii) Part (b) of Draft Policy NE01 – while this part starts off well replicating the wording of Policy NH 3 (nationally designated sites), like part (a) above it raises the bar of the policy test, which effectively lowers the level of environmental protection afforded by Draft Policy NE01, by prefixing the words 'adverse effects' by 'significant adverse effects' (our emphasis).

(iv) It also fails to highlight that in cases where a proposal adversely affects a site of national importance and is permitted where the benefits of the proposal outweigh the value of the site that appropriate mitigation and/or compensatory measures will be required. In the circumstances, to avoid any lowering of environmental protection currently afforded by PPS 2 Policy NH3

or SPPS paragraphs 6.183-6.188, the text of these paragraphs should be copied across in full to Draft Policy NE01.

(v) Part (c) of Draft Policy NE01 is similarly weakened from Policy NH 4 of PPS2 and paragraphs 6.189-6.190 of the SPPS where the exceptional circumstance stated, 'may only be permitted where the benefits of the proposed development outweigh the value of the site', has been changed. In this regard, Draft Policy NE01 is a weaker test. Like part (b) above, the Draft Policy has also failed to highlight that in such circumstances appropriate mitigation and/or compensatory measures will be required. It is therefore recommended that the policy wording of NH4 of PPS 2 is carried across in full to Draft Policy NE01.

(vi) It should be noted that policy tests for European sites is set within The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 as amended which transposes the provisions of the Birds and Habitats Directives and is not at the gift of the LDP to alter. In this regard, the test is 'not likely to have a significant effect', whereas Draft Policy NE01 states 'adverse effect'. Furthermore, Policy NH 1 of PPS 2 refers to both mitigation and compensation measures. Under the terms of the Habitats Directive these measures have different meanings and are not interchangeable as they are applicable to different stages within the Habitats Regulations Assessment (HRA).

(vii) Draft Policy NE01 - Nature Conservation (a) undermines the legal process which must be followed when considering development proposals which may have an impact on European designated sites. It misinterprets and misrepresents the three tests of the Habitats Directive and the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 as laid out in the legislation and repeated in PPS2 Policy NH 1 by deviating from the language used in the legislation and creating weaker policy tests. This legal process is adequately summarised in sections 6.177 and 6.178 of the SPPS.

(viii) International and national designations and protected species and habitats are protected by EU Directives and legislation and although this is stated in paragraph 5.38 it is not referred to in the policy itself or within the introductory context. Furthermore, the precautionary principle outlined in the SPPS (6.17 4) is not reflected. The reference to policy criterion (a) (iii) meeting 'a social, environmental or economic benefit' may lessen the level of protection which should be afforded to the nature conservation designations. Paragraph 5.39 refers to the need for appropriate assessment, and also mentions scientific doubt, and both these aspects should be more prominent in the draft policy. (DPS/022/25, DPS/250/01)

Response:

There should be no diminishing of any existing legal framework which determines protection at various hierarchies (local, national, or European), since these continue to be factors to be considered in relation to any proposed development affecting protected sites of varying degrees or levels, or indeed hierarchies of protection.

However, a shortening of the policies contained in NE01 may be inappropriate given the level of representation highlighting the potential for a subtle misreading of the policy, and interpretation of that into something which has negative consequences to the environment or towards biodiversity.

It is therefore recommended to reintroduce additional policy headings.

Main Issue 3:

The vulnerability of the wide network of designated protected areas is under threat [specific mention is made of the Sperrin's region in particular]. Development pressures such as exploitation, industry and sprawl, are cited as being detrimental to numerous features, including the natural environment, leading to its eventual degradation and fragmentation (DPS/054/13 et al⁴, DPS/187/04 et al).

Response:

The protections bestowed upon designated areas, particularly those of a European nature (SPA, SAC, Ramsar) are determined and agreed at an international level, and the protections they bestow are of a level which are treated with the highest sensitivity, often mitigating against all forms of inappropriate development. The legislative conditions attached to, and the importance of these sites, and upon those of national importance (such as ASSI's) are accorded appropriate weight in considering planning applications and are deemed to be doing their job to protect the various sites from erosion and the impacts of land use development. Generally, advice is sought by planning in relation to proposed development which has potential to affect these areas. To provide even greater protection to unspoilt landscapes, FODC have proposed a draft Special Countryside Area (SCA) designation, covering the upper slopes of the Sperrins, the Cuilcagh area and the islands of Loughs Erne. This shows a commitment to further preserve landscapes vulnerable to change and in tandem with this there will be a tangible benefit to the natural ecosystems depending upon these unspoiled areas.

Main Issue 4:

NE01 (a) (i) is presented as an exceptional circumstance policy test, however, it renders the rest of the policy tests redundant and the overall policy unworkable. The draft plan policy statement (as written) implies that if any adverse effects can be avoided through mitigation there is, by default; no adverse effect on the integrity of the site and the other policy tests are not required. According to the Conservation (Natural Habitats, etc.) Regulations (NI) 1995, the consideration of mitigation measures should be part of the appropriate assessment when considering adverse effects on integrity (DPS/277/32).

Response:

The issue raised here is similar to the general theme advising caution from any deviance in the draft plan strategy policy wording, from the language used in policy tests as defined by the Conservation (Natural Habitats, etc.,) Regulations (NI) 1995. Planning will continue to formally consult with DAERA's Planning Response

Team, for expert advice in assessing biodiversity, ecological, and natural environment issues.

Currently, a biodiversity checklist is used to accompany planning applications, in order to screen for potentially adverse environmental effects that may arise from development. Furthermore, if the applicant or developer flags any issues that are of concern to planning, then further consultation with DAERA for additional advice is commonplace.

Shortening the policies contained in NE01 may be inappropriate given the level of concern at the potential for a subtle misreading of the policy. Inadvertent misinterpretation of that into something which has negative consequences towards the environment or upon biodiversity must be avoided.

A re-write is necessary to reflect the relevant legislative policy wording (and which is reciprocated in the SPPS and PPS 2) and to address the issues raised via representations.

Main Issue 5:

NE01 (a) (iii) does not correctly reflect the 'imperative reasons of overriding public interest' (IROPI) test which is contained within the Habitats Directive and Regulations and which has been clarified by case law. In addition, under the legislation the provision of appropriate compensatory measures is a separate and independent test and should not be included as an add-on to the IROPI test. Changes considered necessary to make it sound include, full and succinct information, evidence and supporting information (DPS/317/62).

Response:

Whilst the policy intent is not to preclude the IROPI tests, given the level of representation seeking for legislative wording directly cited as draft plan policy, there needs to be consideration given to whether this is a feasible option. This would no doubt result in a longer set of policies than currently drafted.

Main Issue 6:

NE01 states that the Council will not support any development that will adversely affect the integrity of a SAC, cSAC, SPA, pSPA site or proposed Ramsar site unless it is demonstrated that,...., providing for 3 exceptions. This is the opposite effect to SEA and also goes against HRA, downgrading The Black Bog, a Ramsar site to the equivalent to SAC etc. Recommend RAMSAR site is removed from point (a) of NE01 (DPS259/11).

Response:

There should be no diminishing of any existing legal framework which determines protection at various hierarchies (local, national, or European), since these continue to be factors to be considered in relation to any proposed development affecting protected sites of varying degrees or levels, or indeed hierarchies of protection.

However, a shortening of the policies contained in NE01 may be inappropriate given the level of representation highlighting the potential for a subtle misreading of the policy, and interpretation of that into something which has negative consequences to the environment or towards biodiversity.

It is therefore recommended to reintroduce additional policy headings.

The issue raised here is similar to the general theme advising caution from any deviance in the draft plan strategy policy wording, from the language used in policy tests as defined by the Conservation (Natural Habitats, etc.) Regulations (NI) 1995. Planning will continue to formally consult with DAERA's Planning Response Team, for expert advice in assessing biodiversity, ecological, and natural environment issues.

Currently, a biodiversity checklist is used to accompany planning applications, in order to screen for potentially adverse environmental effects that may arise from development. Furthermore, if the applicant or developer flags any issues that are of concern to planning, then further consultation with DAERA for additional advice is commonplace.

Shortening the policies contained in NE01 may be inappropriate given the level of concern at the potential for a subtle misreading of the policy. Inadvertent misinterpretation of that into something which has negative consequences towards the environment or upon biodiversity must be avoided.

A re-write is necessary to reflect the relevant legislative policy wording (and which is reciprocated in the SPPS and PPS 2) and to address the issues raised via representations.

Conclusions:

In order to address comments raised in the above issues, the Council would suggest amending the wording of the policy to ensure it reflects the approach of the SPPS and relevant legislation. If the Commissioner is so minded to consider these changes at Independent Examination the suggested amended wording is as follows:

"a) Internationally Important Sites

The Council will only support development that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on an existing or proposed SPA, existing or candidate SAC, Sites of Community Importance, or a listed or proposed RAMSAR site.

Where a development proposal is likely to have a significant effect (either alone or in combination) or a reasonable scientific doubt remains, the Council shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives. Only after having ascertained that it will not adversely affect the integrity of the site, can the Council agree to the development and impose appropriate mitigation measures in the form of planning conditions or a planning agreement.

A development proposal which could adversely affect the integrity of an international site may only be permitted in exceptional circumstances and where:

- (i) there are no alternative solutions; and*
- (ii) the proposed development is required for imperative reasons of overriding public interest; and*
- (iii) compensatory measures are agreed and fully secured through conditions or a planning agreement.*

b) Nationally Important Sites

Development affecting an ASSI, National Nature Reserve or Nature Reserve will only be permitted where:

- (i) it is not likely to adversely affect the integrity of the area, including the value of the site to the habitat network or the features for which it has been designated; or*
- (ii) any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance. In such cases, appropriate mitigation and/or compensatory measures will be required*

c) Locally Important Sites

The Council will only support development likely to have a significant adverse impact on areas or features of local importance for nature conservation including Wildlife Refuges and Local Nature Reserves where local public benefits clearly outweigh the nature conservation value of the site and there is a specific locational requirement for the development. In such cases, appropriate mitigation and/or compensatory measures will be required.

Draft Policy NE02 - Protected Species and their Habitats

The Council will not permit development proposals which are likely to harm a protected species and their habitats unless there are no alternative solutions and the proposal is to meet an overriding public interest and/or mitigation and/or compensatory measures are provided.

<p><i>Ref:</i> DPS/022/26 DPS/115/59 DPS/250/02 DPS/277/33 DPS/317/63</p>	<p><i>Representative: (Main Issue)</i> Royal Society for the Protection of Birds (RSPB) (1) NIHE (Northern Ireland Housing Executive) (Supports) DAERA (Natural Environment Division) (3) National Trust (Supports) Department for Infrastructure (DfI) (2)</p>
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Main Issue 1:
NE02 has weakened the existing policy provisions of Policy NH2 of PPS 2 and paras 6.179-6.182 of SPPS by introducing ‘and/or’ scenarios. NE02 fails

to set out separate policy tests for European Protected Species and Nationally Protected Species. While mitigation and compensation measures are referred to in Draft Policy NE02 these are included as 'and/or' scenarios and there is no policy requirement for them to be 'fully secured' as stated in Policy NH 2 of PPS 2 and paragraph 6.180 of the SPPS. (DPS/022/26)

Response:

The legal protections enshrined in legislation within European law, remain unaffected regardless of the streamlined language used in the policy, which has been developed to make the policy more user-friendly.

Legal definitions already exist which must be adhered to whilst considering any mitigation or compensation measures. The issue of whether or not these measures can be fully secured is a matter for Council to pursue, and if such measures are laid down already in statute, then this practise should feasibly continue.

It may be prudent to reciprocate the language used in previous advice, reflect the legislation more accurately, and reciprocate the wording in a way that reassures the various parties who express concern with the wording council have utilised in the Draft Plan Strategy. The SPPS and PPS2 also refer. Terminology used in the dPS does not match legislative wording verbatim. This type of wrangling over something so precisely defined in pre-existing legislation is perhaps not a burden planning should be seeking to pursue, for the sake of aspirations of brevity.

Main Issue 2:

Draft Policy NE02 does not take adequate account of Natural Heritage policy as laid out in the SPPS and PPS2. In their present form, these policies weaken the protection given under SPPS and PPS2. The draft policy also needs to be clearer in terms of European protected species (DPS/317/63).

Response:

This is an issue which has a common theme and appears continually in relation to policies NE01, NE02 & NE03. Whilst there was accepted guidance in the past, which was established, the SPPS was intended as guidance to take account of, in the formulation of development plans. In the opening remarks of the SPPS document foreword, it states that it "sets the strategic direction for the new councils to bring forward detailed operational policies within future local development plans".

Main Issue 3:

The inclusion of the first "or" in the policy disregards the first two tests in the policy; "no alternative solutions" and "overriding public interest". In addition, the clause from the Habitats Regulations and existing policy in respect of the maintenance of favourable conservation status of the population is missing. There are two types of 'protected species'; EU and nationally 'protected' species and they each have different levels of protection. This is not reflected in the Draft Plan Policy NE02 (DPS/250/02).

Response:

This may lead to a different interpretation, by the reader, of the requirements laid out in legislation, dealing with protected species and/or their habitats.

Conclusions:

In order to more fully align the policy with the requirements of the SPSS and to clearly distinguish between the different policy tests for EU and nationally protected species, the Council would suggest making contextual changes to the wording of the policy. If the Commissioner is so minded to consider changes at Independent Examination, the following amendments are proposed:

European Protected Species

Development that is likely to have an adverse effect on a European Protected species will not be permitted unless it can be demonstrated that:

- (a) there is no satisfactory alternative;*
- (b) the development is required in the interest of public health or public safety, or for other imperative reasons of over-riding public interest, including those of a social and economic nature and beneficial consequences of primary importance to the environment;*
- (c) there is no detriment to the maintenance of the population of the species at a favourable conservation status; and*
- (d) mitigation and compensatory measures are agreed and their delivery secured.*

Other Protected Species

The Council will only permit development that is not likely to harm any statutorily protected species and where any impact arising can be adequately mitigated or compensated against.

Draft Policy NE03 – Other Habitats, Species or Features of Natural Heritage Importance (formerly Biodiversity in the draft PS)

Development proposals which would have an unacceptable adverse impact upon priority species or priority habitats identified by the Council's Local Biodiversity Action Plan (LBAP), will not be permitted unless the benefits of the proposed development outweigh the value of the priority species or priority habitat and appropriate mitigation and/or compensatory measures are provided.

In the case where an International designated site (see (a) of draft Policy NE01) hosts a priority habitat or priority species, then a development proposal will only be permitted in exceptional circumstances as laid down in the relevant statutory provisions.

<p><i>Ref:</i> DPS/022/27 DPS/115/60 DPS/250/03 DPS/277/34 DPS/317/64</p>	<p><i>Representative: (Main Issue)</i> Royal Society for the Protection of Birds (RSPB) (1) NIHE (Northern Ireland Housing Executive) (Supports) DAERA (NED) (2) National Trust (Supports) Department for Infrastructure (3)</p>
<p><i>Main Issue 1:</i> Similar issues from separate representations are combined as follows:</p> <p>(i) NE03 is extremely narrow in its scope, applying only to those priority habitats and species identified in the Councils Local Biodiversity Action Plan (LBAP);</p> <p>(ii) Only having regard to priority species found within the FODC boundary is far too narrow in its approach. A far more robust and precautionary approach is to refer to all priority species;</p> <p>(iii) Habitats can be linked for example hydrologically, and as such to rule out consideration of a priority habitat which does not fall within FODC is neither a robust nor a precautionary approach to the protection of natural heritage interests. It is recommended that all priority habitats be included to allow a robust and competent assessment of potential environmental impacts (DPS/022/027).</p>	
<p><i>Response:</i> The LBAP audit was what was available to assess the priority habitats and species which were present or known to be present to the best of council's knowledge at a point in time.</p> <p>There may feasibly be many more habitats and species, in the district, than those listed. Referring to all priority habitats and species would therefore be more appropriate.</p>	
<p><i>Main Issue 2:</i> Draft Policy... NE03 - Biodiversity does not take adequate account of Natural Heritage policy as laid out in SPPS and PPS2. In their present form, these policies weaken the protection given under SPPS and PPS2 (DPS/250/03).</p>	
<p><i>Response:</i> The draft policy does not intend to erode any legislative protections and has taken account of PPS2 and the SPPS when drafting the policy wording. It is conceded though that the wording, whilst not reflecting the unique legislative language, may have an indirect negative impact on biodiversity.</p>	
<p><i>Main Issue 3:</i> In order to better reflect SPPS policy (6.193) the Council should consider developing the current draft policy wording to include 'an unacceptable impact on or damage to habitats, species...' (DPS/317/64)</p>	

Response:

The actual wording in the SPPS refers to 'unacceptable adverse impact'. As per the response to Main Issue 1 above, it would be beneficial to broaden out the policy to habitats, species or features rather than referring only to priority species and priority habitats.

Conclusions:

In order to address comments raised in the above issues, the Council would suggest amendments to the wording of the policy. If the Commissioner is so minded to consider these at Independent Examination, the proposed changes (shown in italics) are as follows:

The Council will only permit development likely to result in an unacceptable adverse impact on, or damage to, habitats, species or the features listed below, where the benefits of the development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.

- *priority habitats;*
- *priority species;*
- *active peatland;*
- *ancient and long-established woodland;*
- *features of earth science conservation importance;*
- *features of the landscape which are of major importance for wild flora and fauna;*
- *rare or threatened native species;*
- *wetlands (including river corridors); or*

other natural heritage features worthy of protection, including trees and woodland; Where there is potential that a habitat, species or other feature of natural heritage importance exists on a site or is likely to be impacted by development, the developer will be required to carry out an appropriate survey of the sites' interests and undertake a suitable ecological appraisal.

Paragraph 5.44 of the policy clarification should also be removed and replaced with the following:

"Priority habitats and species may fall within and beyond designated sites. They include both European (as identified under Annex I and II of the Habitats Directive and Annex I of the Birds Directive) and Northern Ireland priority habitats and species identified through the Northern Ireland Biodiversity Strategy (NIBS) (to achieve the statutory duties under the Wildlife and Natural Environment (NI) Act 2011).

The policy title has been amended to reflect more fully the intent of the policy and the SPPS.

Landscape

Landscape - General comment	
<p><i>Ref:</i> DPS/022/28 DPS/250/13</p>	<p><i>Representative: (Main Issue)</i> RSPB (2) DAERA (Natural Environment Division - NED) (1)</p>
<p><i>Main Issue 1:</i> NED are pleased to see that a review and update of the Landscape Character Assessment for the Fermanagh and Omagh Council area has been carried out by a Consultant experienced in this area of work and that “the assessment corresponds with the established principles of landscape character assessment that have evolved” since the publication of NILCA in 1999. (DPS/250/13)</p>	
<p><i>Response:</i> Noted.</p>	
<p><i>Main Issue 2:</i> Suggests references to wildlife and conservation interest be included within the context and justification of the Landscape section. (DPS/022/28)</p>	
<p><i>Response:</i></p> <p>The Natural Environment policies within the draft Plan Strategy address wildlife and conservation interests.</p> <p>Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.</p>	

Draft Policy L01: Development within the Sperrin Area of Outstanding Natural Beauty
<p>Development proposals that would impact negatively or work to erode the distinctiveness of the Sperrin AONB or its setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted.</p> <p>All proposals must have regard to siting, massing, shape, design, finishes and landscaping in order that they may be integrated into the landscape. Favourable consideration will be given to the provision of pathways and informal recreational</p>

<p>facilities of an appropriate scale and in a suitable location, subject to policy provisions contained elsewhere in the Plan.</p>	
<p><i>Ref:</i> DPS/049/01 DPS/115/61 DPS/187/03 / DPS/214/03 / DPS/224/03 DPS/250/04, 16, 17, 18 DPS/252/03, 17, 18, 19 DPS/259/09 DPS/266/01, 10,11, 12 DPS/270/01,12 DPS/271/08, 15,16,17,18,19 DPS/276/01 DPS/277/35, 48 DPS/317/70, 88, 133 DPS/054/ et al⁴</p>	<p><i>Representative:</i> (Main Issue) Causeway Coast & Glens Borough Council (18) NIHE (Support) Mc Crory – Townlands Residents Association / Mothers Voice for Justice/ Standing our Ground Women of the Sperrins (12) DAERA (NED) (1, 2, 3, 4) SSE Renewables (5, 6, 7, 9) Private Individual (12) NIRIG (5, 6, 7, 9) RES (6,7) Dalradian (6,7, 8, 9, 10, 11) Private Individual (12) National Trust (13, 16) DfI (13, 14, 15) Multiple groups & private Individuals (17)</p>
<p><i>Main Issue 1:</i> NED identify that the policy box does not refer to the ‘special character’ of the area as in PPS2 and SPPS, para. 6.187. Suggested modification: “...erode the distinctive landscape character, visual amenity, natural, historic or cultural heritage of the Sperrin AONB, its views and setting.’ (DPS/250/04)</p>	
<p><i>Response:</i> Agree that in order to fully reflect the regional strategic approach set out within the SPPS the draft policy should be modified as suggested. This should however include the additional word ‘special’ so as to fully reflect the SPPS and address NED’s concerns. This is a minor contextual change in order to more fully reflect the SPPS.</p>	
<p><i>Main Issue 2:</i> Difficulties may arise with regard to what constitutes informal recreation, the cumulative effects of development and the capacity of this highly sensitive landscape to accommodate further development. NED suggest that proposals for recreational facilities within the Sperrin AONB will be subject to the same constraints as other development. (DPS/250/16)</p>	

Response:

Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Consideration of the second paragraph of the policy in the context of both NED’s comment in relation to informal recreation and in conjunction with paragraph 1.5 (Part One) of the DPS highlights a level of duplication. It is considered that all the tests included within the second paragraph are dealt with within policies DE02, DE04 and OSR03. NED’s concern in relation to what constitutes informal recreation remains. Given the duplication identified above it is recommended that the second paragraph be deleted.

It is recommended that the policy be modified to reflect paragraph 6.118 of the SPPS of the SPPS to state that: “Account will be taken of the Landscape Character Assessments and any other relevant guidance including AONB Management Plans and local design guides.”

Main Issue 3:

Para 6.188 of the SPPS states that account will be taken of the Landscape Character Assessment – this is missing from draft policy L01. (DPS/250/17)

Response:

Agree with comment. It is recommended that the policy be modified to reflect paragraph 6.118 of the SPPS to state that: “Account will be taken of the Landscape Character Assessments and any other relevant guidance including AONB Management Plans and local design guides.”

As this is the approach set out in the SPPS it is a matter of reflecting the regional strategic policy within the dPS and as such is a minor contextual change.

Main Issue 4:

NED seek additional requirement for a landscape and visual assessment (LVIA) to be undertaken for any development proposal, including pathway and informal recreation facilities, should be included in the policy clarification. L03 Areas of High Scenic Value, a lesser designation in the landscape hierarchy, has this requirement. (DPS/250/18)

Response:

It is agreed that it would be appropriate to require an LVIA to accompany a planning application. As asserted by NED, an LVIA is required under L03 which is a lesser designation.

In order to secure the AONB as a tourism asset and protect the integrity of the distinctive special character of the AONB, it is considered that an additional criterion should be included requiring an LVIA in order to assist in demonstrating the impact of the proposal on the distinctive special character of the Sperrin AONB and as such a minor contextual change.

<p>Main Issue 5: RE01 conflicts with L01 and L02 as they do not establish (such) a presumption against wind energy development. References the content of RE01: “Outside the Sperrin AONB, Special Countryside Areas (SCAs) and Areas of High Scenic Value (AoHSV), we will support proposals for large scale solar farms.” Comments that under draft policy L01 development which does not adversely affect the character of the AONB will be permitted. (DPS/252/03, DPS/266/01)</p>
<p><i>Response:</i> It is noted that the portion of RE01 quoted refers to solar farms and not wind energy development. Therefore, there is no conflict between RE01 and draft policies L01 and L02.</p> <p>The Wind Energy Strategy and Landscape Wind Energy Capacity Study detail the capacity for wind energy across the district, including that within the AONB. There is no presumption against wind energy development.</p>
<p>Main Issue 6: SSE, NIRIG, RES and Dalradian state that the use of the term ‘impact negatively’ is inconsistent with the policy clarification text provided in para 5.5 of the dPS which uses the phrase ‘adversely affect’. Consider that the terminology set out in supporting text – “adversely affect”- would be more appropriate and consistent. Alternative wording is provided: “Development proposals that would have a significant adverse impact on the distinctiveness of the Sperrin AONB or its setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted, having regard to economic, social and other considerations.” (DPS/252/17, DPS/266/10, DPS/270/01, DPS/271/08)</p>
<p><i>Response:</i> Agree that there is an inconsistent use of language between the policy and the clarification in that the policy uses the phrase “impact negatively” whilst the clarification uses the phrase “adversely affect”.</p> <p>It is noted that the suggested rewording of the policy suggests use of the phrase ‘significant adverse affect’, which differs again from the language used within the policy and clarification. Use of the suggested wording would result in a fundamental change to the policy, applying a much lesser test, which would not result in the level of protection to the AONB as intended within the policy.</p> <p>Recommend that the policy be amended to use the phrase “adverse affect” in place of “impact negatively” to address consistency issues raised in the representation. As the policy intent remains the same, this is considered to be a minor contextual change.</p>
<p>Main Issue 7:</p>

L01 is based on flawed evidence and is contrary to the SPPS. Open Optimised Environments Limited (OPEN) carried out a review of the evidence base on behalf of SSE. This identified a number of flaws within the methodology applied by Ironside Farrar and the findings of the assessments. These flaws are:

- **There are disparities between the baseline data used. The LWECS, and the Wind Strategy are based on the Northern Ireland Landscape Character Assessment 2000 (NILCA) and not the LCR prepared by Ironside Farrar. View that the strategy for wind development within the district should be based on the most up to date assessment of landscape character in order to ensure that changes in the character of the AONB resulting from previous development, including the growth in number of dwellings in the countryside, have been considered.**
- **The Wind Energy Strategy and the LWECS acknowledge the suitability of the landscape character of extensive parts of the AONB for large scale wind energy development, however this is restricted in the DPS because of the AONB designation. This approach does not reflect the varying characters and sensitivities across the AONB and is contrary to the approach endorsed in the SPPS which does not support a blanket ban of wind energy development within the AONB.**

(DPS/252/18, DPS/266/11, DPS/270/12, DPS/271/15)

Response:

It has been highlighted above how the use of the NILCA 2000, rather than that of the LCR, has no effect on the outcome of the LWECS. It is usual for older landscape character studies to be the starting point for establishing the landscape baseline for capacity assessments of other studies, which are updated as part of the assessment.

The final bullet states how the "...approach does not reflect the varying characters and sensitivities across the AONB...". The LWECS is based on the assessment of landscape character areas precisely to ensure that the assessment reflects the varying character of the AONB landscape within Fermanagh and Omagh.

Main Issue 8:

Identify that there is no citation setting out the special features and characteristics of the AONB available to inform a baseline assessment, nor is there a management plan for the area of advice on how these features will be protected. Council should commission new and appropriate baseline assessments against which development proposals can be assessed and to enable the Council to monitor the impact of future development on the character of the AONB. (DPS/271/16)

Response:

The AONB designation is a matter for national planning policy but is just one of 5 factors used for the evaluation of landscape value. The assessment that AONB

landscapes are generally of 'high' value to society is reasonable and consistent with evaluations typically attributed to other nationally important landscapes in the UK such as National Scenic Area (Scotland) and AONB in England.

Main Issue 9:

Approach proposed does not take account of any social or economic benefits that may arise from proposed development. It prioritises environmental protection over social and economic benefit. This is contrary to paragraph 2.3 of the SPPS which states that: "A key dimension of sustainable development for Northern Ireland is economic growth." Also references the "Furthering Sustainable Development" section of the SPPS and quotes para 3.4 stating that draft policy L01 conflicts and is inconsistent with the SPPS. (DPS/252/19, DPS/266/12, DPS/271/17)

Response:

As stated in paragraph 6.186 of the SPPS, AONBs are designated by the Department primarily for their high landscape quality, wildlife importance and rich cultural and architectural heritage under the Nature Conservation and Amenity Lands (NI) Order 1985 (NCALO).

Draft policy L01 does not bring forward an embargo to development within the AONB, instead the policy takes forward what could be described as a cautious approach to development within the AONB as set out in paragraphs 6.186 – 6.188 of the SPPS in order to address those features the AONB designation recognises.

The AONB designation is a material consideration in all relevant planning applications alongside other social, economic and environmental considerations including other policies within the LDP.

Main Issue 10:

The Landscape Character Review has stated that LCA24, South Sperrins would be highly sensitive to mineral development, however this assessment is flawed. As part of the planning application at Curraghinalt a detailed LVIA has been provided, Appendix 4 of representation which demonstrates that the site application site area is not highly sensitive. (DPS/271/18)

Response:

- The LCR provides reasoning for its assessment of high sensitivity to intrusion from minerals development '...which have the potential to be intrusive features on sloping hill sides and within enclosed valleys...' (LCR p79). This assessment is based on the analysis of landscape character and key characteristics set out in the character assessment, and the assessment corresponds to the best practice guidance on the subject.
- The LCR is not a capacity assessment but provides a description of landscape character and a high-level assessment of sensitivity to different development types. The landscape capacity for accommodating a particular development type would need to be

determined through a capacity assessment specific to the development type in question.

- The LCR states that there were no current or historical mineral developments of significance within the LCA i.e. those that significantly impact on views or landscape character. This was an accurate description of the landscape at the time of the assessment.

Main Issue 11:

The representation provides comment in respect of current proposals at Curraghinalt and references the content of a full landscape and visual impact assessment, which unlike the Council's assessment does include a detailed character assessment for the area. Detailed comments are provided in respect of the proposed site for current application.

Response:

- Paragraphs 4.14 – 4.15 of the representation refer to the LVIA for the unconsented mineral extraction proposal at Curraghinalt, included as an appendix to the Dalradian representation. It is stated that the LVIA demonstrates that minerals development can be accommodated within the landscape, contrary to the assessment of the Council. We note the following:
 - The purpose of the LVIA is to determine the significant landscape and visual effects of a particular proposal. General conclusions on the ability of a landscape to accommodate a particular development type cannot be drawn from such an assessment.
 - The LCR and other studies produced by IFL do not assess the capacity of the landscape to accommodate minerals development;
 - The LCR for LCA 24 South Sperrin includes broad planning and management guidelines (p79) for accommodating minerals development within the landscape i.e. while the landscape is sensitive, it may be possible to accommodate an appropriate level of minerals development in a suitable location when considering landscape character alone;
 - We see no contradiction between the LVIA and the assessment of the LCR.
- As a side note, we observe from the summary of the LVIA provided in paragraph 4.14 of the representation that the local landscape value is assessed as 'high' on account of the AONB designation, corresponding with our own assessment for the LWECs.

Main Issue 12:

This undermines the AONB designation which should be of the highest protection and conservation. Proposal Map 1 – North East has only a small area of The Sperrin AONB designated which is mystifying. Recommends extending to the entire Sperrin AONB to the highest level. (DPS/187/03 et al, DPS/259/09, DPS/276/01)

<p><i>Response:</i></p> <p>The identification of a portion of the Sperrin AONB as Special Countryside Area does not undermine the AONB designation. It reflects the hierarchy of landscape designations as set out within the SPPS.</p> <p>Paragraph 6.75 of the SPPS states that some areas of the countryside exhibit exceptional landscapes...wherein the quality of the landscape and unique amenity value is such that development should only be permitted in exceptional circumstances. It identifies that where appropriate these areas should be designated as Special Countryside Areas, and appropriate policies brought forward to ensure their protection from unnecessary and inappropriate development.</p> <p>Paragraph 6.187 addresses development proposals in the AONB stating that they must be sensitive to the distinctive special character of their landscape, heritage and wildlife.</p> <p>The identification of a portion of the AONB as Special Countryside Area is therefore in line with the SPPS and seeks to provide a higher level of protection to the landscape and unique amenity value within it.</p>
<p><i>Main Issue 13:</i></p> <p>DfI state that it is not clear how this draft policy offers greater protection to this exceptional landscape over and above the general countryside policies. Both DfI and National Trust note that there is no reference to LCAs and any other relevant guidance including AONB Management Plans and Local Design Guides that would be used to assist/guide decision making. (DPS/277/35, DPS/317/70)</p>
<p><i>Response:</i></p> <p>Agree with the points raised in that the policy does not fully reflect the context of paragraph 6.188 of the SPPS which states that account will be taken of any Landscape Character Assessments and any other relevant guidance including AONB Management Plans and local design guides. Whilst currently there is no existing AONB Management Plan or a local design guide existing for the Sperrin AONB, this could change over the lifetime of the LDP document and for this reason a reference should be included. As such the draft policy should be amended to reflect more fully the regional strategic policy set out within the SPPS. This approach, in combination with the change proposed at Issue 1, will more fully reflect the SPPS in regard to the protection of AONBs.</p> <p>As this is the approach set out in the SPPS it is a matter of reflecting the regional strategic policy within the dPS and as such is a minor contextual change.</p>
<p><i>Main Issue 14:</i></p> <p>DFI is not clear what is intended by paragraph 5.53. (DPS/317/88)</p>
<p><i>Response:</i></p>

Para 5.53 seeks to limit the role of precedent set by any existing development or uses which would not be appropriate within the AONB designation.

This is a matter which can be dealt with by development management during the processing of a planning application. As such the paragraph is unnecessary and it is considered that it should be deleted.

Main Issue 15:

DFI state that Council should be able to demonstrate that policy relating to this cross-boundary designation does not conflict with DPDs of neighbouring councils.

It is unclear if the draft policy for the Sperrin AONB (L01) has taken into account the approaches of neighbouring councils to this shared resource. (DPS/317/133)

Response:

As detailed in paragraphs 3.6 and 3.7 of part one of the plan, cross boundary forums, such as the Sperrin Forum were established and have taken place during the preparation of the draft Plan Strategy. Representation to the draft Plan Strategy has been made by the Councils with a portion of the Sperrin AONB to the dPS, all of which reference the ongoing nature of the Sperrin Forum and note/support the approach set out in L01.

It should also be noted that Mid Ulster District Council have subsequently published their DPS which has taken a similar policy approach.

Main Issue 16:

Support the presumption against developments that would negatively impact on the distinctiveness of the Sperrin AONB and the recognition of individual and cumulative impacts. AONBs are designated not only for distinctive landscape character but also for their wildlife importance and rich cultural and architectural heritage (para. 6.186 SPPS). Policy should be expanded to apply policy tests for special distinctive character, quality of landscape, heritage and wildlife, for example:

- **Openness of the landscape and its sensitivity to development;**
- **Maintain a sense of remoteness, wildness and tranquillity;**
- **Interdependency between special qualities of the landscape and the natural functioning of the environment taking into account internationally and nationally important nature conservation sites and associated ecosystems, species and habitats; &**
- **Maintain the significance of archaeological assets and their settings within the AONB.**

(DPS/277/48)

Response:

Paragraph 1.5 (Part One) of the DPS is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

It is considered that the interdependency between special qualities of the landscape and the natural functioning of the environment taking into account internationally and nationally important nature conservation sites and associated ecosystems, species and habitats should be reflected within the policy clarification at paragraph 5.54 as follows (italics):

"The exceptional landscapes contained within our council area require protection from inappropriate or unnecessary development which could erode their unique quality and amenity value. Cuilcagh Mountain, the high summits of the Sperrins, and the islands of Lough Erne, Lough Macnean and Lough Melvin are particular examples of relatively unspoilt, unique areas which would be preserved in order to retain both their special environmental benefits and their aesthetic qualities thus development should be limited to those exceptional circumstances listed above. *Recognition should be given to the interdependency between special qualities of the landscape and the natural functioning of the environment, taking into account internationally and nationally important nature conservation sites and associated ecosystems, species and habitats.*"

Main Issue 17:

It is queried what is meant by new development – is it housing or industrial development? (DPS/054/14 et al^a)

Response:

The policy applies to all types of development.

Main Issue 18:

The responses notes the various points where the shared environmental asset of the Sperrin AONB is referred to in the SA Report and at several points notes that the whole of the Sperrin AONB is proposed as an ACMD, and the concern of CCGBC that such a blanket designation (and MIN01 policy approach) would place pressure on CCGBC council area. (DPS/049/01)

Response:

Noted. Whilst a portion of the Sperrin AONB falls within CCGBC it is not contiguous with Fermanagh and Omagh District Council.

Conclusion:

The policy overall requires some change in order to ensure it fully aligns with the SPPS in order to provide suitable protection to the distinctive special character of the AONB. If the Commissioner is so minded, the proposed amended wording which is considered to be a minor contextual change, is as follows:

“Development proposals that would adversely affect or work to erode the distinctive special character including landscape character, visual amenity, natural, historic or cultural heritage of the Sperrin AONB, its views and setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted.

Account must be taken of the Landscape Character Assessments and any other relevant guidance including an AONB Management Plan and local design guides.

Development proposals must be accompanied by a Landscape Visual Impact Assessment.”

It is considered that paragraph 5.53 should be deleted as it does not provide clarification to the policy.

Draft Policy L02 - Special Countryside Areas

Within Special Countryside Areas, planning permission will not be granted for development proposals unless they are:

- of such national or regional importance, as to outweigh any potential detrimental impact on the unique qualities of the upland, outstanding vistas, or island environment; or
- for the consolidation of existing development, providing it is in character and scale, does not threaten the visual amenity, nature conservation interest or Historic Environment interests and can be appropriately integrated with the landscape character; or
- minor works or improvements to infrastructure such as walking and cycle-ways, fishing and canoe stands; or
- providing tourism accommodation or facilities through the re-use of existing vernacular buildings whilst being sympathetic to the landscape and nature conservation interests.

<i>Ref:</i>	<i>Representative: (Main Issue)</i>
DPS/022/29	RSPB (1)
DPS/115/62	NIHE (Support)
DPS/250/05, 13, 14, 15	DAERA (NED) (2, 4, 5, 11)
DPS/252/04, 12, 13, 14, 14, 16	SSE Renewables (2, 3, 6, 7, 10,12)
DPS/266/02, 05, 06, 07, 08, 09	NIRIG (2, 3, 6, 7,10,12)

DPS/270/02, 06, 07, 08, 09, 10 11 DPS/277/36 DPS/317/65 DPS/054/15 et al ⁴	RES (2, 3, 6, 8, 9, 10, 12) National Trust (Support) Dfl (13,14) Multiple groups & private individuals (15)
<p>Main Issue 1: Policy should be set within qualifying text that it will be subject to normal planning and environmental considerations. Development is not inherently sustainable, it only becomes sustainable if it incorporates environmental and social considerations. Request that wording be revised to include ‘planning permission will be subject to meeting all other policy requirements’. (DPS/022/29)</p>	
<p><i>Response:</i> Paragraph 1.5 (Part One) of the DPS is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.</p>	
<p>Main Issue 2: NED supports the designation of SCA and notes the ‘Islands CPA’ identified under the Fermanagh Area Plan 2007 has been carried through and identified as a SCA. NED, SSE, NIRIG and RES are unclear how SCAs were designated. It is unclear from Appendix 6 of the Countryside Assessment how the Council’s Landscape Character Review has informed the proposed SCA. SSE provide further commentary on the methodology provided and note that no reference is made to the LCR prepared by Ironside Farrar. Reliance upon out of date character assessment is flawed as no account will be taken of how the character of the area has evolved since 1999 with the NILCA assessments were undertaken. (DPS/250/05, DPS/252/04, DPS/266/02, DPS/270/02)</p>	
<p><i>Response:</i> It is noted that the Council’s Landscape Character Review should be referenced within Appendix 6 of the Countryside Assessment. This will be updated to included omitted information and to ensure that it is clear how it has been considered in the identification of the SCA alongside other relevant documents.</p>	
<p>Main Issue 3: SSE, NIRIG and RES identify that the OPEN review of the Council’s evidence identified a number of issues:</p> <ul style="list-style-type: none"> • The LCR introduced new character areas which are inconsistent with the areas assessed within NILCA 2000 and conflict with the 	

<p>character areas set out within the Landscape Wind Energy Capacity Study;</p> <ul style="list-style-type: none"> • In preparing the CLR the council has acknowledged that an update of the LCA of the Council is required, however the extent of the SCA appears to have been informed by NILCA 2000. Again, references the use of out of date information. <p>(DPS/252/12, DPS/266/05, DPS/270/06)</p>
<p><i>Response:</i></p> <p>The OPEN document highlights some differences in the naming and extents of LCAs and LCTs between the Wind Energy Strategy, LWECS and the Landscape Character Assessment Review. We note the potential confusion, however the LCA review proposes only:</p> <ul style="list-style-type: none"> • Subdivision of a small number of NICLA 2000 LCAs to better describe variations in landscape character; and • Renaming of LCAs to accord with common practice for landscape character assessment; <p>These changes have no implications on the capacity assessments provided in the LWECS and there has been no change to the boundaries of the LCAs within the AONB, which are the principal focus of the OPEN report.</p>
<p><i>Main Issue 4:</i></p> <p>NED identify issues with the draft policy wording. Suggests that wording “landscape character” and “visual amenity” is used throughout, including the second bullet point – “does not threaten the landscape character, visual amenity....” And the forth bullet point – “whilst being sympathetic to the landscape character, visual amenity....”. Concern that the wording “consolidation of development” in the 2nd bullet is open to interpretation and could lead to difficulties. (DPS/250/13)</p>
<p><i>Response:</i></p> <p>Considered within the context of the SPPS the proposed amendments to L02 would reflect more closely paragraph 6.75 of the SPPS. Amend as proposed.</p> <p>The use of consolidation of existing development was considered, at the time of writing, to reflect the regional strategic policy within the SPPS to cluster, consolidate and group new development. Reconsideration of this approach and the policy intent of L02 to protect what are considered to be exceptional landscapes has identified the need to clarify more fully that the consolidation of development is limited to the infilling of a small site within an envelope of intimately located buildings.</p>
<p><i>Main Issue 5:</i></p> <p>Suggested that a requirement for a landscape and visual (LVIA) for any development proposal is included in the policy clarification as is required for larger scale development proposals in AoHSVs. (DPS/250/14)</p>

Response:

It is agreed that it would appropriate to require an LVIA to accompany a planning application. As asserted by NED, an LVIA is required under L03 which is a lesser designation.

Main Issue 6:

SSE, NIRIG and RES considers that the extent of the SCAs proposed under draft policy L02 are founded on flawed evidence. Recommend that the Council review evidence base and revise the SCA proposals accordingly. (DPS/252/13, DPS/266/06, DPS/270/07)

Response:

The Council are content that the methodology employed in the identification of the proposed SCAs is robust. It is however acknowledged that there are a number of gaps within Appendix 6 of the Countryside Assessment such as references to the Wind Energy Development Best Practice Guide and the Council's LCR which need to be more fully detailed. This will be updated to include omitted information.

Main Issue 7:

RE01 conflicts with L01 and L02 as they do not establish (such) a presumption against wind energy development. References the content of RE01: "Outside the Sperrin AONB, Special Countryside Areas (SCAs) and Areas of High Scenic Value (AoHSV), we will support proposals for large scale solar farms." Comments that under draft policy L01 development which does not adversely affect the character of the AONB will be permitted. It is noted that under L02 proposals of regional significance will be permitted. (DPS/252/14, DPS/266/07)

Response:

It is noted that the portion of RE01 quoted refers to solar farms and not wind energy development. Therefore, there is no conflict between RE01 and draft policies L01 and L02.

The Wind Energy Strategy and Landscape Wind Energy Capacity Study detail the capacity for wind energy across the district, including that within the AONB. There is no presumption against wind energy development.

Main Issue 8:

No definition of exceptional character of the proposed SCA is provided within the dPS, however some details are provided in Appendix 6 of the Countryside Assessment (October 2018). (DPS/270/08)

Response:

Both Appendix 6 of the Countryside Assessment and the Landscape Character Review provide detail of the landscapes considered to be of exceptional character meriting designation as SCA. The Islands Special Countryside Area as identified in the Fermanagh Area Plan (as CPA) are being carried forward. The Landscape Character Review identified the importance of the national status of the Sperrin

AONB designation and additionally identified a Special Countryside Area for Cuilcagh.

Main Issue 9:

It is unclear what the justification is for introducing such a new designation where there is also an AONB designation, which already afford the areas high levels of protection (references SPPS para 6.186-6.188). References the SPPS in regard to the evidence base for proposing countryside policies and states that this should include an assessment of environmental impacts and landscape character. (DPS/270/09)

Response:

Paragraph 6.75 of the SPPS identifies that some areas of the countryside exhibit exceptional landscapes, such as mountains, wherein the quality of the landscape and unique amenity value is such that development should only be permitted in exceptional circumstances. The SPPS then states that these areas should be designated as Special Countryside Areas in LDPs, and appropriate policies should be brought forward to ensure their protection from unnecessary and inappropriate development.

Paragraph 6.76 of the SPPS states, in relation to the LDP process and related evidence base, this it should include an environmental assets appraisal and landscape assessment. These are included within the Countryside Assessment and Landscape Character Review. The wording suggested within SSE's representation is that it should include an assessment of environmental *impacts* and the landscape character.

Main Issue 10:

It is considered by SSE, NIRIG and RES that the evidence used to inform the proposed SCA is not robust. OPEN's review of the supporting evidence would indicate that the policy does not reflect the council's evidence that:

- **The LWECS indicates that there is underlying capacity for development of wind energy proposals within part of the area proposed to be included within the SCA (LCA24 South Sperrin); and**
- **The LWECS sets out that not all of the South Sperrin LCA is of the highest scenic value.**

(DPS/252/15, DPS/266/08, DPS/270/10)

Response:

The only guidance, cited in part by OPEN, which relates specifically to an AONB is SPPS 2015 para 6.223, which in full states:

“A cautious approach for renewable energy development proposals will apply within designated landscapes which are of significant value, such as Areas of Outstanding Natural Beauty, and the Giant's Causeway and

Causeway Coast World Heritage Site, and their wider settings. **In such sensitive landscapes, it may be difficult to accommodate renewable energy proposals, including wind turbines, without detriment to the region’s cultural and natural heritage assets.**” (emphasis, text omitted by OPEN).

Therefore, the parts of the policy and guidance which specifically direct at development within an AONB, while not placing an embargo on wind energy development, highlight how it may be difficult to successfully accommodate such development within sensitive landscapes such as an AONB.

- The OPEN document states in para 1 p3 that SPPS 2015 “...gives support to wind energy development within the Sperrin AONB...”. As noted in the preceding section, SPPS gives no such support, but highlights the potential difficulty in accommodating such development.
- The final paragraph on p3 of the OPEN report states that the LWECS concludes there is no capacity for any wind energy development within the Sperrins AONB. This is incorrect, as the LWECS identifies capacity for wind turbines up to 80m in height (pages 61 and 62) within the LCAs 24, 25 and 26 will comprise most of the AONB within Fermanagh and Omagh. We see no contradiction with this assessment and the “cautious approach” advocated in SPPS 2015.

Main Issue 11:

Note that whilst it is indicated that NED support the use of SCA designations that no consultation was undertaken with NIEA in relation to the location and extent of the proposed designations. This has been supported largely by desktop work, with fieldwork being used to determine the exact boundaries of the proposed SCAs. No detail has been provided on the methodology used to determine the viewpoints or inform the visual inspection. (DPS/250/15)

Response:

Note that whilst it is indicated that NED support the use of SCA designations that no consultation was undertaken with NIEA in relation to the location and extent of the proposed designations. It is acknowledged that a level of information has been omitted from the report on the proposed SCAs. This will be updated to reflect same.

Main Issue 12:

Refers to land within which SSE have interests in the Sperrins and Mullaghcarn proposed SCA and states that this was largely derived using the 200m contour line. Land above 200m was proposed within the designation and no justification was provided for within the Council’s evidence for such a threshold approach. This approach assumes that all

land above 200m is of exceptional value. Recommended that the proposed SCA for the Sperrins is reconsidered by the Council as the evidence provided in support of this is flawed. A full and detailed review of the methodology for designating SCAs should be undertaken. A robust assessment of landscape character should be carried out to inform the baseline for any such designations. In considering the character of the area, the Council should make public all information to it, including detailed LVIAs which have been provided in support of planning applications. (DPS/252/16, DPS/266/09, DPS/270/11)

Response:

Appendix 6: Proposed Special Countryside Area report details the methodology used in identifying the proposed SCAs. The approach to SCA designation was also informed by discussion and consideration with adjoining AONB Councils at the Sperrins Forum. It is acknowledged that some information has been omitted from Appendix 6 which will be updated to reflect same.

Main Issue 13:

The inclusion of the Proposals Maps which illustrate proposed SCAs is helpful and in line with the SPPS policy and Departments Practice notes. These exceptional landscapes should be afforded greater protection, and the SPPS states that development should only be permitted in exceptional circumstances. It is not clear what the exception criteria are for the SCAs over and above the general countryside policies DE04, DE05 and DE06. (DPS/317/65)

Response:

In further considering the draft policy, the Council accept that whilst it was the intention of the policy to permit certain developments in exceptional circumstances, this was not clearly set out. It is proposed to include the word 'exceptional' within the policy to fully reflect the policy intent and paragraph 6.75 of the SPPS.

Main Issue 14:

DfI state that the Council should be able to demonstrate how this policy is sustainable in terms of housing growth (bullet point 2) when considered in combination with the other countryside policies within the draft plan. (DPS/317/65)

Response:

In reconsidering bullet point 2 in light of the representation, the Council accept that it could result in development which has the potential to be harmful to the landscape character and unique amenity value of an SCA and additionally it could result in the clustering with existing development within an SCA. Whilst the extent of any existing development within the SCA designations is extremely limited, thereby significantly reducing the potential for the use of the second bullet point as the justification for additional development, it is proposed to remove this bullet point.

Main Issue 15:

Children of people who have lived in these areas for years should be allowed to build there if they wish. Otherwise these areas will become uninhabited. (DPS/054/15 et al⁴)

Response:

This would be contrary to the intent of the policy which seeks to permit development in exceptional circumstances only. Bringing forward planning policy, or an exception to it, which is based on who a person is or where they have lived would not be in line with the SPPS and by that reason unsound.

Conclusions:

The policy overall requires some change in order to reflect the policy intent and address issues raised within the representations. Therefore, if the Commissioner is so minded, the proposed amended policy which is considered to be a minor contextual change, is as follows:

“Within Special Countryside Areas, planning permission will not be granted for development proposals *unless they do not threaten the landscape character and unique amenity value of the area and, exceptionally, are:*

- of such national or regional importance, as to outweigh any potential detrimental impact on the unique qualities of the upland, outstanding vistas, or island environment; or
- minor works or improvements to infrastructure such as walking and cycle-ways, fishing and canoe stands; or
- providing tourism accommodation or facilities through the re-use of existing vernacular buildings whilst being sympathetic to the landscape and nature conservation interests.

Development proposals must be accompanied by a Landscape Visual Impact Assessment. “

Paragraph 5.54 should also be amended (italics) as follows:

“The exceptional landscapes contained within our council area require protection from inappropriate or unnecessary development which could erode their unique quality and amenity value. Cuilcagh Mountain, the high summits of the Sperrins, and the islands of Lough Erne, Lough Macnean and Lough Melvin are particular examples of relatively unspoilt, unique areas which would be preserved in order to retain both their special environmental benefits and their aesthetic qualities thus development should be limited to those exceptional circumstances listed above.

Recognition should be given to the interdependency between special qualities of the landscape and the natural functioning of the environment, taking into account internationally and nationally important nature conservation sites and associated ecosystems, species and habitats. “

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

Proposals for development within Areas of High Scenic Value will only be permitted where it is demonstrated that they would not adversely affect or change either the quality or character of the landscape or the settings of the loughs. All proposals must have regard to siting, massing, shape, design, finishes and landscaping in order that they may be integrated into the landscape. Favourable consideration will be given to the provision of pathways and informal recreational facilities of an appropriate scale and in a suitable location, subject to policy provisions contained elsewhere in the Plan.

<i>Ref:</i>	<i>Representative:</i> (Main Issue)
DPS/115/63	NIHE (Support)
DPS/276/03	Private Individual (1)
DPS/277/37	Private Individual (1)
DPS/286/03	National Trust (Support)
DPS/317/66	Department for Infrastructure
DPS/054/16 et al ⁴	Multiple groups & private individuals (1)

Main Issue 1:

No Areas of High Scenic Value have been identified in Tyrone. This proposal has to be examined again. The Sperrin AONB has been recognised by National Geographic as being in the top one hundred most scenic drives in the world yet FODC cannot recognise it. (DPS/276/03. DPS/277/37, DPS/054/16 et al⁴)

Response:

Other designations which offer higher levels of protection than Areas of High Scenic Value have been identified within the 'Tyrone' portion of the Fermanagh and Omagh District Council area. Policies have been taken forward in respect of the both AONB and SCA which will apply to all or an identified portion of the Sperrin AONB.

Main Issue 2

It is not clear what the exceptional circumstances are over and above general countryside policies DE04, DE05 and DE06. FODC should be able to demonstrate how this policy is sustainable in terms of housing growth. DfI mention need for LVIA for large developments, querying whether AoHSV are the correct location for same. (DPS/317/66)

Response:

Policy clarification has stated that within these areas, a site-specific landscape and visual impact assessment (LVIA) will be required for all large-scale development as part of a planning application. It is considered that the wording of the policy should be amended to read that "exceptional -as opposed to favourable - I consideration will be given ..." in order to provide more clarity. It is also proposed

to remove “subject to policy provisions contained elsewhere in the Plan”, as paragraph 1.5 addresses this.

Conclusion:

The policy overall requires some change in order to reflect the policy intent and address issues raised within the representations. Therefore, if the Commissioner is so minded, the proposed amended policy which is considered to be a minor contextual change, is as follows:

Proposals for development within Areas of High Scenic Value will only be permitted where it is demonstrated that they would not adversely affect or change either the quality or character of the landscape or the setting of the loughs. All proposals must have regard to siting, massing, shape, design, finishes and landscaping in order that they may be integrated into the landscape. *Exceptional* consideration will be given to the provision of pathways and information recreational facilities of an appropriate scale and in a suitable location.

Flood Risk Management

Flood Risk Management - Context and Justification	
<p>Climate change and global warming are resulting in sea levels rising at an accelerating rate and more periods of heavy rainfall and intense storms. Both can lead to flooding through increase in peak river flows and surface water flooding. Problems from flooding such as erosion and land instability can result in danger to life, damage to property and wasteful expenditure of public and private resources on remedial works.</p> <p>Parts of the Council area are potentially at risk of fluvial (from a river) flooding within settlements such as Enniskillen, Omagh, Beragh and Fintona all affected by flooding from a river at some time or another. Therefore, the impact of flooding needs to be carefully managed in relation to protecting existing properties and future development. However, for the majority of areas, the largest risk of flooding is pluvial (from surface water) and groundwater. In addition, controlled reservoirs constitute a potential source of flood risk that can have serious consequences in the event of a breach or over topping. This type of flooding is liable to be sudden with a response time likely to be short and so can potentially have devastating consequences. In keeping with the SPPS, the aim of the LDP is to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.</p> <p>In order to properly manage development, the latest available flood risk information will be used. DfI Rivers defines the extent of floodplains in Northern Ireland and are the competent authority to provide up to date information for areas at risk of flooding and to confirm the structural adequacy of flood defences. Current information on present day floodplains and those which take account of climate change predictions, are available from Flood maps NI. One of the main purposes of the flood maps is to highlight the areas that are prone to flooding and to inform anyone applying for planning permission if flooding is likely to be an important consideration.</p>	
<p><i>Ref:</i> DPS/054/17 et al⁴</p>	<p><i>Representative:</i> Multiple groups & private individuals (1)</p>
<p><i>Main Issue 1:</i> The representations query whether the strategy has taken on board the reality of local experience of such flooding events in recent years. Examples of flash flooding took place on the 22nd August 2017, 1st June 2018 and 8th June 2018 each of which impacted severely on the Owenkillew River and Owenreagh River Valleys. (DPS/054/17 et al⁴)</p>	

Response:

FODC list examples of areas which have been prone to fluvial flooding. As stated above, the biggest risk for most of the area is from pluvial flooding. The list is by no means exhaustive and the policy is intended to protect both existing buildings from further damage and proposed buildings from exacerbating flooding elsewhere.

Conclusions:

No amendment considered necessary in response to the issue raised. However, it is recognised that it would be useful to provide detail of the role of statutory consultees at para 6.3 as follows:

In order to properly manage development, the latest available flood risk information will be used. DfI Rivers defines the extent of floodplains in Northern Ireland and are the competent authority to provide up to date information for areas at risk of flooding and to confirm the structural adequacy of flood defences. Current information on present day floodplains and those which take account of climate change predictions, are available from Flood maps NI. One of the main purposes of the flood maps is to highlight the areas that are prone to flooding and to inform anyone applying for planning permission if flooding is likely to be an important consideration. **DFI Rivers Agency and Water and Drainage Policy Division, as consultees, can provide advice prior to the submission of documents such as Drainage Assessments or Flood Risk Assessments.**

Draft Policy FLD01 – Development in Floodplains:

The Council will not permit development within the floodplain unless it falls within one of the following exceptions (a) to (d):

a) Defended Areas - previously developed land protected by flood defences but excluding the following:

- essential infrastructure such as power supply and emergency services;
- storage of hazardous substances;
- accommodation for vulnerable groups such as schools, residential/nursing homes, sheltered housing;
- any development within 10 metres of flood defences.

Proposals involving significant intensification of use will be considered on their individual merits. Developments within greenfield sites in defended areas will not be permitted.

b) Undefended Areas:

- replacement buildings (subject to provision of flood proofing measures);
- development for agriculture use, transport and utilities infrastructure which are required for operational reasons to be located in the flood plain;
- water compatible development which would not adversely affect water

quality, such as boating, navigation and water based recreational use which are required for operational reasons to be located in the flood plain;

- the use of land for sport or outdoor recreation, amenity open space (but excluding children’s playgrounds) or for nature conservation purposes, including ancillary buildings (but excluding club houses and social facilities);
- the extraction of mineral deposits and necessary ancillary development.

c) Development which is of overriding regional or sub-regional economic importance where it is demonstrated that:

- there is exceptional benefit to the regional or sub-regional economy; or
- the proposal requires a location within the flood plain and there are no suitable alternative sites outside the flood plain.

d) ‘Minor development’.

Where a proposal falls within one of the exceptions (a - d) it must be demonstrated that:

- i). all sources of flood risk to and from the proposed development have been identified; and
- ii). there are adequate measures to manage and mitigate any increase in flood risk to the proposed development or elsewhere; and
- iii). flood proofing measures are incorporated into the design of the building.

Land raising, new flood defences or flood compensation storage works will not be acceptable except where carried out by the relevant statutory authority.

<p><i>Ref:</i> DPS/022/030 DPS115/64 DPS/274/01 DPS277/38 DPS/317/11,12 DPS/317/13 DPS/054/18 et al⁴</p>	<p><i>Representative:</i> (Main Issue) RSPB (01) NIHE (Support) McGinn (02) National Trust (Support) DFI Rivers (03) DFI Rivers (04), (05) Multiple groups and private individuals (6)</p>
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Main Issue 1:
FODC should not be promoting the acceptance of residential development within a floodplain even in part (DPS/022/030).

Response:
 The Council consider the proposed policy reflects current regional strategic planning policy on development in river (fluvial) flood plains as laid out in SPSS para 6.107 which sets out the exceptions to the general presumption against development in floodplains in defended and undefended areas.

Main Issue 2:
It is queried how FODC are supportive of sustainable development and ‘dismisses that completely in a phrase such as ‘The Council will not permit

development within the floodplain, unless it falls within one of the following exceptions: ... Undefined areas: the extraction of mineral deposits and necessary ancillary development...’ which the representation claims ‘is to mock the rest of the aspirations in the 300-page document’ (DPS/274/01).

Response:

The exceptions contained within Policy FLD01 reflect the regional strategic objectives and policy of the SPPS Figure 1 as well as Policy FLD 1(g) in PPS 15 (revised) - ‘Planning and Flood Risk’ for undefended areas: *‘the extraction of mineral deposits and necessary ancillary development’.*

It is recognised that in certain cases, a range of development types including for example agricultural development, must be in such locations as alternative lower flood risk sites would be neither practicable nor available.

In all cases, a Flood Risk Assessment (FRA) is required which must demonstrate measures that will be taken to manage and mitigate the identified risks. The need for an Environmental Statement in relation to proposals for mineral development will also be assessed under the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. The purpose of this is to assess any potential impacts on a range of environmental factors including air quality and water quality.

Main Issue 3:

Does not clearly state where a proposal falls within a listed exception, it must demonstrate requirements 1i and 1ii of the policy. Noted no specific criteria set out for minor development.

The draft policy should exclude a) bespoke accommodation for vulnerable groups and b) essential infrastructure in section FLD01b) replacement buildings (DPS/317/11, 12).

Response:

The SPPS applies a presumption against development for vulnerable groups in the floodplain, while PPS 15 (revised) policy FLD01 ‘Undefined Areas’ (c) lists replacement buildings as an exception to the presumption against development in floodplains.

Further details should be given in policy FLD01(b) as per regional planning policy that ‘even where the proposal constitutes an exception to the policy there should be a presumption against certain types of development in the flood plain including bespoke development for vulnerable groups such as schools, residential/nursing homes etc...’

Main Issue 4:

Further clarification should be given in para 6.4 namely:

- **Technical definition of flood plain including fact that said definition will have to change from ‘1% annual exceedance probability PRESENT DAY to 1% Annual Exceedance Probability Climate Change 2080 EPOCH;**
- **The application of a climate change allowance and then a further 600mm freeboard;**
- **Changing flood maps NI climate change flood mapping from 2030 Epoch to 2080 Epoch; and**
- **Changing from present day flood mapping to climate change flood mapping for Development Management.**
(DPS/317/13)

Response:

It is considered that it would be beneficial to include the technical definition of a floodplain as provided by DfI at the bottom of the relevant page as a footnote.

The additional proposed changes should be added to FLD01 ‘Policy Clarification’ rather than within policy FLD01 itself. Other references should be updated to take account of DfI Rivers Agency publication ‘Technical flood risk guidance in relation to allowances for climate change in Northern Ireland’ published 25th February 2019.

Main Issue 5:

Para 6.5: ... should state flood defences should be confirmed by DfI Rivers as the competent authority to be structurally adequate and provide a minimum standard of 1% Annual Exceedance Probability fluvial flood protection’ (DPS/317/13b).

Response:

Not considered necessary. A statement shall be added to the context and justification outlining the remit and role of DfI Rivers Agency.

Main Issue 6:

Exceptions are cited which are allowed in the floodplains i.e. precious deposits and ancillary development. This district has witnessed too many examples of bad practice to ignore the obvious risk and make the public liable for the ongoing and repeated costs (DPS/054/18 et al⁴).

Response:

Representation refers to exception in undefended areas for the extraction of mineral deposits and necessary ancillary development. FODC is satisfied the proposed policy reflects the existing policy provision contained at Figure 1, p64, SPPS.

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded, the following minor contextual changes are suggested in response to Main Issues 3 and 4:

The Council will not permit development within the floodplain unless it falls within one of the following exceptions (a) to (c):

a) Defended Areas – which are defined as previously developed land protected by flood defences but which exclude the following:

- essential infrastructure such as power supply and emergency services;
- storage of hazardous substances;
- accommodation for vulnerable groups such as schools, residential/nursing homes, sheltered housing;
- any development within 10 metres of flood defences.

proposals involving significant intensification of use will be considered on their individual merits. developments within greenfield sites in defended areas will not be permitted.

b) Undefended Areas:

- replacement buildings (subject to provision of flood proofing measures). *Proposals that include essential infrastructure or bespoke accommodation for vulnerable groups or that involve significant intensification of use will not be acceptable;*
- development for agriculture use, transport and utilities infrastructure which are required for operational reasons to be located in the flood plain;
- water compatible development which would not adversely affect water quality, such as boating, navigation and water based recreational use which are required for operational reasons to be located in the flood plain;
- the use of land for sport or outdoor recreation, amenity open space (but excluding children's playgrounds) or for nature conservation purposes, including ancillary buildings (but excluding club houses and social facilities);
- the extraction of mineral deposits and necessary ancillary development.

c) Development which is of overriding regional or sub-regional economic importance where it is demonstrated that:

- there is exceptional benefit to the regional or sub-regional economy; or
- the proposal requires a location within the flood plain and there are no suitable alternative sites outside the flood plain.

Where a proposal falls within one of the exceptions (a - c) or is 'minor development' it must be demonstrated that:

- i). all sources of flood risk to and from the proposed development have been identified; and
- ii). there are adequate measures to manage and mitigate any increase in flood risk to the proposed development or elsewhere; and
- iii). flood proofing measures are incorporated into the design of the building.

Land raising, new flood defences or flood compensation storage works will not be acceptable except where carried out by the relevant statutory authority.

Para 6.4 to be amended as follows;

A flood plain is an area that stores and conveys water during times of flood from a watercourse. They are generally flat areas adjacent to a watercourse where water flows in a flood, or would flow, but for the presence of flood defences.

The limits of the floodplain are defined by the peak water level of an appropriate return period event (defined as 1 in 100 year or 1% Annual Exceedance Probability (AEP) Climate Change 2080 EPOCH) and apply a climate change allowance with a 600mm freeboard.

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

The Council will support new development at risk from surface water flooding or which would increase the risk of flooding elsewhere where it is demonstrated that adequate drainage measures will be put in place so as to effectively mitigate the flood risk to the proposed development or to and from the development elsewhere.

All new development proposals for new building(s) and the change of use of buildings within an area at risk from surface water flooding must incorporate flood proofing measures.

<i>Ref:</i> DPS/022/31 DPS/115/65 DPS/277/39 DPS/317/14	<i>Representative:</i> (Main Issue) RSPB (01) NIHE (Support) National Trust (Support) DFI Rivers (02)
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Main Issue 1:
Policy is considered too flexible and could allow a proliferation of development known to be at flood risk to continue during the plan period (DPS/022/31).

Response:
The Council consider the proposed policy reflects current regional strategic planning policy within the SPPS. A Drainage Assessment is required to demonstrate that the flood risk can be effectively controlled and mitigated and that it will not create greater potential for surface water flooding elsewhere, SPPS paras 6.113 – 6.115..

The Council propose minor existing clarification in relation to proposed Drainage Assessment thresholds in LDP para 6.10 ‘Policy Clarification’ into FLD02 policy to remove any uncertainty over the need to provide same.

Main Issue 2:
LDP para 6.10 – suggested added wording ‘Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated on Flood Maps NI, it is the developer’s responsibility to assess the flood risk and

drainage impact and to mitigate the risk to the development and any impacts beyond the site' to policy clarification (DPS/317/14).

Response:

It is considered the paragraph commencing 'A Drainage Assessment will be required for the following types of development as these have the potential to create surface flooding elsewhere:

- A residential development comprising of 10 or more dwelling units;
- A development site in excess of 1 hectare;
- A change of use, new buildings and/or hard surfacing exceeding 1000 square metres in area;
- Where a proposed development (excluding minor development) is located in an area where there is evidence of a history of surface water flooding;
- where surface water run-off from the development may adversely impact upon other development or features of the Natural or Historic Environment (unless it falls within one of the categories (a) to (d) of Draft Policy FLD01). para 6.10 should be moved to FLD02 policy as per current regional strategic planning policy within the SPPS.

NB: This approach removes the need for additional clarification in respect of Main Issue 1.

Conclusions:

If the Commissioner is so minded, it is suggested that the requirements for Drainage Assessments as detailed within the SPPS should be moved from policy clarification into policy as shown in italics below:

The Council will support new development at risk from surface water flooding or which would increase the risk of flooding elsewhere where it is demonstrated that adequate drainage measures will be put in place so as to effectively mitigate the flood risk to the proposed development or to and from the development elsewhere.

All new development proposals for new building(s) and the change of use of buildings within an area at risk from surface water flooding must incorporate flood proofing measures.

A Drainage Assessment will be required for the following types of development as these have the potential to create surface flooding elsewhere:

- *a residential development comprising of 10 or more dwelling units;*
- *a development site in excess of 1 hectare;*
- *a change of use, new buildings and/or hard surfacing exceeding 1000 square metres in area;*
- *where a proposed development (excluding minor development) is located in an area where there is evidence of a history of surface water flooding; and*

- *where surface water run-off from the development may adversely impact upon other development or features of the Natural or Historic Environment (unless it falls within one of the categories (a) to (d) of Draft Policy FLD01).*

Draft Policy FLD03 – Sustainable Drainage Systems (SuDS)	
Development proposals for major applications and/or for development on land which is identified as being at risk to surface water flooding must include proposals for Sustainable Drainage Systems.	
<i>Ref:</i> DPS/022/32 DPS/115/66 DPS/251/04, 05, 06 DPS/277/40 DPS/317/15, 97, 98	<i>Representative:</i> (Main Issue) RSPB (01) NIHE (support) NI Water (2,3,4) National Trust (support) DfI Water & Drainage Policy Division (02), (03), (04)
<p>Main Issue 1: This policy requirement should be extended to all areas and not just those which are identified as being at risk to surface water flooding. SuDS should be promoted within the LDP (DPS/022/032).</p>	
<p><i>Response:</i> The Council, although mindful there is no current policy requirement to incorporate SuDS within the SPPS, other than to encourage its use at para 6.118, ‘particularly in areas susceptible to surface water flooding’ would be supportive of the views expressed in this representation.</p>	
<p>Main Issue 2: Suggest replacing the word ‘must’ with ‘where practicable’ Seek clarification on the meaning of major development. (DPS/251/04, DPS/317/15)</p>	
<p><i>Response:</i> The Council would concur with DfI that there may be isolated instances in which it is not practicable to incorporate SuDS as the main form of surface water drainage. The definition of ‘Major development’ is that which is set out in The Planning (Development Management) Regulations (Northern Ireland) 2015.</p>	
<p>Main Issue 3: DfI and NI Water suggest the following wording be added to the respective paragraphs;</p> <p>Para 6.14: SuDs systems can also incorporate traditional piped drainage, for instance by using oversized pipes with flow control.</p>	

Para 6.15: Types of SuDs should include oversized pips with flow control and (underground) attenuation tanks which are both SuDs and which are adoptable by NI Water (DPS/251/06, DPS/317/97).

Response:

The ‘slow the flow’ examples cited in paragraphs 6.14 are considered appropriate and are not an exhaustive list. Similarly, the techniques cited in paragraph 6.15 are quoted to give the reader an understanding of the principles behind SuDS and should not be viewed as the only SuDS techniques available.

Main Issue 4:

Suggests that the word "must" be replaced with "where appropriate" as there may be circumstances where, having assessed and considered all the drainage options, including SuDS, it may not be possible to proceed with a SuDS option within the drainage layout (DPS/251/05, DPS/317/98).

Response:

The Council consider that every possible effort should be made to incorporate SuDS within all development proposals whilst also recognising there may be instances where this is not practicable. Propose rewording of the policy to include “where practicable”.

Conclusions:

Following consideration of the issues above, the Council has concluded that there is merit in extending the requirement for SuDS to all development. In recognising that the provision of SuDS may not be practicable in all situations, the wording of the policy should reflect this. Therefore, the Council is willing to amend the wording as a compromise to issues raised above, and, if the Commissioner is so minded, the proposed changes are as follows:

All development proposals must, where practicable, include proposals for Sustainable Drainage Systems.

Draft Policy FLD04 – Protection of Flood Defences and Drainage Infrastructure

Development proposals located beside a flood defence, control structure or designated watercourse must provide a working strip of a minimum of 5 metres. Any development proposal which would impede an existing working strip will not be permitted.

Ref:
DPS/115/67
DPS/317/16

Representative: (Main Issue)
NIHE (support)
DfI Rivers (1)

<p>Main Issue 1: Suggest an amendment to wording of FLD04 to ‘a minimum 5m working strip adjacent to all designated watercourses and flood defence and drainage infrastructure’. (DPS/317/16).</p>
<p><i>Response:</i> Accept minor change of wording from ‘located beside a flood defence, control structure or designated watercourse’ to that suggested above considered acceptable and within spirit of text in draft Plan Strategy.</p>
<p><i>Conclusions:</i> The following minor contextual change to the wording is suggested: Development proposals I must provide a minimum of 5 metres working strip adjacent to all designated watercourses and flood defence and drainage infrastructure. Any development proposal which would impede an existing working strip will not be permitted.</p>

<p>Draft Policy FLD05 – Artificial modifications of Watercourses:</p>	
<p>The Council will permit the artificial modification of a watercourse where:</p> <ul style="list-style-type: none"> • the culverting of a short length (no more than 10m) of watercourse is necessary to provide access to a development site or part thereof, and a clear span bridge cannot be provided; or • it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action. <p>The erection of buildings or other structures over the line of a culverted watercourse will not be permitted.</p>	
<p><i>Ref:</i> DPS/022/33 DPS/115/68 DPS/277/41 DPS/317/17 DPS/054/19 et al⁴</p>	<p><i>Representative:</i> (Main Issue) RSPB (1) NIHE (Support) National Trust (Support) Dfl Rivers (2) Multiple groups & private individuals (3)</p>
<p>Main Issue 1: RSPB does not support the culverting and canalisation of watercourses. It is recommended that there be presumption against culverting on water courses in all designated sites (International/European to local) and supporting habitat (DPS/022/33).</p>	
<p><i>Response:</i></p>	

The Council consider the proposed policy reflects current regional planning policy on the artificial modification of watercourses as per SPPS, where no distinction is made regarding the culverting/canalisation of watercourses in International/European sites and other areas.

Main Issue 2:

Suggested text change to 'it can be demonstrated to the satisfaction of DfI Rivers that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action' (DPS/317/17).

Response:

The Council considers that FLD05 bullet point two should be amended to:

'it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons unconnected with any development proposal and that there are no reasonable or practicable alternative courses of action' in order to reflect more closely the SPPS.

Main Issue 3:

The proposed policy contradicts the policy clarification and of experience throughout the district (DPS/054/19 et al⁴).

Response:

This reference to FLD05 is a single line sentence part of a much larger representation dealing with a number of topic areas throughout the Strategy. No evidence or justification was provided by the representations as to how the clarification contradicts the policy. Similarly, it is not clear what the representations mean by their 'experience throughout the district' or to where they refer.

Conclusions;

The policy is considered to be sound. However, if the Commissioner is so minded, the following minor contextual change is suggested in response to Main Issue 3:

The Council will permit the artificial modification of a watercourse where:

- **the culverting of a short length (no more than 10m) of watercourse is necessary to provide access to a development site or part thereof, and a clear span bridge cannot be provided; or**
- **it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons unconnected with any development proposal and that there are no reasonable or practicable alternative courses of action.**

The erection of buildings or other structures over the line of a culverted watercourse will not be permitted.

Draft Policy FLD06 – Development in proximity to reservoirs:	
<p>Where a proposal for new development lies within the flood inundation area of a Controlled reservoir, the Council will only grant permission where the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety.</p> <p>There will be a presumption against development within the potential flood inundation area for proposals that include:</p> <ul style="list-style-type: none"> • essential infrastructure; • storage of hazardous substances; • accommodation for vulnerable groups; and • for any development located in areas where the FRA indicates potential for an unacceptable combination of depth and velocity. 	
<p><i>Ref:</i> DPS/115/69 DPS/317/18, 74, 75, 78, 79</p>	<p><i>Representative:</i> (Main Issue) NIHE (Support) DfI (1), (2), (3), (4), (5)</p>
<p><i>Main Issue 1:</i> The title of the policy should be amended to ‘Draft Policy FLD06 – Development in Proximity to Controlled Reservoirs’ (DPS/317/18).</p>	
<p><i>Response:</i> This is considered a minor textual alteration to reflect the regional strategic planning policy within para 6.120 of the SPPS. As such the Council have no objection to proposing this change to the document.</p>	
<p><i>Main Issue 2:</i> Substantive reference to the requirement for a Flood Risk Assessment (FRA) is missing from the draft policy (DPS/317/74).</p>	
<p><i>Response:</i> Although sentence referred to is included in ‘Policy Clarification’, the Council concurs that it should be added to Policy FLD06 in order to reflect the Regional Strategic Policy approach in the SPPS.</p> <p>Move the following text into policy: ‘All proposals shall be accompanied by a Flood Risk Assessment (FRA) which demonstrates an assessment of the downstream flood risk in the event of:</p> <ul style="list-style-type: none"> • a controlled release of water; • an uncontrolled release of water due to reservoir failure; • a change in flow paths because of proposed development; and • that there are suitable measures to manage and mitigate the identified flood risk, including details of emergency evacuation procedures.’ <p>This wording is in line with that of SPPS.</p>	

The FRA will also need to set out suitable measures to manage and mitigate the identified flood risks, including details of emergency evacuation procedures.

Main Issue 3:

The draft policy should allow for the control of replacement buildings within the inundation area of a Controlled Reservoir (DPS/31775).

Response:

FLD06 does allow for the control of replacement buildings as ‘a proposal for new development’. The SPPS policy provision does not differentiate between replacement of an existing building and other development in the flood inundation area.

Main Issue 4:

The term ‘suitably qualified engineer’ should be clarified (DPS/31778)

Response:

In para 2.3. of the technical advice note of August 2018, it states a ‘suitably qualified engineer’ as being an All Reservoirs Panel Engineer. Suggest adding definition as a footnote.

Main Issue 5:

Dfl recommends FODC use their DA and FRA specs as ‘they are more detailed and specify the methodologies required for the various calculations’ (DPS/31779).

Response:

Minor text addition to Flood Risk Management – Context and Justification, clarifying the roles of Dfl Rivers Agency and Water and Drainage Policy Division as statutory consultees including the need to check their requirements of what constitutes an informed Drainage Assessment and/or Flood Risk Assessment prior to the submission of any documents should be included.

Conclusions:

In order to address Main Issue 2 - and if the Commissioner is so minded to consider at IE - the following text from the policy clarification should be moved into the policy box:

‘All proposals shall be accompanied by a Flood Risk Assessment (FRA) which demonstrates an assessment of the downstream flood risk in the event of:

- a controlled release of water;
- an uncontrolled release of water due to reservoir failure;
- a change in flow paths because of proposed development; and
- that there are suitable measures to manage and mitigate the identified flood risk, including details of emergency evacuation procedures.’

Renewable and Low Carbon Energy Generation

(NB: There was a typographical error in relation to the title of the map associated with the Wind Energy Strategy. It should be retitled Landscape Wind Energy Capacity Strategy map)

Draft Policy RE01 – Renewable and Low Carbon Energy Generation

The Council will permit proposals for the generation of energy from renewable or low carbon sources and any associated buildings and infrastructure, where it can be demonstrated that there will be no unacceptable adverse impact upon:

- a) public safety, human health, or residential amenity;
- b) visual amenity and landscape character;
- c) biodiversity, nature conservation or built heritage interests;
- d) local natural resources, such as air quality or water quality and quantity;
- e) the safety of public footpaths, highways;
- f) aviation interests, broadcasting installations and all other telecommunications.
- g) public access to the countryside and/or recreational/tourist use of the area;
- h) flood risk;
- i) active peatland; And
- j) they do not create unacceptable cumulative impacts when viewed in conjunction with other operational and approved renewable and low carbon energy generation developments.

Wind Energy Proposals

In addition to criteria (a) - (j) above, all proposals for wind energy development including single turbines and wind farms, extensions and repowering will be required to comply with the guidance set out in the Fermanagh and Omagh Wind Energy Strategy (Appendix 7) and demonstrate that:

- k) they do not result in unacceptable impacts on nearby residential properties and/or any sensitive receptors in terms of noise, visual dominance, shadow flicker, ice throw or reflective light;
- l) the development will not create a significant risk of landslide or bog burst;
- m) the proposed entrance is adequate for both the construction and operation phase of the development along with the local access road network to facilitate construction of the proposal and transportation of large machinery and turbine parts to site;
- n) a separation distance of 10 times rotor diameter to an occupied, temporarily unoccupied or approved dwelling can be achieved. A minimum distance not less than 500m will generally apply to wind farms with single turbine proposals assessed on a case by case basis; and
- o) the above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

Large Scale Ground Mounted Solar PV installations

Ground mounted solar PV installations i.e. solar farms will not be permitted within the Sperrin AONB, Special Countryside Areas (SCAs) and Areas of High Scenic Value (AoHSV).

<p>Outside the Sperrin AONB, Special Countryside Areas (SCAs) and Areas of High Scenic Value (AoHSV), we will support proposals for large scale solar farms which meet criteria (a) – (j) above and the following criteria;</p> <p>o) they do not result in unacceptable impacts on nearby residential properties and/or any sensitive receptors.</p>	
<p><i>Ref:</i></p> <p>DPS/022/34, 35,37 DPS/054/20 et al⁴ DPS/113/19, 24, 25 DPS/115/70 DPS/116/03 DPS/134/03 DPS/191/03 DPS/238/04 DPS/250/06 DPS/252/01 DPS/256/02 DPS/259/12 DPS/265/11 DPS/266/03 DPS/270/03, 05 DPS/269/05 DPS/276/02 DPS/277/43, 47 DPS/285/05 DPS/317/91</p>	<p><i>Representative: (Main Issue)</i></p> <p>RSPB (1,2,3,4) Multiple groups and private individual (5,6, 7) DfC (HED) (8, 20) NIHE (Support) Canavan (11, 12) Cllr S Greene (18) Private Individual (18) Private Individual (14) DAERA (NED) (13) SSE (9, 11, 15, 16, 17, 19) Green Party (10) Private Individual (14) Jemma Dolan MLA (18) NIRIG (9,11,15,16,17, 19) RES (9, 11, 15, 16, 17, 19) Cooneen Development Association (18) Private Individual (18,20) National Trust (20, 8) Private Individual (20) Dfl (21, 22)</p>
<p><i>Issues relating to Wind Energy Proposals</i></p>	
<p><i>Main Issue 1:</i> The policy wording has been weakened for development on active peatlands. PPS 18 and para. 6.226 of the SPPS states any renewable development ‘on active peatland will not be permitted unless there are imperative reasons of overriding public interest’ and quotes the relevant legislation. Have requested that point ‘i) active peatland’ is removed from the list and replaced with a sentence to reflect paragraph 6.226 of the SPPS. (DPS/22/34)</p>	
<p><i>Response:</i> Have reflected on the comment made. There is a need to quote ‘Any renewable energy development on active peatland will not be permitted unless there are imperative reasons of overriding public interest’ from paragraph 6.226 of the SPPS within the policy. Will remove criteria i).</p> <p>Also need to quote paragraph 6.226 of the SPPS ‘Active peatland is of particular importance to Northern Ireland for its biodiversity, water and carbon storage</p>	

qualities. Any renewable energy development on active peatland will not be permitted unless there are imperative reasons of overriding public interest as defined under The Conservation (Natural habitats, etc.) Regulations (Northern Ireland) 1995 as amended' within the policy clarification

The Natural Environment policies NE01 – Nature Conservation, NE02 – Protected Species and their Habitats and NE03 would also apply to any proposals for renewable and low carbon energy generation developments. Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 2:

Policy test j) has also narrowed the scope of cumulative impact analysis to 'other operational and approved renewable and low carbon energy generation developments'. Cumulative impact includes existing, approved and firm proposals which is the widely recognised and accepted approach to cumulative impact analysis across the full range of development management applications. Suggest additional wording to point j) to read as follows "they do not create unacceptable cumulative impacts when considered in conjunction with other operational, approved, and those which are currently the subject of valid but undetermined applications for renewable and low carbon energy generation developments". (DPS/22/35)

Response:

Agree, need to amend the wording. Criteria j) should read as "they do not create unacceptable cumulative impacts when considered in conjunction with other operational, approved, **and those which are currently the subject of valid but undetermined applications** for renewable and low carbon energy generation developments".

Main Issue 3:

A further policy test needs to be inserted as follows: 'that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines' (DPS/22/35)

Response:

Need to include the following wording in paragraph 6.32 of the Policy Clarification. "In relation to wind energy development the number, scale, size and siting of turbines may have an unacceptable impact on visual amenity or landscape character."

Also the issue is addressed in criteria b) of the policy which is read in conjunction with k) – o) under Wind Energy Proposals.

Policy DE02 – Design Quality would also apply to any proposals for renewable and low carbon energy generation developments. Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 4:

The scope for potential areas of constraint must include reference to sensitive nature features, as environmental capacity is more than a visual assessment alone and includes habitats and species many of which are located outwith designated areas. Areas of constraint should also have their nature designations listed. (DPS/22/37)

Response:

Policies for natural environment including NE01 – Nature Conservation, NE02 – Protected Species and their Habitats and NE03 – Biodiversity are all material considerations when assessing planning applications.

There is a NIEA Natural Environment Map viewer available on <https://apps.d.aera-ni.gov.uk/nedmapviewer/> which identifies Protected Species, Priority Habitats, Priority Species.

Main Issue 5:

The policy should include arrangements for ongoing adjustments to include taking on board emerging evidence of negative impact of low frequency noise, shadow flicker etc. In the past FODC embraced wind energy when awareness of the downsides were unknown. The negative impact on visual amenity, on the quality of life of people living nearby including low frequency noise and shadow flicker and the detrimental impact on tourism are well known now. (DPS/54/20 et al)

Response:

Criteria a), b), k), n) of RE01 deals with the issues raised in relation negative impacts on health and wellbeing, visual amenity low frequency noise, shadow flicker etc. Also, as part of the planning application Environmental Health are consulted, and their response is a material consideration in determining the planning application.

The LDP is intended to be a flexible document, capable of responding to changing needs and circumstances regionally and locally. Chapter 7 Monitoring and review of the DPS sets out monitoring indicators which includes renewables.

Also, under The Planning (Local Development Plan) Regulations (Northern Ireland) 2015 PART 6, Regulation 26 (1) it states that “A council must carry out a review of its local development plan every five years and no later than five years from the date that the local policies plan was first adopted or approved.”

There is no evidence that this issue has impacted on the tourism within the area.

Main Issue 6:

There is an urgent need for a comprehensive and independent review of the wind energy business in NI before any further planning applications are recommended for approval. (DPS/54/20 et al)

Response:

As part of the Fermanagh and Omagh Wind Energy Strategy a review was conducted for FODC and into adjoining council areas. FODC cannot instigate a review of the wind energy business in NI.

Main Issue 7:

Point o) of Wind Energy Proposals is meaningless. (DPS/054/20 et al⁴)

Response:

Amend the wording of criteria o) the above ground redundant plant (including turbines), buildings and associated infrastructure shall be removed, and the site restored as per the agreed Decommissioning and final Restoration Plan which should include details of the final restoration scheme and proposed future land use. The Plan should include the following;

- timescales for completion of individual phases of restoration where a progressive scheme is proposed;
- aftercare arrangements once restoration is complete.

The Decommissioning and final Restoration Plan will be conditioned as part of the planning approval which already addressed in paragraph 6.27 of the policy clarification.

Main Issue 8:

Consider the policy to be unclear as it does not take sufficient account of SPPS notably paragraph 6.219 (second bullet). Request that the wording for criteria c) is biodiversity, nature conservation or historic environment interests in line with policies DE02 and MIN01. (DPS 113/25)

Criterion c) of policy RE01 should at least include reference to built heritage interests and their settings. (DPS/277/47)

Response:

For consistency across the policies, it is recommended that the policy wording is amended to reflect other policies within the plan. Change criteria c) to: 'biodiversity, nature conservation or historic environment'.

Main Issue 9:

The Council's proposal to heavily restrict the development of wind energy development within the AONB is not endorsed within the SPPS. Furthermore, the Council's evidence is flawed in its methodology and does not align with the draft policy set out in the Draft Plan Strategy. The Council has failed to consider the operational implications of the proposed policy and how it corresponds with other proposed policies within the dPS.(DPS/252/01, DPS/266/03, DPS/270/03)

Response:

The LWECs provides a reasoned assessment that the LCAs within the AONB have a low capacity for wind energy development based on landscape character sensitivity, visual sensitivity and landscape value. Furthermore, when referring to the need for a cautious approach for renewable energy development proposals

within designated landscapes which are of significant value, such as AONBs, the SPPS acknowledges in paragraph 6.223 that in such sensitive landscapes, it may be difficult to accommodate renewable energy proposals, including wind turbines, without detriment to the region's cultural and natural heritage assets. The methodology used by Ironside Farrar limited conforms with the recommendations of this best practice guidance. (Landscape Consultation Responses, Ironside Farrar, March 2019).

Main Issue 10:

Welcomes the fact that there appears to be some effort at strategic planning for wind turbines although it has come long after the massive increase in wind turbines in the District. Planning has not sufficiently recognised the problems associated with unplanned proliferations of wind turbines. Alternative schemes are not considered such as community-owned wind energy. (DPS/256/02)

Response:

Criteria j) of RE01 deals with cumulative impacts when viewed in conjunction with other operational and approved renewable and low carbon energy generation developments. Community-owned wind energy developments will be assessed like any other wind energy development use policy RE01 and all other relevant planning policies.

There is no need to make a specific reference to community owned wind energy schemes.

Main Issue 11:

With reference to Section 6.29 and the Landscape Wind Energy Study/Strategy map do not believe it is necessary to designate specific areas with classifications of “Underlying Capacity” or “Significant Cumulative Development”. Wind farm developments can be fully assessed with reference to environmental and planning designation and through dedicated landscape and visual impact assessment. Areas for wind development are already significantly constrained by such designations, and the application of further designation may discourage future development. (DPS/116/03, DPS/252/01, DPS/266/03, DPS/270/03)

Response:

Ironside Farrar's comments to this issue are as follows:

- The purpose of capacity assessment is to inform a spatial strategy which steers wind energy development to those landscapes in which it can be best accommodated, and anticipates cumulative wind energy development beyond the scope of individual LVIA;
- Capacity studies provide a consistent basis against which individual project LVIA can be measured, highlighting landscape sensitivities or undesirable cumulative situations which may not be apparent from a landscape character assessment or LVIA.

- The capacity assessments and ‘wind energy landscapes’ of the capacity study are not designations but provide guidance on acceptable levels of cumulative wind energy development in a landscape.
- We agree however that the landscape, visual and cumulative effects of an individual scheme can only be established through a specific LVIA.

Recommend removal of the word ‘designation’ from the text box under paragraph 6.29 and replace it with ‘identified’.

Main Issue 12:

Flexibility should be applied, recognising that there are potential development areas within these designated zones that do not conform to the general area definition. Wind energy development should continue to be assessed on their own planning merit, on a case by case basis. Land should not be sterilised to wind energy development based on partially subjective assessments of landscape capacity. (DPS/116/03)

Main Issue 13:

The identification of areas with highest and limited underlying capacity is contrary to ‘natural heritage’ policies contained in PPS 2 and SPPS to protect designated international and national sites and European protected and national priority species and habitats. The Landscape Wind Energy Study/Strategy map does not take into account European or nationally designated heritage sites, nor areas rich for European protected and national priority species and habitats. (DPS/250/06)

Response to 12 and 13:

All planning applications are assessed on their own planning merit. The aim of the Council’s Wind Energy Strategy is to capitalise on the potential for wind energy within the Council area, while protecting the landscape, environmental considerations and residential amenity and to give a broad indications of where potential appropriate wind energy development could take place.

Ironside Farrar state that the capacity assessments and ‘wind energy landscapes’ of the capacity study are not designations but provide guidance on acceptable levels of cumulative wind energy development in a landscape.

Main Issue 14:

Questioned why the entire Sperrin AONB is not an “Area of No underlying Capacity” and recommend that it should be. Also questioned what criteria was used to determine the areas of capacity, by who and based on what evidence. FODC should take cognisance of the health implications of Infrasound and low frequency noise, as by creating this plan, and indeed by allowing other wind turbines in areas of Significant cumulative development FODC is liable. (DPS/259/12)

Clear that Tyrone is big on wind energy production but don’t see any reference to learnings over time. Anecdotal evidence would suggest that

**there is significant human impact with noise pollution and health.
(DPS/238/04)**

Response to Main Issue 14:

The approach, methodology and landscape capacity assessment are set out in the Landscape Wind Capacity Study which was commissioned by the Council and undertaken by landscape consultants Ironside Farrar.

Section 2.4 Landscape and Visual Baseline of the LWCS states that related designations that can contribute to landscape value and character are recorded. These include natural and cultural heritage designations, recreational/visitor facilities and paths/tracks.

Designated international and national sites and European protected and national priority sites can be checked on the DAERA interactive map viewer.

Main Issue 15:

Questioned why the wording has not mirrored the overarching policy of the SPPS. There is no justification for the removal of 'will generally apply'. Also questioned the separation distance as there is no statutory separation distance in legislation. Ask that FODC look at the planning guidance which is currently being drafted in the Republic of Ireland which will apply to the neighbouring wind farms such as Counties Donegal, Cavan and Monaghan. Requested that 'temporarily unoccupied' is defined.

**Concerned about the reference to turbine separation distances deviating from the SPPS. Encourage FODC to look at the planning guidance which is currently being drafted in the Republic of Ireland and which applies to the neighbouring wind farms in Counties Donegal, Cavan and Monaghan.
(DPS/252/01, DPS/266/03, DPS/270/03, DPS/270/05)**

Response:

Remove the full stop from after the word 'achieved' and replace it with a comma. Criteria n) should read as follows *'a separation distance of 10 times rotor diameter to an occupied, temporarily unoccupied or approved property can be achieved, with a minimum distance not less than 500m will generally apply to wind farms with single turbine proposals assessed on a case by case basis.'*

The separation distance is in line with the SPPS paragraph 6.227. The word 'dwelling' is replaced by 'property' as this is the term used in the SPPS.

The Planning Guidance for wind energy in the Republic of Ireland is currently being drafted and has not yet been adopted.

The term 'temporarily unoccupied' refers to a dwelling capable of immediate occupation. This will be added to the policy clarification following the 1st sentence of paragraph 6.27.

Main Issue 16:

The application of this policy requirement in relation to separation distance to future wind farm repowering applications may have a significant impact on the feasibility of wind farms. Where it can be demonstrated that the development will not have a significant impact on the residential amenity by virtue of noise, safety, telecommunications etc. then development should be acceptable. (DPS/252/01, DPS/266/03, DPS/270/05)

Response:

In relation to planning applications for repowering, Paragraph 6.30 of the policy clarification states that the potential benefits of repowering need to be balanced against the appropriateness of a likely increase in turbine size and height and whether such a change can be comfortably accommodated within the original footprint. All relevant planning policies and consultation responses are material considerations when determining planning applications for repowering.

Main Issue 17:

Joint working with other councils regarding a consistency of approach to development within areas where there are shared boundaries such as the Republic of Ireland is of utmost importance. (DPS/252/01, DPS/266/03, DPS/270/03, DPS/270/05)

Response:

Both FODC and relevant councils have met their legislative requirements in terms of the consultation process.

During the preparation of the DPS there was a Cross Border Forum where members were committed to provide appropriate policies and/or designations to address issues of common ground including wind energy development. Separate meetings with individual councils including those in the Republic of Ireland were also carried out. Also, the cross-border councils were consulted as part of the POP and DPS and any representations received were considered.

Main Issue 18:

References the detrimental impact of wind turbines on health and well-being of residents.

Investigate recent studies that wind turbines give off ultra-sound and low frequency noise that causes health problems to communities that live close to wind farms. If after further investigation these international studies are correct, the Council's policy should take into account the same studies' conclusions that the minimum safe distance between wind farms and nearby residences should be 1500 metres.

Requested that the separation distance is changed to a minimum of 1500 metres from any occupied, temporarily or approved dwelling can be achieved for all wind turbines whether single or part of a wind farm as understand that this an accepted minimum distance criterion in many countries. (DPS/134/03, DPS/191/03, DPS/265/11, DPS/269/05, DPS/276/02)

Response:

Details of the cited 'recent studies' have not been provided. In the absence of the report details, we cannot make a consideration in relation to it.

Separation distances and best practice elsewhere such as England, Ireland, Scotland and other parts of the world have been examined. We are aware that the guidelines for separation distances in Ontario cite a range from 550m up to 1500m and this depends on the number of wind turbines within a radius from the receptor of up to 3 km and on the specified Sound Power Level (dBA) of the wind turbine.

Existing research and published material do not provide a robust evidence base to support the setting of, or selection of, specific separation distances. The current policy of considering the visual impact of wind energy development and the impact on the amenity of residential properties on a case by case basis allows greater scope to assess the full impact of the proposal on an evidential basis. There is a risk that in imposing separation distances, there may be an adverse impact outside the recommended distance, particularly in terms of visual amenity. There is also the risk that large areas, suitable for wind energy, may be sterilised.

Main Issue 19:

Concerned about the reference to turbine separation distances deviating from the SPPS. Encourage FODC to look at the planning guidance which is currently being drafted in the Republic of Ireland and which applies to the neighbouring wind farms in Counties. Donegal, Cavan and Monaghan.

The suggestions that there is no capacity for onshore wind energy development within the AONB and other sensitive landscapes is contrary to national planning policy. Strongly recommend that the approach proposed by the Council, which is tantamount to applying a moratorium on wind energy development within areas of the Sperrins AONB within the FODC Council area and newly designated Special Conservation Areas, should be withdrawn as in conflict with the SPPS. Design criteria relating to the siting and location of turbines should be reconsidered to take account of existing and operating wind energy developments. (DPS/252/01, DPS/266/03, DPS/270/03, DPS/270/05)

Response:

Paragraph 6.227 of the SPPS refers to 'separation distance of 10 times rotor diameter to occupied properties, with a minimum distance not less than 500m will generally apply' and this is reflected in policy RE01. It is taken as a matter of best practice.

In drawing up the policy wording of RE01 in relation to separation distance, research into the separation distances and standards used in other countries for wind energy development was assessed. Planning Guidance from the RoI had been taken into consideration when preparing the policy.

The LWECS does not state there is no capacity for wind energy development within the AONB, but low capacity within LCAs included in the AONB based on a range of factors. See Section 2 of the Ironside Farrar report.

Also the LWECS does not in effect impose a moratorium on wind energy development within the AONB.

Criteria j) of RE01 addresses cumulative impacts when viewed with other operational and approved renewable and low carbon energy generation developments.

Main Issue 20:

To make the policy more effective and to avoid any detriment to the region's cultural and natural heritage assets, further rigorous policy tests on heritage and landscape considerations should be applied to wind turbine proposals across the Council area such as no unacceptable adverse effects on long and medium range views to and from sensitive landscapes, such as Sperrin AONB and no unacceptable adverse effects on important recognised outlooks and views from or to heritage assets where there are predominantly unaffected by harmful visual intrusion, taking into account the significance of the heritage assets and its setting. Criterion (c) of Policy RE01 should at least include reference to built heritage interest and their settings.
(DPS/277/43)

HED consider the opening sentence of RE01 fails consistency test C3, the policy is unclear and does not take sufficient account of SPPS 6.219 second bullet point regional strategic policy for renewable energy: to ensure adequate protection of the region's built, natural, and cultural heritage features. Whilst DfC HED support the Landscape Wind Energy Capacity Study it is disappointed that it did not take a clearer account of the historic environment evidence bases, particularly the candidate ASAIs.
(DPS/113/19,24&25)

DPS/276/02, DPS/285/05)

Response:

The potential impact on the regions cultural and natural heritage assets and landscape would be a material consideration when determining planning applications for proposals for wind energy development and would be addressed by other policies of the draft Plan Strategy (e.g. policies HE01, HE02, HE03, HE04, HE05, HE06, HE07, TOU01).

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Include 'and their settings' to the end of criterion (c).

Main Issue 21:

Recognises that point "m" covers certain aspects of road safety when these wind farms are under construction. However, the proposed policy wording

does not give sufficient cover or protection in relation to the full construction or operation process e.g. position of the turbines. Has asked that the following policy wording be considered “*Although wind turbines erected in accordance with best engineering practice are considered to be stable structures, they should be set-back at least fall over distance plus 10% from the edge of any public road, public right of way or railway line so as to achieve maximum safety.*”

Also requested a large amount of information to be included in the policy clarification. (DPS/317/91)

Response:

The Council consider that this issue has been addressed. Point “m” does include operation phase of the development. The exact wording of criteria “m” is “the proposed entrance is adequate for both the construction and operation phase of the development along with the local access road network to facilitate construction of the proposal and transportation of large machinery and turbine parts to the site”.

It is recommended to include an additional criterion under Wind Energy Proposals to address the set back of wind turbines from the public road, public right of way or railway line which should be as follows;

“All wind turbines should be set back at least fall distance plus 10% from the edge of any public road or public right of way.”

Main Issue 22:

A number of additional points are requested to be added to the policy clarification. A summary is as follows:

- Roads access to a wind farm site will need to be accommodate trailers carrying the longest, heaviest and widest loads. Amendments to existing roads should be detailed in any wind farm planning application;
- Applicants advised to consult at an early stage with DfI Roads Service for development affecting public roads;
- Concerns over the effects of wind turbines on car drivers causing distraction however drivers are faced with distractions during any normal journey including advertising. At all times drivers are required to take reasonable care to ensure their own and others’ safety. The provision of appropriately sited laybys which should be adequate to cater for tour buses.
- Construction traffic for a wind turbine development will essentially be no different from other developments, many turbines will be sited in areas served by the minor road network. It may be necessary to impose suitable conditions on consents or enter a legal agreement with the developer to control the number of vehicle movement to and from the site in a specified period. Strengthening bridges may also be required by the DfI Roads Service.

- **Where culverting of any watercourse under site roads is planned consent from the DfI Rivers Agency will also be required. (DPS/317/91)**

Response:

The suggested wording is identical to that in the Best Practice Guidance to PPS18 'Renewable Energy'.

Could consider including the suggested wording under section 4.0 Guidance on preparing Wind Energy Proposals of Appendix 7.

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded, the Council is willing to amend the wording in response to some of the comments raised. The proposed changes, which are considered to be minor contextual changes, are as follows:

- Add the following into the policy box. **Any renewable energy development on active peatland will not be permitted unless there are imperative reasons of overriding public interest.**
- **Within the policy clarification will add the following statement;** Active peatland is of particular importance to Northern Ireland for its biodiversity, water and carbon storage qualities. Any renewable energy development on active peatland will not be permitted unless there are imperative reasons of overriding public interest as defined under The Conservation (Natural habitats, etc.) Regulations (Northern Ireland) 1995 as amended'.
- Criteria j) they do not create unacceptable cumulative impacts when considered in conjunction with other operational, approved, **and those which are currently the subject of valid but undetermined applications** for renewable and low carbon energy generation developments".
- Paragraph 6.32 of the Policy Clarification add the following;
In relation to wind energy development the number, scale, size and siting of turbines may have an unacceptable impact on visual amenity or landscape character.
- Criteria o) the above ground redundant plant (including turbines), buildings and associated infrastructure shall be removed, and the site restored as per the agreed Decommissioning and final Restoration Plan which should include details of the final restoration scheme and proposed future land use. The Plan should include the following;
 - timescales for completion of individual phases of restoration where a progressive scheme is proposed;
 - aftercare arrangements once restoration is complete.

- Criteria c) ‘biodiversity, nature conservation or historic environment’.
- Need to remove the word ‘designation’ from the text box under paragraph 6.29 and replace it with ‘identified’.
- Criteria n) should read as follows *‘a separation distance of 10 times rotor diameter to an occupied, temporarily unoccupied or approved property can be achieved, with a minimum distance not less than 500m will generally apply to wind farms with single turbine proposals assessed on a case by case basis.’*
- Paragraph 6.27 include ‘Temporarily unoccupied refers to a dwelling capable of immediate occupation’.
- Add an additional criterion under Wind Energy Proposals as follows; *“All wind turbines should be set back at least fall distance plus 10% from the edge of any public road or public right of way.”*
- In paragraph 6.24 of the Context and Justification include reference to environmental designations.
- Amend criteria o) under Ground Mounted Solar PV installations to p).

Draft Policy RE01 – Renewable and Low Carbon Energy Generation

Issues relating to Large Scale Ground Mounted Solar PV installations

<p><i>Ref:</i> DPS/022/36 DPS/277/42 DPS/317/28, 89</p>	<p><i>Representative (Main Issue)</i> RSPB (2) National Trust (1) DfI (3, 4)</p>
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Main Issue 1:
Not clear about the impact of the following statement regarding wind energy developments as from reading it maybe it only supports large-scale solar farms - “Outside the Sperrin AONB, Special Countryside Areas (SCAs) and Areas of High Scenic Value (AOHSV), we will support proposals for large scale solar farms.” (DPS/022/36)

Generally support the policy however solar developments should not be allowed in AONB, AoHSV and SCA. (DPS/277/42)

Response:
 Following further consideration, it has been decided to remove ‘Large Scale’ from the policy title and from within the policy box and paragraph 6.32 of the policy clarification.

This statement only relates to solar farms and does not relate to wind energy development. There is no moratorium on wind energy development within the AONB.

Main Issue 2:

In relation to Large Scale Ground Mounted Solar PV installations should include a reference to sensitive areas including species and habitat. There is also a need for a robust policy which protects priority habitats and species as identified in the NI Biodiversity Strategy. Suggested that criteria o) should read as follows “they do not result in unacceptable impacts on nearby residential properties and/or any sensitive receptors (including species and habitats). (DPS/022/36)

Response:

The potential impact on natural environment including priority habitats and species would be a material consideration when determining planning applications for proposals for the generation of renewable and low carbon energy sources including and as this would be addressed by other policies of the draft Plan Strategy (e.g. policies NE01, NE02, NE03).

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Additional criteria are therefore not required.

Main Issue 3:

Expect policy wording for Large Scale Ground Mounted Solar PV installations to include criteria to address the following; “*The proposed entrance is adequate for both the construction and operation phase of the development along with the local access road network to facilitate construction of the proposal and transportation of machinery and part to the site*”. (DPS/317/28)

Response:

Agree. The proposed criteria should be included within the policy for Ground Mounted Solar PV installations.

Add the following policy criteria to Ground Mounted Solar PV installations

q) “*The proposed entrance is adequate for both the construction and operation phase of the development along with the local access road network to facilitate construction of the proposal and transportation of machinery and part to the site*”.

Main Issue 4:

Para 6.33 references the lack of guidance for location and design for solar farms. DfI suggest the use of supplementary planning guidance for this. (DPS/317/89)

Paragraph 6.33 of the dPS recognises the lack of guidance in relation to the appropriate location and design of solar farms and then references the existence of current examples. The Council will consider bringing forward Supplementary Planning Guidance.

Conclusions:

The policy is considered to be sound. However, if the Commissioner is so minded it would benefit from the following minor contextual changes:

- remove ‘Large Scale’ from the policy title and from within the policy box and paragraph 6.32 of the policy clarification.
- Add the following policy criteria to Ground Mounted Solar PV installations
 q) “*The proposed entrance is adequate for both the construction and operation phase of the development along with the local access road network to facilitate construction of the proposal and transportation of machinery and part to the site*”.

Draft Policy RE01 – Renewable and Low Carbon Energy Generation

Issues relating to Appendix 7 – Wind Energy Strategy for Fermanagh and Omagh District Council

<p><i>Ref:</i> DPS/022/40,41 DPS/029/02^s DPS/113/19 DPS/116/03, 04 DPS/191/02 DPS/250/06 DPS/252/01, 11 DPS/266/03 DPS 270/03 DPS/277/45DPS/317/28</p>	<p><i>Representative:</i> (Main Issue) RSPB (1,2) Multiple groups & private Individuals (3) HED (1, 4) Canavan Associates (5,6) Private Individual (3) DAERA (NED) (1) SSE (7) NIRIG (7) RES (7) National Trust (8) DfI (9)</p>
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Main Issue 1:
Areas of constraint must include reference to sensitive nature features, as environmental capacity is more than a visual assessment alone and includes habitats and species. Areas outside of any area of constraint must not become ‘sink holes’ for development, the potential environmental impacts of any development or constraint zoning must be thoroughly assessed in the decision-making process. Modifications requested include identifying a number of areas to be considered sensitive to wind energy development. The areas include the following; areas with hen harriers (50% of FODC), areas with breeding waders (Lough Erne is one of the last remaining

strongholds of breeding waders), Greenland White – fronted Geese (the area to the east of Lower Lough Macnean), Whooper Swan. (DPS/22/040)

DfC disappointed Wind Energy Capacity Study did not take a clearer account of the historic environment evidence bases, particularly the candidate ASAls. (DPS 113/19)

There is a concern about three of the areas that have been identified as ‘Areas with Highest Underlying Capacity’ which include Lough Bradan (no. 1), Slieve Beagh (no. 3), Lough Navar and Ballintempo Uplands (no. 6). Lough Bradan (no. 1) contains some areas of peatland and grassland priority habitats as well as records of Marsh Fritillary (butterfly). Slieve Beagh (no. 3) is a SPA for Hen Harriers. The Lough Navar and Ballintempo Uplands (no. 6) contains an ASSI. The Wind Energy Strategy does not take into account European or nationally designated heritage sites, nor areas rich for European protected and national priority species and habitats. Request that the Landscape Wind Energy Study map is amended to show natural heritage sites and features where there is no underlying capacity. (DPS/022/40, 250/06)

Response:

The potential impact on natural environment including priority habitats and species would be a material consideration when determining planning applications for proposals for the generation of renewable and low carbon energy sources including wind energy and as this would be addressed by other policies of the draft Plan Strategy (e.g. policies NE01, NE02, NE03).

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

The Natural Heritage designations should be checked on the NIEA interactive map viewer available on <https://apps.d.aera-ni.gov.uk/nedmapviewer/>

Main Issue 2:

The cumulative impacts set out in 4.3.5 of Appendix 7 should include those of single turbines. The issue of cumulative impacts of single turbines needs further consideration as multiple single turbines in very close proximity to each other can effectively create the effect of a wind farm without ever having been robustly assessed as such. Guidance should also include the consideration of effects on species and habitats as identified in the NI Biodiversity Strategy. (DPS/022/41)

Response:

The wind energy strategy relates to wind energy proposals which includes single turbines. Paragraph 4.3.5 states that cumulative impacts with any other operational, consented or application stage sites should be assessed. This relates to all wind energy proposals both single turbines and wind farms.

Main Issue 3:

Request for the proposed ASAI to be extended to include 6 additional townlands and request that FODC ensures that the character of this historic landscape is preserved by including the proposed ASAI within the area that has no underlying capacity for wind development. (DPS/029/02 et al⁸, DPS/191/02)

Main Issue 4:

Welcomes the fact that a wind energy study was undertaken, however concerned that this was preceded the Landscape Character Review by some months. Evidence supplied 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. 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. (DPS/113/19)

Response to 3 and 4:

Both candidate ASAI's have already been ratified by the Historic Monuments Council. It is the Historic Environment Division who survey that candidate ASAI's and identify the area to be included within the designation. It is through the adoption of the DPS that ASAI's are designated.

The townlands in question are located within LCA 25 Beaghmore Hills and Marsh which is located within an area with limited underlying capacity. Paragraph 2.2.6 of Appendix 7: Wind Energy Strategy for Fermanagh and Omagh District Council. The Beaghmore Moors and Marsh from the lower foothills to the Sperrins and are of a smaller scale than the core of the AONB area further to the north. While its character suits a level of smaller scale wind energy development, the AONB designation results in no capacity for turbines greater than 'medium' size (<80m), and then only as scattered single or small turbine groups. This landscape should be maintained as a landscape with occasional wind turbines.

Main Issue 5:

Section 1.2 of Appendix states "...continuing pressure to utilise the wind resource". Wind energy development should be recognised as a welcome opportunity to provide sustainable development and national benefits by harnessing one of the greatest wind energy resources in Europe. (DPS/116/04)

Response:

In paragraph 1.1 of Appendix 7 the Council acknowledges that Northern Ireland is considered as having one of the greatest wind energy resources in Europe, particularly in the west of the FODC area where the topography, wind speeds and proximity to the west coast line have attracted high numbers of applications for both single wind turbines and wind farms.

The Programme for Government 2011-2015 requires Northern Ireland to seek to achieve 40% of its electricity consumption from renewable resources by 2020. In 2017 Fermanagh and Omagh wind energy contributed to 26% of the electricity generated from renewable sources within Northern Ireland. (Appendix 2, paragraph 4.2 of Public Utilities Topic Paper)

Onshore wind is therefore already well developed in Fermanagh and Omagh District.

Main Issue 6:

In section 1.6, areas of Underlying Landscape Capacity are defined, however the language refers to large, modest and small-scale development. It is not clear if this scale refers to the number of turbines in the grouping, their physical dimensions/overall height or MW output. The meaning of the definition of “Areas of Significant Cumulative Development” is not clear. (DPS/116/03)

Response:

The Landscape Wind Energy Capacity Study (LWECS) includes definitions of the terminology used. In relation to “Areas of Significant Cumulative Development”, a definition is provided at paragraph 6.4.5, Page 77 of the LWECS. There are a number of landscape types and areas in Fermanagh and Omagh that have an underlying capacity to accommodate wind energy development. However, existing and consented development in or nearby some of these areas means that further significant development may exceed the cumulative capacity of the landscape. The areas where cumulative impact limits capacity for further development are shown as hatched areas in Figure 6.4 of the LWECS.

Appendix 2 of the LWECS provides explanation on turbine size and wind farm size. The guidance for wind energy development outlined in Section 2 of Appendix 7 outlines detailed prescriptions on the type of wind energy developments that can be accommodated in each LCA. If applied rigidly these recommendations will exclude important wind development opportunities. The LCA designations, descriptions or recommendations for future development outlined in this document cannot be applied without flexibility.

Main Issue 7:

Optimised Environments Limited (OPEN) carried out a review of the landscape and visual implications of the Landscape Wind Capacity Study. It is their opinion that the methodology, key findings and various parts of the document are flawed. It is considered that part of the strategy and policies contained within the Draft Plan Strategy are inappropriate and are not founded on a robust evidence base. The Council has failed to consider the operational implications of the proposed policy and how it corresponds with other proposed policies within the dPS. (DPS/252/01)

The Landscape Wind Energy Capacity Study (LWECS) concludes that there is no capacity for wind energy development within the AONB but on the Landscape Wind Energy Study map part of the AONB is shown as ‘areas of limited underlying capacity’. It is clear that it is the theoretical high value of

the AONB that restricts capacity for development. The LWECS fails to assess the value of the AONB landscape but applies a blanket 'high' value across the AONB. (DPS/252/01, DPS/266/03, DPS/270/03)

Response:

This issue is addressed on pages 2-11 of the detailed response prepared by Ironside Farrar dated March 2019 (Appendix 1 attached) to comments made to RES and NIRIG.

Main Issue 8:

The Landscape Wind Energy Strategy in Appendix 7 states that the landscape objective of Cuilcagh and Marlbank LCA is to maintain it as a landscape with no wind turbines (page 260 – para 2.3.2) whereas then the plan suggests there is residual capacity for very localised small-scale development in lowland fringes. This is an inconsistency of the plan; the landscape objective should take precedence. (DPS 277/46) Also request that the last sentence of paragraph 2.1.9 to read as 'these larger turbines should be sited away from the sensitive land of Florence Court and its setting to the south of the LCA.'"(DPS/277/45)

Response:

The landscape objective should take precedence however there is capacity for the occasional turbine of the smallest typology in lowland areas associated with farms and properties.

Include the words**and its setting**..... to the last sentence of paragraph 2.1.9.

However such proposals will be assessed under HE06 – Historic Parks, Gardens and Demesnes which states that "The Council will only permit development proposals within Historic Parks, Gardens or Demesnes, or which may impact upon their settings....."

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Main Issue 9:

In relation to the Wind Energy Capacity Study and the Wind Energy Strategy it is noted the reference to the Wind Energy Strategy in draft policy RE01 and policy clarification. Paragraph 6.28 states it is a principal material consideration and is included as appendix 7 which details the Strategy as strategic guidance. Clarification on the hierarchy of the consideration would be helpful. (DPS/317/28)

Response:

Agree. Remove the reference to guidance in the policy and policy clarification. Also remove the reference to strategic guidance from paragraph 1.3 of Appendix 7.

The wind energy strategy is a material consideration and not guidance. It must be taken account of by wind energy developers and their planning and landscape consultants, other stakeholders and those determining planning application for wind energy development.

Conclusions:

Given the above, the Landscape Wind Energy Strategy is considered to be sound but it would benefit from a number of minor contextual changes as follows:

- Include the words**and its setting**..... to the last sentence of paragraph 2.1.9.
- Remove the reference to guidance in the policy and policy clarification. Also remove the reference to strategic guidance from paragraph 1.3 of Appendix 7.

NB: On consideration of comments made, the Wind Energy Strategy for Fermanagh and Omagh District Council will be renamed Landscape Wind Energy Strategy for Fermanagh and Omagh District Council. Any reference to Wind Energy Strategy will throughout the DPS will be replaced with Landscape Wind Energy Strategy for Fermanagh and Omagh District.

Transportation

It should be noted that the preparation of a Local Transport Strategy (LTS) by DfI to support the LDP has been abandoned. Any comments made to the LTS are now irrelevant. Comments from DfI include those from Strategic Planning, Roads and Transport Planning Modelling Unit.

Transportation – Context and Justification	
<p>6.34. Greater use of sustainable transport modes such as walking and cycling, improved integration of transportation with land-use planning and facilitating safe and efficient access, movement and parking are fundamental to the RDS and A New Approach to Regional Transportation.</p>	
<p>6.35. The Council area is heavily reliant on motorised transport and uses a road network characterised by numerous ‘B’ class and minor roads which, along with ‘A’ roads, link settlements across an extensive rural area. None of the ‘A’ roads have any dual carriageways influencing travel times for those travelling through and within the Council area. This also affects public transport travel times. Within the main towns, cycling and walking infrastructure is not sufficiently developed in some areas to make it attractive as an alternative transport mode. Therefore, an overall objective is to improve physical connectivity and accessibility between and within settlements and their rural hinterland. The Council will support proposals for transportation which improve travel times, alleviate congestion and improve safety as well as providing more sustainable modes of transport including buses, walking and cycling.</p>	
<p>6.36. Alongside this, is the need to create safe and efficient access, movement and parking and ensuring the successful integration of transport and land use. The retention of parking in town centres is also important in the interests of providing accessible and convenient town centres for shoppers and visitors. The effective management of off-street parking will be addressed through the Council’s Parking Strategy and Action Plan (March 2018).</p>	
<p>6.37. Whilst transportation within the district is primarily associated with the road network, our extensive waterways provide connections and opportunities for scenic and sightseeing transportation. Disused railway lines also have the potential to be re-used as transport routes including conversion to Greenways for walking and cycling. Two projects of this type which, subject to funding, may see fruition within the timescale of the Plan, are the Enniskillen to Sligo Greenway and Enniskillen to Clones Greenway. Enniskillen airport at St. Angelo offers opportunities for private and light aircraft travel.</p>	
<p><i>Ref:</i></p> <p>DPS/048/, 02, 03)</p>	<p><i>Representative: (Main Issue)</i></p> <p>Translink (4, 5)</p>

DPS/317/30, 69	Department for Infrastructure (DfI) (1 and 2, 3)
<p>Main Issue 1: Paragraph 6.35 - refers to an ‘overall objective’ “to improve physical connectivity and accessibility between and within settlements and their rural hinterland” – this appears to be an additional objective from what is listed in Part One of the Plan Strategy document. (DPS/317/30)</p>	
<p><i>Response:</i> Following consideration of the representation the Council proposes amending the wording of the second last line of paragraph 6.35 to read as follows; “Therefore the aim is to improve physical connectivity and accessibility between and within settlements and their rural hinterland”.</p> <p>The Council do not intend to create an extra objective.</p>	
<p>Main Issue 2: Paragraph 6.36 - It is considered that the Fermanagh and Omagh Council Parking Strategy is not sufficient in this regard and does not sufficiently tie in with the Local Transport Strategy (LTS). (DPS/317/69)</p>	
<p><i>Response:</i> There is no published LTS thus the Council’s parking strategy cannot tie in with or have regard to the LTS. Further to the receipt of the representation from DfI, the Department have indicated that it is no longer their intention to publish the LTS.</p>	
<p>Main Issue 3: Paragraph 6.37 - The LTS clearly sets out the transportation context for the Fermanagh and Omagh Council area which is made up of pedestrian networks, cycling networks, bus based public transport networks in addition to the road network. (DPS/317/69)</p>	
<p><i>Response:</i> Noted. It is considered that there is no need to change the wording as the current wording reflects the transportation context of FODC. Additionally, further to the receipt of the representation from DfI, the Department have indicated that it is no longer their intention to publish the LTS.</p>	
<p>Main Issue 4: The Council are reminded of the requirement for the Council to take account of policy and guidance issued by the Department. This includes the SPPS. Also references PPS13 Transportation and Land Use, specifically in relation to accessibility analysis. (DPS/048/02)</p>	
<p><i>Response:</i> Noted. The Council are aware of the requirement to take account of policy and guidance issued by the Department. The SPPS has been taken into account in formulating the policies within the draft Plan Strategy. It should be noted that the draft Plan Strategy is proposed to replace the existing Planning Policy statements.</p>	

<p>Main Issue 5: The draft Plan Strategy is being formulated in advance of the updated 'Regional Strategic Network Transport Plan', the 'sub-regional transport strategy' and the 'Sub-Regional Transport Plan' all of which are being prepared by the Department for Infrastructure. (DPS/048/03)</p>
<p><i>Response:</i> Noted. The Council are aware that this is the case.</p>
<p><i>Conclusions:</i></p> <p>The context and justification is considered to be rational and coherent. However, if the Commissioner is so minded the Council is willing to incorporate the following additional wording in response to Main Issue 1 as a minor contextual change:-</p> <ol style="list-style-type: none"> 1. Amend the wording of the second last line of paragraph 6.35 to read as: “Therefore the aim is to improve physical connectivity and accessibility between and within settlements and their rural hinterland”.

Draft Policy TR01 - Land Use, Transport and Accessibility	
<p>The Council will permit development proposals where it is demonstrated that:</p> <ol style="list-style-type: none"> a) there is the capacity to accommodate the type and amount of traffic generated, or where the impact can be suitably mitigated, taking into account the cumulative impact of developments; b) access arrangements do not prejudice road safety or significantly inconvenience the flow of traffic; c) adequate parking facilities are provided in accordance with the current published council parking standards. <p>Transport Assessment will be required where a development proposal is likely to have a significant impact on highway conditions.</p>	
<p><i>Ref:</i></p> <p>DPS/48/01 DPS/115/71 DPS/317/021/081,110, 111,112,113,114, 115, 116, 117, 118, 119, 120, 121</p>	<p><i>Representative: (Main Issue)</i></p> <p>Translink (1) NIHE (Support) DfI (2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13)</p>
<p>Main Issue 1: It appears that the Council have not undertaken an up to date survey or assessment of the transport needs of the plan area and is relying on relying</p>	

on information from a transport plan collated almost 20 years ago. (DPS/48/01)

Response:

A topic paper in relation to Transport was prepared in order to inform the early stages of the plan preparation. This was updated in September 2018. The paper detailed Transportation across the Council Area as a baseline, including: Road Networks (including protected routes), modes of transport (including private car, public transport and walking and cycling), car parking provision, community transport, Enniskillen Airport. The paper also provides details of key future transportation proposals and initiatives for many of the same. It is considered that, given the strategic nature of the draft Plan Strategy, this meets the requirement to provide a survey of district in respect of transportation and traffic.

As stated within paragraph 6.33 of the DPS the Department for Infrastructure were to publish a Local Transport Strategy. The Council worked with DfI in respect of the draft LTS which was informed by an evidential base. Subsequently DfI have advised that they are no longer bringing forward a Local Transport Strategy for each of the Council areas, and instead they propose to publish an evidence base Local Transport Study for each of the Councils.

Main Issue 2:

This draft policy is totally focussed on the car and traffic. Accessibility appears in the title however it is not considered or referred within the policy wording. As well as car parking proposals being inadequate, no reference is made to active travel and sustainable transport. Any major employment generating development would also be required to make appropriate provision for shower and changing facilities as this is considered important in encouraging walking and cycling. (DPS/317/110)

Response:

The Council agrees with the comments that have been made. Accessibility is not addressed within the policy thus will be removed from the policy title.

Accessibility is addressed within Policy DE02 under criteria b) and e).

Criteria b) integrate sustainable modes of transport including walking and cycling and minimise the impact of car parking;

Criteria e) protect and retain any established rights of way, permissive paths and other important access routes.

An additional criterion should be added to TR01 to address active travel as follows; d) appropriate safe, convenient and secure facilities for cycle parking and cyclists are provided.

Paragraph 6.45 of the policy clarification states that '*where it is necessary to provide measures to aid accessibility for everyone, this can be incorporated in a Design and Access statement*'.

The request for shower and changing facilities in developments that provide employment will be addressed under Policy DE02.

Main Issue 3:

Although the SPPS does not provide detail on access arrangements to public roads that are not classed as protected routes it is crucial that, any new policy wording in the DPS gives full protection to access arrangements in the interests of public safety and all road users.

The Department would expect FODC to give further detailed consideration on the policy wording point b) to reflect the following;

- direct access, or the intensification of use of an existing access onto a public road;
- how direct access or the intensification of use of an existing access would not conflict with the Protected Routes;
- consider the number and location of access points already onto the public road; the acceptability of access arrangements;
- nature and scale of development;
- character of existing development;
- contribution of the proposal to the creation of a quality environment;
- and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

(DPS/317/111)

Response:

It is considered that this issue has been adequately addressed under paragraphs 6.39, 6.40 and 6.41 of the policy clarifications of TR01, Policy TR04 - Protected Routes and DE02 - Design Quality.

Paragraph 6.40 states that “a new access onto the public road will be required to be properly located and well designed for the safety and convenience of all road users. Consideration will be given to the proximity to junctions and other existing access points as relevant matters in the assessment of traffic hazards.” This addresses the 1st and 3rd bullet points.

Policy TR04 – Protected Routes addresses development proposals involving direct access, or the intensification of the use of an existing access which addresses the second bullet point.

Paragraph 6.39 states that “in assessing development proposals, the Council will seek to ensure that access arrangements for development proposals are safe and will not unduly interfere with the movement of traffic.”

Policy DE02 – Design Quality addresses the 4th, 5th and 6th bullet points.

A Transport Assessment would address the issues raised in the last bullet point. A Transport Assessment will be required where a development proposal is likely to have a significant impact on highway conditions.

All of the comments are in line with paragraph 6.301 of the SPPS which identifies transportation issues to be addressed in the LDP which includes land use

allocation and associated transport infrastructure, protected routes both inside and outside of settlements.

Paragraph 6.302 of the SPPS states that “in determining planning applications, it is important that due regard is given to the design and layout of the proposed development.”

Paragraph 6.303 of the SPPS states that “in determining a development proposal likely to generate a significant volume of traffic, planning authorities should require the developer to submit a Transport Assessment so as to facilitate assessment of the transport impacts. “

Also, under paragraph 6.77 of Development in the Countryside, access arrangements must be in accordance with the Department’s published guidance which is Development Control Advice Note 15 ‘Vehicular Access Standards’ (Second Edition) August 1999.

No changes are required.

Main Issue 4:

Point (c) makes reference to “the current published council parking standards” clarification should be provided on the document being referred to. The SPPS states “in assessing the appropriate amount of car parking, account should be taken of the specific characteristics of the development and its location, having regard to the Department’s published standards and any reduction in standards provided for through the LDP or Transport Assessment”. (para 6.304) Would expect the policy to reflect that all car parking and their servicing proposals should not prejudice road safety or significantly inconvenience the flow of people and goods. (DPS 317/021, DPS/317/112)

Response:

It is considered that the reference to ‘published council parking standards’ in criterion c) should be replaced with ‘published parking standards’. The ‘Parking Standards’ referenced in paragraph 6.304 of the SPPS are those published by the DOE in 2005.

Paragraph 6.304 of the SPPS states: “In assessing the appropriate amount of car parking, account should be taken of the specific characteristics of the development and its location, having regards to the Department’s published standards⁶⁰ and any reduction in standards provided from through a LDP or Transport Assessment.

⁶⁰ ‘Parking Standards’ (published by DOE, 2005)

The ‘Parking Standards’ document sets out the parking standards used in assessing proposals for new development, both residential and non-residential developments.

A footnote will be added after parking standards of paragraph 6.44 to reference the ‘Parking Standards’ (published by DOE, 2005)

Main Issue 5:

New development should incorporate safe, high quality walking and cycling routes and provide links to existing or planned footway/cycle networks. Planning authorities have a key role to play in this through the LDP and development management process. Policy wording should support new developments providing safe and convenient pedestrian and cycle use, safe and convenient and secure cycle parking facilities having regard to the Departments published standards. Any major employment generating development would also be required to make appropriate provision for shower and changing facilities as this is considered important in encouraging walking and cycling. (DPS/317/113)

Response:

It is considered that this issue is addressed in policy DE02 – Design Quality.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Main Issue 6:

Asked to make reference to the current guidance document “Creating Places – Achieving Quality in Residential Development is referenced. This guide also sets the basis for road layouts that can be adopted by the Department. Failure to refer to this guidance could result in unacceptable layouts being proposed for adoption through the planning process for which there will be no guidance to fall back on. If this position arises, it will be for the Council to consider how such developments will be privately maintained and the resulting impact for access by emergency services, public transport, bin collections and indeed the whole conveyance process. (DPS/317/114)

Response:

There is no need to refer to Creating Places within the policy. This supplementary guidance has already been referenced in paragraph 2.15 of Part One of draft Plan Strategy. Creating Places - Achieving Quality in Residential Environments will be taken account of in respect of residential developments which is in line with the Departmental intent at the time of the publication of the document.

Consultation within DfI Transport NI is an essential element of the Development Management process during which DfI will have the opportunity to identify any concerns in relation to the proposed road layouts.

Main Issue 7:

Suggested including the requirements for a Travel Plan in this policy. (DPS/317/115)

Response:

Paragraph 6.303 of the SPPS states that “In determining a development proposal likely to generate a significant volume of traffic, planning authorities should require the developer to submit a Transport Assessment so as to facilitate assessment of the transport impacts; this should include mitigation measures where appropriate.

The Transport Assessment may include a travel plan, agreed with DRD Transport NI (now known as DfI Roads), or the relevant transport authority, that sets out a package of complementary measures to secure the overall delivery of more sustainable travel patterns and which reduces the level of private car traffic generated.”.

Within the TR01 policy box it states that a “Transport Assessment will be required where a development proposal is likely to have a significant impact on highway conditions.” However as stated above in the SPPS a Transport Assessment may include a travel plan. The requirements for a Travel Plan are set out in paragraph 6.43 of the policy clarification.

A footnote will be added to Transport Assessment so it reflects the SPPS. The footnote will be as per the SPPS “See draft guide to Transport Assessment (published by DOE and DRD, 2006)

Main Issue 8:

Asked to quote the full title for the Transport Assessments i.e. “Transport Assessment Guidelines for Development Proposals in Northern Ireland – October 2006”. (DPS/317/116)

Response:

A footnote will be added to Transport Assessment within the policy box to reflect the SPPS. The footnote will be as per the SPPS (See draft guide to Transport Assessment (published by DOE and DRD, 2006)

Main Issue 9:

DfI suggest removing “traffic, particularly on our local roads” and replacing with “people and goods on all our roads” in paragraph 6.38 of the Policy Clarification. (DPS/317/117)

Response:

In order to more closely reflect the breadth of sustainable modes of transport available within the District it is considered that para 6.38 should be amended to “The aim of the policy is to promote road safety and to ensure that there is a safe and efficient movement of people and goods on all our roads.”

Main Issue 10:

DfI suggest removing wording from paragraph 6.41 and replacing with “The Council will expect developers/applicants to have control over the land required to provide the requisite visibility splays and ensure that they are retained free from any obstruction. A condition will normally be imposed requiring that no development shall take place until the works required to provide access, including visibility splays, have been carried out.” (DPS/317/118)

Response:

The Council consider that the wording of paragraph 6.41 is adequate and covers the suggested wording. Paragraph 6.41 of the policy clarification is as follows:

“Where there is a new access created or the use of the access is intensified, good visibility is essential for the safety of all road users. Therefore, developers are required to provide requisite visibility splays under their control which are retained free from obstruction at all times.”

Paragraph 6.296 of the SPPS states that one of the aims of the SPPS with regard to transportation is to facilitate safe and efficient access, movement and parking.

Main Issue 11:

It is suggested that Accessibility Analysis is referenced in paragraph 6.42 (DPS/317/119)

Response:

There is no need to reference Accessibility Analysis within paragraph 6.42 as accessibility analysis forms part of a Transport Assessment.

Main Issue 12:

The following bullet point is requested to be added to the policy clarification:

“It is recognised that it may not always be practicable to comply fully with the appropriate visibility standards. Such standards, like all material considerations, need to be assessed in light of the particular circumstances of the individual case. Exceptionally a relaxation in standards may be acceptable in order to secure other important planning objectives. Visibility standards, however, will not be reduced to such a level that danger is likely to be caused.” (DPS/317/120)

Response:

It is the Council’s view that this suggested bullet point is not necessary in conjunction with the policy and it does not add or strengthen the policy in any way.

Visibility splays are addressed in paragraph 6.41 of the policy clarification which states the following;

“Where there is a new access created or the use of the access is intensified, good visibility is essential for the safety of all road users. Therefore developers are required to provide requisite visibility splays under their control which are retained free from obstruction at all times. Applicants should refer to current published guidance¹⁵ which sets out the standards for sightlines, radii, gradient etc. that will be applied. In the event where a proposal is for the replacement of a similar use and has a substandard access and does not meet current standards, consideration should be given to the potential to incorporate improvements in the interest of road safety.”

¹⁵DCAN 15 Vehicular Access Standards.

Main Issue 13:

The following bullet point is requested to be added to the policy clarification:

- **“In circumstances where an existing access is available to facilitate development proposals, the Council will generally expect this to be used, unless there is an opportunity to provide a more acceptable**

access arrangement, having regard to both road safety and local amenity considerations. Where an existing access is to be used, but is sub-standard, a condition requiring its improvement prior to the commencement of the development will normally be imposed on a grant of planning permission. In cases where a new access is considered acceptable in preference to the intensified use of an existing access a condition requiring the existing access to be closed may be imposed.”
(DPS/317/121)

Response:

It is the Council's view that this suggested bullet point is not necessary in conjunction with the policy and they do not add or strengthen the policy in any way. The point raised is also addressed under paragraph 6.41 of the policy clarification which states the following:

“Where there is a new access created or the use of the access is intensified, good visibility is essential for the safety of all road users. Therefore developers are required to provide requisite visibility splays under their control which are retained free from obstruction at all times. Applicants should refer to current published guidance¹⁵ which sets out the standards for sightlines, radii, gradient etc. that will be applied. In the event where a proposal is for the replacement of a similar use and has a substandard access and does not meet current standards, consideration should be given to the potential to incorporate improvements in the interest of road safety.”

¹⁵DCAN 15 Vehicular Access Standards.

Conclusions:

Given the above, the policy is considered to be sound. However, if the Commissioner is so minded to consider at IE, it would benefit from the following minor contextual changes:

1. Remove the word ‘accessibility’ from the policy title.
2. Add criteria d) appropriate safe, convenient and secure facilities for cycle parking and cyclists are provided.
3. Criteria c) will be replaced with ‘published parking standards’.
4. A footnote will be added to Transport Assessment so it reflects the SPPS. The footnote will be as per the SPPS (See draft guide to Transport Assessment (published by DOE and DRD, 2006)

Draft Policy TR02 – Car Parks and Service Provision

<p>Proposals for new or extended car parks within the town centres will only be permitted where they do not impact on the viability or vitality of the town centre.</p> <p>The loss of existing car parking or space for servicing within the town centre will not be permitted where it impacts on current or existing arrangements.</p>	
<p><i>Ref:</i></p> <p>DPS/48/05 DPS/115/72 DPS/317/20,22, 90, 122,123</p>	<p><i>Representative:</i> (Main Issue)</p> <p>Translink (1) NIHE (Support) DfI (2, 3, 4, 5, 6)</p>
<p><i>Main Issue 1:</i> The primary focus of the transport policies of the DPS appears to be providing and protecting car parking facilities, particularly in town centres despite the congestion and accessibility issues caused by attracting cars to park in the town centres which acknowledged in the car parking strategy document prepared by the Council by AECOM (March 2018), both Fermanagh and Omagh town centres and immediately surrounding areas are highly accessible by public transport i.e. within ten or twenty minutes journey time. (DPS/048/05)</p>	
<p><i>Response:</i> Paragraph 6.46 of the policy clarification states that the provision of suitable car parking close to facilities and to meet a range of users (e.g. short and long-term visitors) is essential to support the needs of our businesses, residents and visitors. The loss of car parking may therefore have economic impacts such as the effect on the viability and vitality of our town centre or result in circumstances where displaced parking would be detrimental to highway and pedestrian safety.</p> <p>This is in line with the purpose of the Fermanagh and Omagh District Council Parking Strategy to address the overall requirement for car parking within the District in terms of availability, accessibility and convenience for residents and visitors which echoes the overarching Council vision in that adequate and efficient parking facilities contribute to prosperous and sustainable communities.</p> <p>Although Fermanagh and Omagh town centres may be accessible by public transport, it is the low frequency of the public transport services which is an issue. Some of the public transport services do not run at weekends. Many people have no other option but to use private transport.</p> <p>No changes required.</p>	
<p><i>Main Issue 2:</i> Expect this policy to comply with the town centre parking strategy that meets the requirements of the SPPS and is consistent with the Department’s Local Transport Strategy (LTS). Local car parking policies must also be brought forward to ensure appropriate provision within new developments,</p>	

including spaces for people with disabilities and parent and child parking spaces and appropriate servicing arrangements. (DPS 317/90)

Response:

This policy complies with the Parking Strategy and Action Plan for Fermanagh and Omagh District Council. Dfl was consulted on the Parking Strategy and Action Plan and had expressed no concerns with the final document.

Car parking provision within new developments is addressed in TR01. Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

The Council acknowledge that provision must be made for parking spaces for people with disabilities and parent and child parking spaces. Paragraph 6.46 of the policy clarification of TR02 should therefore read as (amendments in italics):

“The provision of suitable car parking for all users including people with disabilities, parent and child parking spaces and short and long-term visitors is essential to support the needs of our businesses, residents and visitors.”

In relation to the comment about appropriate servicing arrangements, this a design issue which should be addressed within policy DE 02 Design Quality.

Main Issue 3:

In the policy wording there is no consideration given for prejudicing road safety, inconveniencing the flow of people and goods, congestion, environmental quality, compatibility with the surrounding area, how to address the issue between short/long stay parking, electric charging points. Would expect these issues to be accommodated in any proposed policy. (DPS/317/22)

Response:

These issues are addressed through Policy TR01 and DE02.

Policy TR01 states that the Council will not permit development proposals where it is demonstrated that b) access arrangements do not prejudice road safety or significantly inconvenience the flow of traffic. DE02 will address environmental quality and compatibility with the surrounding area.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

Paragraph 6.48 of the policy clarification for TR02 states that with the advancement of technology, it is likely that there will be more electric vehicles on the road over the plan period. To assist, electric car charging points should be

provided in car parks which are generally open to the public and at key destinations e.g. town centre car parks, supermarkets or cinemas.

No changes required.

Main Issue 4:

No consideration has been given within the policy wording for the design of new parks or their extensions. Clarification is needed on the statement “the current published parking standards”. (DPS/317/122)

Response:

The design of new and extended parks will be addressed under Policy DE02 – Design Quality.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: “The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be ‘cherry-picked’ and used in isolation; all relevant parts of the plan must be considered”.

The parking standards referred to is the Parking Standards published February 2005 by the DOE which is supplementary guidance on parking standards to accompany PPS 3: Access, Movement and Parking. The number of accessible bays are in line with the recommendations of DCAN 11(revised 07/03). However, there may be occasions when it is neither practicable or suitable to provide the DCAN recommended number of spaces. For example, if there are disabled spaces available on-street in close proximity to the off-street car park or if the gradient of the car park is such that we would not provide a safe, suitable space that is DDA compliant.

No changes required.

Main Issue 5:

There is no consideration given within the policy wording for temporary car parks. (DPS/317/20)

Response:

Temporary car parks would be addressed under TR01, TR02 and all other relevant planning policies. However, reference should be made to temporary car parks within TR02 and within the policy clarification that if planning permission is granted for a temporary car park will be subject to a time-limited condition for a period of 1 year.

Therefore, the first sentence of policy TR02 – Car Parks and Service Provision should be amended (shown in italics) to:

“Proposals for new, extended *or temporary* car parks within the town centres will only be permitted where they do not impact on the viability or vitality of the town centre.”

The following should be inserted after the first sentence of paragraph 6.46 of the policy clarification:

“While planning applications for temporary car parks will be assessed in the light of all relevant factors, there will be a presumption against such development where it is considered unnecessary and is not linked to firm proposals for the development of the site. Planning permission if granted will be subject to a time-limited condition for a period of 1 year.”

Main Issue 6:

Paragraph 6.46 of the policy clarification appears to be at odds with the LTS. The effective management of car parking has a key role to play in improving how urban transport networks operate. The location of public car parking and its designation as long or short-stay is an important element of the LTS and should be appropriately reflected in the LDP Plan Strategy. In addition, the Department would expect that the LDP would acknowledge that urban car parking strategies will have a direct impact on the potential to provide high quality public realm and contribute to positive place making. (DPS/317/123)

Response:

As the Local Transport Strategy (LTS) by DfI to support the LDP has been abandoned, any comments made with reference to the LTS are irrelevant.

Conclusions:

Given the above, the policy is considered to be sound. However, if the Commissioner is so minded to consider at IE, it would benefit from the following minor contextual changes:-

1. The first sentence of policy TR02 – Car Parks and Service Provision should be amended as follows:

“Proposals for new, extended or temporary car parks within the town centres will only be permitted where they do not impact on the viability or vitality of the town centre.”

2. The following should be inserted after the first sentence of paragraph 6.46 of the policy clarification:

“While planning applications for temporary car parks will be assessed in the light of all relevant factors, there will be a presumption against such development where it is considered unnecessary and is not linked to firm proposals for the development of the site. Planning permission if granted will be subject to a time – limited condition for a period of 1 year.”

Draft Policy TR03 – Provision of Park and Ride and Park and Share car parks

The Council will permit development proposals for new or extended Park and Ride and Park and Share car parks where it has been demonstrated that there is a

need and in order to reduce travel by private car and encourage the use of public transport.	
<i>Ref:</i>	<i>Representative:</i> (Main Issue)
DPS/115/73 DPS/317/103	NIHE (Support) Dfl (1)
<i>Main Issue 1:</i> Draft policy wording is not considered unsound however could be improved by the following suggested wording – “Park & Share and Park & Ride sites should be developed in appropriate locations to reduce the need to travel by private car and encourage the use of public transport.” (DPS/317/103)	
<i>Response:</i> This issue is addressed under paragraph 6.49 of the policy clarification and there is no need to include it within the policy box.	
<i>Conclusion:</i> Given the above, the policy is sound and no changes are proposed.	

Draft Policy TR04 – Protected Routes	
A development proposal involving direct access, or the intensification of the use of an existing access, will only be permitted where:	
<p>a) in the case of a Through-Pass or By-Pass, the development is of regional significance; or</p> <p>b) in the case of a Protected Route within settlement limits the development cannot be accessed from an adjacent minor road; or</p> <p>c) in the case of a Protected Route outside settlement limits where the development is for:</p> <p>i) a replacement dwelling, where there is an existing vehicular access onto the protected route, or;</p> <p>ii) a farm dwelling, a dwelling that serves the needs of an established commercial or industrial enterprise, or is for other development that would meet the criteria for development in the countryside and no other access is reasonably obtainable from an adjacent minor road.</p>	
<i>Ref:</i>	<i>Representative:</i> (Main Issue)
DPS/115/75 DPS/142/01 DPS/317/23, 67	NIHE (Support) Desmond O’Neill (1) Dfl (2, 3, 4)

Main Issue 1:

The protected routes in the district have been designated for approximately 30 years. FODC have not assessed the impact that this restrictive policy has had on the rural communities that live on and near the protected routes especially regarding the lack of development opportunities and restrictions this policy has had on their businesses, farms and homes. New accesses for infills and farm dwellings should be allowed where the correct road access standards are achieved

FODC has not carried out a robust survey/study of the issues faced by rural communities affected by the existing protected routes. (DPS/142/01)

Response:

Policy TR04 provides for development opportunities for businesses, farms and homes in line with the Regional Strategic Policy within the SPPS.

Under the policy a development proposal involving direct access, or the intensification of the use of an existing access, will only be permitted where c) in the case of a Protected Route outside settlement limits where the development is for ii) a farm dwelling, a dwelling that serves the needs of an established commercial or industrial enterprise, or is for other development that would meet the criteria for development in countryside and no other access is reasonably obtainable from an adjacent minor road.

This policy would also apply to infill sites as they fall into the criteria for development in the countryside.

Protected Routes are designated by DfI Roads.

Main Issue 2:

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

The Department would expect that motorways, high standard dual carriageways, other dual carriageways and ring roads would be included in any new policy and afforded the appropriate protection. (DPS/317/23)

Response:

The Council consider that, in order to more fully reflect the regional strategic policy approach set out within the SPPS and to address the issue raised within the representation, the policy should be amended to reference motorways, high standard dual carriageways, other dual carriageways, ring roads and motorway service areas. Reference should also be made to motorway service areas.

The policy should be amended (shown in italics) as follows:

“A development proposal involving direct access, or the intensification of the use of an existing access, will only be permitted where:

- a) *in the case of motorways and high standard dual carriageways an exception may be considered for motorway service areas where there is demonstrable need;*
- b) in the case of other dual carriageways, ring roads, through-pass or by-pass, the development is of regional significance; or
- c) in the case of a Protected Route within settlement limits the development cannot be accessed from an adjacent minor road; or
- d) in the case of a Protected Route outside settlement limits where the development is for:
 1. a replacement dwelling, where there is an existing vehicular access onto the protected route, or;
 2. a farm dwelling, a dwelling that serves the needs of an established commercial or industrial enterprise, or is for other development that would meet the criteria for development in the countryside and no other access is reasonably obtainable from an adjacent minor road. “

Main Issue 3:

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

It is suggested that Residential developments within settlement limits should be appropriately considered and should only be granted planning permission for a development proposal involving direct access, or the intensification of the use of an existing access: (a) where access cannot reasonably be taken from an adjacent minor road; or (b) in the case of proposals involving residential development, it is demonstrated to the Department’s satisfaction that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points. (DPS/317/067)

Response:

The Council concur that the policy does not consider the impact of residential developments on protected routes within a settlement. It is considered that in order to more fully reflect the regional strategic policy within the SPPS (paragraph 6.301, 7th bullet point) and in order to address the issue raised within the representation, the policy should be amended to include additional criterion that addresses developments onto protected routes within settlement limits.

The following additional criterion is proposed:

- in the case of residential development only where this will significantly assist in the creation of a quality environment without compromising road safety standards or result in an excessive number of access points.

Main Issue 4:

The policy also does not consider the impact of residential developments within the settlement limit and suggests additional wording. Also identifies that criterion c (i) and (ii) do not fully take account of the SPPS. (DPS/317/067)

Response:

Criterion c (i) and (ii) reflect paragraph 6.301 'Protected Routes Outside of settlements' of the SPPS.

Paragraph 1.5 (Part One) of the Draft Plan Strategy is relevant and where it states: "The whole plan must be taken into account when assessing development proposals...Certain policies or plan proposals cannot be 'cherry-picked' and used in isolation; all relevant parts of the plan must be considered".

Conclusions:

Given the above, the policy would benefit from minor contextual changes. If the Commissioner is so minded to consider these at IE, the following changes are proposed:-

1. Draft Policy TR04 Protected Routes amended (shown in italics) to:

"A development proposal involving direct access, or the intensification of the use of an existing access, will only be permitted where:

- a) *in the case of motorways and high standard dual carriageways an exception may be considered for motorway service areas where there is demonstrable need;*
- b) *in the case of other dual carriageways, ring roads, through-pass or by-pass, the development is of regional significance; or*
- c) in the case of a Protected Route within settlement limits:
 - (i) the development cannot be accessed from an adjacent minor road; or
 - (ii) *in the case of residential developments, where it will significantly assist in the creation of a quality environment without compromising road safety standards or result in an excessive number of access points.*

- d) in the case of a Protected Route outside settlement limits where the development is for:
- (i) a replacement dwelling, where there is an existing vehicular access onto the protected route, or;
 - (ii) a farm dwelling, a dwelling that serves the needs of an established commercial or industrial enterprise, or is for other development that would meet the criteria for development in the countryside and no other access is reasonably obtainable from an adjacent minor road.

Draft Policy TR05 – Safeguarding New Transport Schemes	
Development proposals will not be permitted where they would prejudice the implementation of a transport scheme identified on the Proposals Map.	
<i>Ref:</i>	<i>Representative:</i> (Main Issue)
DPS/115/75 DPS/317/109,124	NIHE (Support) Dfl (1, 2)
<p><i>Main Issue 1:</i> It is suggested replacing proposal Map with “Local Development Plan or Transport Plan”</p> <p>Paragraph 6.52 – would suggest removing the wording “such as new roads and road improvement schemes” as Transport schemes cover a wider range of infrastructure. (DPS/317/109)</p>	
<p><i>Response:</i> The Proposals Map is the spatial representation of the policies and proposals of the Plan Strategy. The Proposals Map shows ‘designations’. The Council is responsible for these designations through the LDP process. Once adopted these should not be altered outside of the LDP process.</p> <p>The Proposals Map also illustrates various other designations and features ‘for information’ purposes. These are not designated by the Council. They may be subject to change outside of the LDP. They are helpful for identifying designations or features relevant to policies of the LDP.</p> <p>The wording identifies new roads and road improvement schemes and does not eliminate any other transport schemes.</p> <p>There is also a need to add a caveat to check the Dfl website for any update or changes to New Transport Schemes.</p>	

<p>Main Issue 2: Paragraph 6.53 – “The Regional Transportation Strategy (RTS) will be the main source of identifying and prioritising future major road schemes”. This sentence is incorrect. Road schemes which have been identified for delivery within the plan period for the Fermanagh and Omagh area will be identified in either the Regional Strategic Transport Network Transport Plan (RSTNTP) or the LTS/ LTP. (DPS/ 317/124)</p>
<p><i>Response:</i> There is a need to amend the wording of the policy clarification to reflect the correct wording.</p>
<p><i>Conclusions:</i></p> <p>Given the above, the policy is considered to be sound but the clarification would benefit from the following minor contextual changes:</p> <p>Paragraph 6.53 will be amended (shown in italics) as follows:</p> <ol style="list-style-type: none"> 1. <i>The Regional Strategic Transport Network Transport Plan (RSTNTP)</i> will be the main source of identifying and prioritising future major road schemes and these will be identified on the Proposals Map. 2. Add a caveat to check the Dfl website for any update or changes to New Transport Schemes.

Draft Policy TR06 – Disused Transport Routes	
<p>Development proposals on a disused transport route will not be permitted where it would prejudice its future re-use as either:</p> <ol style="list-style-type: none"> a) a transport route; or b) a recreational, nature conservation or tourism-related use. 	
<p><i>Ref:</i></p> <p>DPS/115/76 DPS/271/10</p>	<p><i>Representative:</i> (Main Issue)</p> <p>NIHE (Support) Dalradian (1)</p>
<p>Main Issue 1: The Council is proposing a policy that would prohibit development where it would prejudice the reuse of disused routes as a transport route or a recreational, nature conservation or tourism related use. Paragraph 6.54 of the policy clarification states that disused transport routes will include old roads, canals, railway tracks and beds. However, this is in conflict and inconsistent with the SPPS which does not identify old roads as being worthy of protection. The Council’s evidence paper on Transportation only considers former railway routes within the Council area. There is no</p>	

evidence base for other transport routes thus cannot apply this policy to other forms of routes without first undertaking and assessment of all disused routes.

This policy is unsupported by evidence. (DPS/271/10)

Response:

The Council note that the wording of the regional strategic policy in relation to Disused Transport Routes (5th bullet point, paragraph 6.301 of the SPPS) is as follows: ‘LDPs should identify and safeguard disused transport routes **such as** *(our emphasis)* former railway lines and canals where there is reasonable prospect of re-use for future transport purposes.’ The Council are content to amend paragraph 6.54 of the policy clarification to reflect this text and in doing so note the flexibility within the SPPS in respect of the type of disused transport routes provided through the use of the words ‘such as’.

The amended wording of the first two sentences of the policy clarification will be as follows:

“The Council recognises the need to identify and safeguard disused transport routes such as former railway lines and canals where there is a reasonable prospect of re-use for future transport purposes. Many of these former transport routes have potential for re-use for transportation purposes (including cycling and walking connections).”

This policy reflects the Regional Strategic Policy with the SPPS.

Conclusions:

Given the above, the policy is sound but the clarification would benefit from the following minor contextual changes:

1. Amend paragraph 6.54 of the policy clarification to:

The Council recognises the need to identify and safeguard disused transport routes such as former railway lines and canals where there is a reasonable prospect of re-use for future transport purposes. Many of these former transport routes have potential for re-use for transportation purposes (including cycling and walking connections). Where it is the case that it is no longer viable or necessary for these routes to be retained for transport purposes other uses will be supported including for recreation, leisure or tourism or to contribute toward the Council’s green/blue infrastructure. Where there is a reasonable prospect of re-use this will be identified in the Local Policies Plan.

Public Utilities

Draft Policy PU01 - Telecommunications	
<p>Proposals for telecommunications installations, including mast, antennae, dishes and other apparatus, will only be permitted where they comply with all of the following criteria:</p> <ol style="list-style-type: none"> a) The siting and external appearance of all installations, including any access provision, location or landscaping requirements, shall not have an adverse impact on visual amenity or environmentally sensitive features and locations while having regard to the technical and operational constraints placed on operators; b) The siting and design of any proposed antennae on a building shall not adversely impact on the external appearance of the building; c) There is a need for the development and, if a new mast or base station is proposed, it must be demonstrated that the possibility of erecting antennae on an existing building, mast or other structure (including sharing with an existing operator), has been fully explored and is not feasible or a new mast represents a better environmental solution; and d) The development when operational meets the ICNIRP¹⁶ guidelines for public exposure to electromagnetic fields. <p>Where permission is sought for telecommunication installations at or adjacent to a Sensitive Locations or Features, it must be demonstrated that other alternative options have been investigated and are considered inappropriate.</p>	
<p>Main Issues: No issues raised.</p>	
<p>Conclusions: Given that no issues have been raised, the policy is sound and no changes are proposed.</p>	

Draft Policy PU02 - Overhead Electricity Lines	
<p>The Council will permit the development of overhead power lines where it has been demonstrated that the following criteria are met:</p> <ul style="list-style-type: none"> • they avoid Sensitive Locations and Features; • they have no unacceptable impacts on residential amenity or other sensitive receptors; • within urban areas, they cannot be provided underground or along external surfaces of buildings; and • they comply with the 1998 International Commission on Non-Ionising radiation protection (ICNIRP) guidelines. 	
<p><i>Ref:</i> DPS/252/02</p>	<p><i>Representative:</i> (Main Issue) SSE Renewables (1)</p>

<p>DPS/258/01 DPS/266/04 DPS/270/04 DPS/271/09 DPS/276/05 DPS/285/03 DPS/286/05 DPS/054/21 et al⁴</p>	<p>SONI (Supports) NI Renewable Industry Group (1) Renewable Energy Systems (1) Dalradian (2) Private Individual (3) Private Individual (3) Private Individual (3) Multiple groups & private individuals (3)</p>
<p>Main Issue 1: The policy is considered inflexible, in relation to proposals for overhead powerlines associated with energy developments, which are often time limited and subject to restoration requirements.</p> <p>As currently drafted the same policy consideration would apply to a permanent development and a temporary proposal and this is considered onerous. (DPS252/ DPS266 /DPS270)</p> <p>It is recommended that the wording of criterion one and two is revised to say:</p> <ul style="list-style-type: none"> - <u>Where possible</u>, they avoid Sensitive Locations and Features. - They have no <u>significant adverse</u> impacts on residential amenity or other sensitive receptors. <p>It is also recommended that the policy is revised to take account of temporary or time restricted development proposals.</p>	
<p><i>Response:</i> The representations all recommend the following change, which is that the wording of criterion one and two is amended to state:</p> <ul style="list-style-type: none"> - Where possible, they avoid Sensitive Locations and Features; - They have no significant adverse impacts on residential amenity or other sensitive receptors. <p>They also recommend that the policy is revised to take account of temporary or time restricted development proposals.</p> <p>The SPPS states (para. 6.250), that new power lines “should avoid areas of landscape sensitivity, including Areas of Outstanding Natural Beauty (AONBs)”. A definition of ‘Sensitive Locations and Features’ is included in the glossary and this identifies areas of landscape sensitivity including Sperrin AONB.</p> <p>It is clear from this context that the draft policy reflects the principles established in the SPPS and to avoid AONBs..# It is not necessary to amend the wording to include “where possible” in the first criteria point. There is no scope to amend the second criteria point to “significant adverse effects”. This would be at odds with policy DE01 (which applies to all development proposals) and would introduce a lesser policy test which would not be appropriate.</p>	

There is no need to introduce a requirement to make specific reference in the policy to assessing temporary development proposals. If a proposal is brought forward which is of a temporary nature this would be a consideration which would be given due regard and weight in the planning balance when determining any planning application. There is no need to specify this within the policy.

Main Issue 2:

This draft policy does not provide enough flexibility to assess proposals for overhead powerlines associated with minerals developments which are often time limited and subject to restoration requirements. (DPS271/09)

Response:

If minerals proposals are approved and require infrastructure (including electricity in association with their ancillary works) then the lifetime of an extraction exercise may run into several years. This can be a considerable visual presence within the landscape and would be in addition to the mineral activities. The policy allows this aspect of the development proposals to be appropriately considered. This would be alongside other policies of the plan including MIN02 which deals with restoration following mineral extraction.

Main Issue 3:

The Policy should specify that overhead power cables and pylons carrying heavy duty electricity lines should not be permitted in the Sperrin's AONB. (DPS/054/21 et al⁴, DPS/276/05, DPS/285/03, DPS/286/03)

Response:

As noted above the policy refers to 'Sensitive Locations and Features' and which includes the Sperrin AONB. As such the policy does outline, vis-à-vis, that development proposals for overhead power lines should avoid an AONB. This is in line with the SPSS (para 6.250).

Conclusion:

The policy is considered to be sound.

Draft Policy PU03 - Accommodating Future Broadband and other Public Services

In order to facilitate the improvement of existing services and the installation of new connections, proposals for 5 or more residential dwellings or for developments of 500sq.m or more must provide service ducting to enable future connection.

Main Issues:

No issues raised.

Conclusions:

The policy is sound, and no changes are proposed.

Draft Policy PU04 –Development Relying on Non-Mains Sewerage

Development proposals will only be permitted for development relying on non-mains sewerage, where the applicant can demonstrate through the submission of sufficient information on the means of sewerage, that this will not create or add to a pollution problem.

Non-mains sewerage will only be permitted in those areas identified as having a pollution risk in exceptional circumstances where appropriate mitigation measures have been identified.

Ref:
DPS/251/02

Representative: (Main Issue)
NI Water (1)

Main Issue 1:

Concern that where a package sewage treatment plant serves two properties or more then these package plants may be offered to NI Water for adoption. However, the package plants would need to comply with NI Water standards and provide treatment to the required NIEA consent as demonstrated by 12 months of monitoring data. NI Water are concerned with the potential effects of this policy upon sustainability and NI Water's already constrained funding model (i.e. the potential addition of further small wastewater assets for management by NI Water). (DPS/251/02)

Response:

The issue raised by NI Water is highly contradictory since it effectively objects to measures being implemented (more package sewage treatment plant usage) which would raise the standard of water quality above that which would be achieved from the usage of septic tanks alone. As stated in our SA Report, "it is the responsibility of NI Water to ensure that a safe supply of drinking water for the population is maintained". In this regard, utilising such package sewage treatment works in rural locations, which do not have the mains sewerage infrastructure in place, is favourable to utilising septic tanks.

As the policy clarification states (para 6.80), this method is more effective and thus reduces the risk of pollution. NI Water resource implications aside, the objective towards better water quality is key in our vision and reflects the targets of the Water Framework Directive which is to raise the quality of all water bodies to 'Good Ecological Status' or better.

Conclusion:

The policy is sound, and no changes are required.

Waste Management

Waste Management – Context and Justification	
6.61	As set out in the SPPS, sustainable waste management is essential for the health and well-being of society and our quality of life. by focusing on the management of waste, we can reduce the amount of waste materials produced and recover more value from the wastes that are produced.
6.62	Waste management refers to all the activities and actions required to manage waste from its inception to its final disposal. Waste management Facilities include facilities for: the collection of waste, the treatment of waste, and waste disposal (which can include land filling and land raising). This includes amongst other things collection, transport, treatment and disposal of waste together with monitoring and regulation. The Council has a Joint Waste management plan with mid Ulster district Council and Armagh City, Banbridge and Craigavon Borough Council which sets out joint arrangements for the management of controlled waste arising within the three council areas over the period 2016 to 2020.
6.63	In keeping with Article 23 of Waste and Contaminated Land Order (NI) 1997, the Joint Waste management plan and the Northern Ireland Waste management Strategy, the '5 step' waste hierarchy will be applied which sets a priority for waste management as follows: • prevention; • preparing for re-use; • recycling; • other recovery (e.g. energy recovery); and • disposal.
6.64	A presumption in favour of waste management facilities will exist where this is shown within the Waste management Strategy and Waste management plan for the district. Considering proposals against the Waste management Strategy and plan will allow the Council to promote facilities which increase the amount of recycling and energy recovered from waste, and reduce the amount of waste sent to landfill. however, it is recognised that there may be a case in the future where expansion or new landfill sites are required as capacity at existing facilities is depleted.
6.65	The Council will seek to promote the development of Waste management Facilities in appropriate locations and ensure that detrimental effects on people, the environment, and local amenity associated with waste management facilities (e.g. pollution) are avoided or otherwise minimised. We will also seek to ensure that waste disposal to landfill will be minimised and that there is appropriate restoration of proposed waste management sites.
6.66	In keeping with the Sustainable development Strategy, the Council also advocates the greater use of recycled building rubble in construction, thereby helping to reduce the use of natural resources.
<i>Ref:</i>	<i>Representative: (Main Issue)</i>

DPS/022/38	RSPB (1)
<p>Main Issue 1: FODC should be guided by precautionary principle and it should be added to context and justification. (DPS/022/38)</p>	
<p><i>Response:</i> Paragraph 6.61 of the Draft Plan Strategy outlined as ‘set out in the SPPS, sustainable waste management is essential for the health and well-being of society and out quality of life’ furthermore, Paragraph 1.5 of the Draft Plan Strategy states that the whole plan must be taken into account when assessing development proposals.</p> <p><i>*Excerpt from issue paper Spatial Growth strategy Policy SP01 Furthering Sustainable development below:</i> * Paragraph 5.72 of SPPS states: “Planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases the planning authority has power to refuse planning permission. Grounds for refusal will be clear, precise and give a full explanation of why the proposal is unacceptable.”</p> <p>In regard to the above, the suggested amended wording provided by representation DPS/277 is as follows: “The Council will permit development proposals which further sustainable development and promote measures to mitigate and adapt to climate change, and which have regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases, planning permission should be refused”.</p> <p>The exact wording of paragraph 3.9 in the SPPS, is “In formulating policies and plans and in determining planning applications, planning authorities will also be guided by the precautionary approach that, where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest.”</p> <p>The Council accepts that the amended wording of the policy as indicated above is more consistent with the wording in paragraph 5.72 of the SPPS. However, in relation to paragraph 3.9, the view is that it would be more appropriate if placed within paragraph 1.3 of Part Two, Section 1.0 Introduction and with the removal of ‘In formulating policies and plans’.</p>	

Draft Policy WM01 – Waste Management Facilities

The Council will support a development proposal for the expansion of or creation of a waste management facility where it has been demonstrated that there is a need and where it meets one or more of the following locational criteria:

- i) An existing industrial area of a character appropriate to the development;
- ii) An active or existing worked out hard rock quarry;
- iii) An existing or former waste management site including a land fill site;
- iv) A site adjacent to existing waste management facilities;
- v) A rural location where it involves the reuse of existing building(s) or on land within or adjacent to an existing non-residential building group;
- vi) The re-use of previously developed derelict or contaminated land or where existing or redundant buildings can be utilised.

And also meets all of the following environmental criteria:

- i) it will not have a detrimental impact on the operations of neighbouring land uses or prejudice the development of neighbouring land which is zoned within the LDP for a specified use (e.g. Housing);
- ii) it will not cause demonstrable harm to human health;
- iii) it will not pose a risk to the environment from pollution including to air, water or soil resources; and
- iv) in the case of waste disposal, there will be practical restoration and aftercare arrangements.

Additionally, where a waste management facility is of a regional scale it must be accessible to a key transport corridor and not have an unacceptable adverse impact upon road safety and convenience of road users.

Ref:
DPS/317/29
DPS/054/22 et al⁴

Representative: (Main Issue)
Department for Infrastructure (1 and 2)
Multiple groups & private Individuals (3)

Main Issue 1:

The policy fails to cover the issues of road safety, infrastructure improvements, parking and turning within the site, etc. and does not take proper account or provide full coverage for road safety and the required infrastructure to facilitate development proposals.

The proposed policy wording “Additionally, where a waste management facility is of a regional scale it must be accessible to a key transport corridor and not have an unacceptable adverse impact upon road safety and convenience of road users” gives the impression that an access can be created/approved onto a key transport corridor. (DPS/317/29)

Response:

Paragraph 1.5 of the Draft Plan Strategy states that the whole plan must be taken into account when assessing development proposals. This includes the vision, spatial strategy, policies, proposals and all associated supplementary guidance. Certain policies or plan proposals cannot be 'cherry picked' and used in isolation; all relevant parts of the plan must be considered.

Draft Policy TR01 deals with road safety, parking, and the requirement for Transport Assessments. Draft Policies TR02 to TR06 are applicable and cover other roads related issues.

In relation to the proposed policy wording, the intent of the Draft policy is that where a waste management facility is of regional scale, it must be accessible to a key transport corridor and this could be by existing routes which in turn lead onto the key transport corridor. That said, the variation in language from the SPPS is noted. Whereby paragraph 6.314 states that regional scale waste collection or treatment facilities locations should relate closely to and benefit from easy access to key transport corridors, the draft policy WM01 does stipulate 'must be accessible' to a key transport corridor. A proposed amendment (shown in italics) could be as follows:-:

"Additionally, where a waste management facility is of a regional scale its location should relate closely to and benefit from easy access to key transport corridors and not have an unacceptable adverse impact upon road safety and convenience of road users..."

Main Issue 2:

While the criteria and policy clarification broadly take account of the SPPS, the criteria for a site adjacent to existing waste management facilities would benefit from reference to compatibility of adjacent sites, as highlighted by the SPPS (paragraph 6.317) . The SPPS (paragraph 6.322) acknowledges that there are a range of impacts associated with such facilities. The draft plan policy should address these impacts. While it is noted there is a general policy (DE01 General Amenity) these wider impacts are not fully covered. (DPS/317/29)

Response:

Policy DE01 General Amenity Requirements covers general amenity and is relevant to any development.

It is also noted that environmental criterion (i) states that "it will not have a detrimental impact on the operations of neighbouring landuses or prejudice the development of neighbouring land which is zoned within the LDP for a specified use (e.g. Housing). This addresses the compatibility issue with new waste management facilities whilst WM03 addresses the compatibility of newly proposed development within the vicinity of existing waste management facilities with first bullet point stating that " it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility."

This provides the same level of cover as per SPPS 6.317.

Main Issue 3:

Given the risks associated with poor management or abuse of waste management arrangements, future/new waste management operations should be owned and operated by the local authority. The details and cost to the public purse (including future costs) of abuses of dumping operations should be made public and form part of this consideration. (DPS/054/22 et al⁴)

Response:

The procedures involved to carry out waste management operations vary by local authority however they are generally governed by legislative requirements which will place the onus on either the responsible authority or the contracted operator to work within legal guidelines and to have the requisite licences in place in order to carry out their business/duties. This is not an issue that can be addressed through a Plan Strategy.

Conclusions:

The policy is considered to be sound however it may benefit from a minor contextual amendment (*shown in italics*) to fully align with regional policy.

The Council will support a development proposal for the expansion of or creation of a waste management facility where it has been demonstrated that there is a need and where it meets one or more of the following locational criteria:

- i) An existing industrial area of a character appropriate to the development;
- ii) An active or existing worked out hard rock quarry;
- iii) An existing or former waste management site including a land fill site;
- iv) A site adjacent to existing waste management facilities;
- v) A rural location where it involves the reuse of existing building(s) or on land within or adjacent to an existing non-residential building group;
- vi) The re-use of previously developed derelict or contaminated land or where existing or redundant buildings can be utilised.

And also meets all of the following environmental criteria:

- i) it will not have a detrimental impact on the operations of neighbouring land uses or prejudice the development of neighbouring land which is zoned within the LDP for a specified use (e.g. Housing);
- ii) it will not cause demonstrable harm to human health;
- iii) it will not pose a risk to the environment from pollution including to air, water or soil resources; and
- iv) in the case of waste disposal, there will be practical restoration and aftercare arrangements.

Additionally, where a waste management facility is of a regional scale it *should relate closely to and benefit from easy access* it must be accessible to a key transport corridor and not have an unacceptable adverse impact upon road safety and convenience of road users.

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Draft Policy WM02 – Waste Management Treatment Works	
<p>Development proposals for new or the upgrading/extension of existing Waste Water Treatment Works (WWTWs) will be permitted where it has been demonstrated that there is a need for the facility/extension and it meets the criteria in draft policy WM 01.</p>	
<p><i>Ref:</i> DPS/317/94, 95,96,131 DPS/251/03</p>	<p><i>Representative:</i> (Main Issue) Department for Infrastructure (1, 2, 3 & 4) NI Water (1)</p>
<p><i>Main Issue 1:</i> Concern that the policy focuses on planning arrangements for upgrading or extending WwTWs and not on capacity issues at WwTW's.</p> <p>There are no references to any capacity constraints in the sewer network or WwTWs within the Council area. The only mention of this is in Part One, para 4.30 (page 24) which states 'It has been identified that some settlements have no remaining capacity within the waste-water treatment infrastructure'.</p> <p>The Plan does, however, show the projected increase in housing in several towns within the Spatial Strategy Map. None of the towns identified to grow have capacity constraints on their WwTW's.</p> <p>The Spatial Strategy Map does not identify other smaller villages or hamlets which are predicted to grow, and which may have capacity constraints. This is a critical issue which must be considered as part of the Plan as wastewater capacity will be a key consideration when zoning land for development. (DPS/317/94, DPS/251/03)</p>	
<p><i>Response:</i> The policy is operational and outlines that WwTW's will be permitted where a need is identified. It is not a commitment to the provision of new WwTW's or upgrading existing WwTW's.</p> <p>The DPS has been prepared correctly. Sustainable growth has been a key theme in preparing the draft plan strategy. The RDS regional target emphasis of focusing 60% of housing growth within larger settlements (in FODC's case this includes Enniskillen and Omagh) has been central, as has our Plan's Spatial Growth Strategy, towards focusing growth towards the two main settlements as they possess the existing infrastructure and range of services to accommodate development. Part 1, Para 6.23 of the DPS subsequently outlines how a proportion of new development will be directed to the small towns and villages to support</p>	

rural housing needs. The DPS further outlines how sustainable growth in villages will be related to the “settlement hierarchy, reflecting the size, function and physical capacity of the settlement so as not to result in unsustainable spatial patterns”. Capacity would include the WwTW capacity and so this will be a consideration when determining any growth within individual settlements or areas. Further consideration of capacity issues will be taken into consideration in conjunction with NI Water and relevant stakeholders in preparing the next stage of the LDP, the Local Policies Plan.

Main Issue 2:

In light of this policy, engagement with all relevant Departments is encouraged, as per strategic policy SPPS (paragraph 6.316). (DPS/317/95)

Response:

The context and justification section for waste management policies (para 6.61 to 6.66) refer to the Waste Management Strategy and Waste Management Plan for the district. Consultation with stakeholders when considering a planning application is an integral part of the Development Management process. Planning permission could still be refused if there is no WwTW capacity, or be subject to a negatively-worded condition, preventing development until capacity is available.

Main Issue 3:

The WwTW capacity information that Council has included in its Draft Plan Strategy, particularly within its supporting Public Utilities paper is not up-to-date and relates to the capacity assessment provided in 2016. Consequently, capacity constraints are not adequately included within the LDP. (DPS/317/96)

Response:

Despite making requests for additional information over the two years preceding the publication of the dPS, the Council did not receive any updated information in relation to WwTW's, their capacity, or programme for upgrade. As such the Council continued on the basis of previous information provided by NI Water (being the 2016 capacity assessment). On receipt of updated information (including on the various growth scenarios) this will be considered as the most up-to-date evidence and would be given due consideration in the allocation of land for development within the LPP.

Main Issue 4:

The proposed policy offers no coverage on the issues of road safety, access movement and parking, or cross reference to suitable transport policies. The policy would benefit by including reference to access to the site, nature & frequency of traffic movements, and ensuring road safety and convenience. The public road should be able to accommodate the extra traffic generated by the proposal and if not, it should be satisfactorily upgraded with adequate arrangements for parking, servicing and turning within the site. (DPS/317/131)

Response:

<p>The issues of road safety are covered in adjacent policies, particularly within Draft Policy TR01 – Land Use, Transport and Accessibility; Draft Policy TR02 – Car Parks and Service Provision, and; Draft Policy TR04 – Protected Routes. The Development and Design chapter policies (Part 2; 2.0) also cover many aspects of good design and cross reference road access and safety issues.</p>
<p><i>Conclusion:</i> The policy is sound.</p>

<p>Draft Policy WM03 – Development in the vicinity of waste management facilities</p>	
<p>Development in the vicinity of existing or approved waste management facilities and WWTWs will only be permitted where:</p> <ul style="list-style-type: none"> • it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility; and • it will not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment. 	
<p><i>Ref:</i> DPS/251/03 DPS/317/92</p>	<p><i>Representative:</i> (Main Issue) NI Water (1) Department for Infrastructure (2)</p>
<p>Main Issue 1: NI Water will advise whether a proposal lies within an ‘Odour Consultation Zone’ the purpose of which is to trigger a proportionate assessment of odour nuisance risk and may or may not involve dispersion modelling. NI Water will object to development proposals within Odour Consultation Zones unless an appropriate evidence-based odour assessment determines low risk at critical receptors.</p> <p>The size of an Odour Consultation Zone is a function of the wastewater treatment works design capacity and describes an offset from the wastewater treatment works perimeter boundary. An actual limit of development encroachment may only be provided after completion of an odour risk assessment. (DPS/251/03)</p>	
<p><i>Response:</i> In respect of the ‘Odour Consultation Zone’, NI Water describe the process by which they would be consulted on an application or proposed allocation of land (in the LPP) within the vicinity of a WwTWs only.</p> <p>The policy is operational only. The process described by NI Water would still be possible and would still be able to inform a planning decision. Indeed, the clarification at 6.71 confirms “...planning application involving land within the vicinity of WwTWs will not be approved where there would be a loss of amenity from odour nuisance”.</p>	

<p>Main Issue 2: Unsure what the definition of ‘in the vicinity of’ is? Is there a definition of this anywhere? (DPS 317/92)</p>
<p><i>Response:</i> The Oxford English Dictionary defines ‘vicinity’ as the area near or surrounding a particular place. Could consider adding interpretation to wording to include: “adjacent, curtilage, sharing a boundary or within a distance to be affected by nuisance noise, odour, etc.”</p> <p>It is noted that para 6.318 of the SPPS also uses the phrase ‘in the vicinity of’ but offers no definition.</p>
<p><i>Conclusions:</i> The policy is considered to be sound. However, if the Commissioner is so minded to consider at IE, the Council would suggest that the policy would benefit from wording changes or additional clarification to confirm that an Odour Consultation Zones may be identified for a WwTW as follows:</p> <p><i>Proposed change to para 6.71:</i> <i>Due to their nature and scale, many WWTWs have the potential to have a significant impact on the environment and on the amenity of local communities. Odour Consultation Zones may be identified for WWTWs. Many existing WWTWs are located close to or within settlements limits...</i></p>

<p>Draft Policy WM04 – Facilities for Recycling of Construction, Demolition and Extraction</p>
<p>The Council will support proposals for the development of waste recycling facilities which deal with construction, demolition and excavation waste where the site is consistent with the criteria contained in draft policy WM 01.</p>
<p><i>Main Issues:</i> No issues raised.</p>
<p><i>Conclusions:</i> The policy is sound.</p>

Monitoring and Review

General Comments – Tables 7 and 8	
<i>Ref:</i>	<i>Representative (Main Issue):</i>
DPS/22/39	RSPB (1)
DPS/052/12	Private Individual (1)
DPS/053/12	Private Individual (1)
DPS/054/23 et al ⁴	Multiple groups & private individual (3)
DPS/113/21	HED (2)
DPS115/77	NIHE (Support)
DPS273/12	Friends of the Earth (1)
<p><i>Main Issue 1:</i> Of the 43 indicators identified, only 4 have targets which means only between 12-15% of indicators can be effectively measured. Council may find it difficult to measure policy effectiveness without specific targets to trigger a need for review or assess performance robustly and competently. There is no clear mechanism for monitoring the impacts of this Draft Plan and its proposed policies because the baseline has not been established and therefore it is not possible to monitor impacts with any reasonable degree of certainty or predictability.</p>	
<p><i>Response:</i></p> <p>The Council acknowledges that a significant number of the indicators lack targets and for a number of them, the main difficulty would be identifying a suitable target. Bearing in mind that for the purposes of monitoring, key indicators should be used, the Council has reviewed the number of indicators, concentrating on those relating to housing, industry and environmental protection, and where monitoring information and targets are readily identifiable and largely measured through the planning system. As a result, it is proposed to delete a number of indicators as outlined in the conclusions section under Monitoring Indicators below. The remaining indicators will be reviewed and amended to ensure that targets are realistic. The overall structure, content and layout of the tables will also be amended.</p>	
<p><i>Main Issue 2:</i> HED have concerns about how the monitoring indicators will show how success towards the historic environment has been achieved and suggest that appropriate monitoring should include, for example:</p> <ul style="list-style-type: none"> <i>a) Planning decisions which go against consultee advice and/or recommendations throughout the Plan period</i> <i>b) The number of Scheduled Monument Consents related to planning applications;</i> <i>c) Monitoring of the number of permissions with archaeological conditions across the district;</i> <i>d) Monitoring of applications in the AAP to which archaeological conditions applied;</i> 	

- 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 reused/enhanced, demolished or replaced.**

Response:

The Council has reviewed the number of indicators, concentrating on those relating to housing, industry and environmental protection, and where information and targets are readily identifiable. Amendments to existing indicators or the introduction of new indicators will also be considered, including those listed in Main Issue 2.

Main Issue 3:

It is to be welcomed that the LDP is to be a flexible document capable of responding to new needs and circumstances as the evidence of climate change impacts continue to emerge. The Monitoring Report should include a detailed data set on weather events, localized floods and land slippage events. It is not apparent that an adequate dataset is currently collected. Localised flooding, appears to have been occasioned by groundworks and interference with surface water drainage for wind turbine development. It is important that all such events are recorded and form part of the Monitoring Review for the District. (DPS/054/23 et al⁴)

Response:

To inform **Indicator 26: Number of Incidences of flooding affecting properties** in Table 7 of the Monitoring and Review Chapter (7.0), it was intended that Rivers and Flooding statistics from the Department for Infrastructure would be used for the analysis of flood record events. As part of the review of all proposed indicators, it was decided that in retrospect Indicator 26 was not a meaningful indicator for the LDP. Instead, it will be replaced by an indicator on development in the floodplains and to monitor that there is no development in the floodplain contrary to policy provisions.

Conclusions:

In response to the above, a number of proposed amendments will be made to Table 7 Monitoring Indicators including deletions and a review of remaining indicators undertaken and to identify appropriate targets and triggers.

Monitoring Indicators

<i>Ref:</i>	<i>Representative (Main Issue):</i>
DPS/048/04	Translink (6)
DPS/126/02	T White (3,4)
DPS/244/08; - 09	Newpark Homes (1,2)
DPS/268/03	UAH (5)
DPS/317/73	Dfl Strategic Planning (6)

Main Issue 1:

Indicator 4 New Dwellings approved across the settlement hierarchy and in the countryside and by land type.

The target figure in this indicator should be revised to 5,878 homes as the figure of 5,190 is not based on robust evidence. (DPS/244/8)

Response:

As explained in the response to Main Issue 9 in the Spatial Growth Strategy paper, the figure of 5,190 is based on a sound evidence base to the HGIs provided by NISRA. It is therefore more than ample for meeting future housing needs and therefore no change is required to the indicator. Since the dPS was published the HGI has been revised and the HGI figure for the district is now 4,300.

Main Issue 2:

Indicator 5 – Housing Completions across the settlement hierarchy and in the countryside and by land type:

The target figure in this indicator should be revised to 5,878 homes as the figure of 5,190 is not based on robust evidence. (DPS/244/9)

Response:

As explained in the response to Main Issue 9 in the Spatial Growth Strategy paper, the figure of 5,190 is based on a sound evidence base to the HGIs provided by NISRA. It is therefore more than ample for meeting future housing needs and therefore no change is required to the indicator. Since the dPS was published the HGI has been revised and the HGI figure for the district is now 4,300.

Main Issue 3:

Indicator 21 – Extent of mineral reserves and extracted mineral assets:
Concern is expressed that the wording of this indicator could be used as an argument to further both exploration and extraction of minerals. This could be seen as contrary to the SPPS in relation to unconventional fossil fuels. Further, the view is expressed that it should not be the Council who should assess if there is an adequate supply of minerals extracted locally for both FODC and regional needs. (DPS/126/02)

Response:

In relation to this indicator, 'mineral' in this context means aggregates and not hydrocarbon fuels. The SPPS in paragraph 6.155 states that LDPs should 'ensure that sufficient local supplies of construction aggregates can be made available for use within the local, and where appropriate, the regional market area and beyond, to meet likely future development needs over the plan period.' The indicator needs to be defined as relating to construction aggregates only i.e. sand and gravel.

Given the present difficulties in gathering accurate information on supply and demand as outlined in the Minerals topic paper, the Council proposes to amend

this indicator to 'quantity of permitted reserves to meet annual production of construction aggregates' and to monitor production permitted mineral reserves i.e. information gathered from minerals applications. However, it should be acknowledged that given the variability/quality of the data collected on mineral production, it is difficult to propose an appropriate annual target and trigger. It is suggested that a 3-year average production figure is taken from DfE's Annual Minerals Statement for 2015, 2016 and 2017 as a starting point in order to monitor future demand.

Main Issue 4:

Indicator 21 – Extent of mineral reserves and extracted mineral assets:

It is suggested that the relevant SA objectives, based on SEA/RDS should be 10, 11, 12, 13, 15 & 17.

Response:

The SA Objectives referred to are 10 Water Quality; 11 Air Quality; 12 Biodiversity; 13 Landscapes and townscapes; 15 Climate Change and 17 Land and Soil Quality. SA Objective 17 is already included under Indicator 21. The other objectives quoted do relate to minerals development particularly as they are topic areas which an EIA would include with a minerals development planning application. As such, there is no objection to the inclusion of these relevant SA objectives. (Note: This Indicator is now Indicator 13 as amended in Tables 7 & 8.) However, in reviewing the content and structure of the monitoring framework table, the Council has concluded that there is no need for inclusion of SA objectives.

Main Issue 5:

Indicator 22 – Number and Condition of Heritage Assets:

**Concern expressed that there is no target provided and that condition should be considered separately from numbers of heritage assets. Recommends a standalone target for saves or removals from the heritage at risk register which would establish an indicator of achievement for restoration and reuse.
(DPS/268/03)**

Response:

Having reviewed the indicator, the Council has replaced it with indicators which will monitor the number of listed buildings demolished, the number of demolitions in Conservation Areas, Areas of Townscape/Village Character and the number of non-designated heritage assets demolished or replaced as data to inform these is readily available.

Main Issue 6:

- (i) **Indicator 1 - Length of new footpaths and cycle paths created – this indicator does not address the purpose for which it is attributed to.**
- (ii) **Indicator 29 - Number of new or extended Park and Ride/ Park and Share facilities created – the definition does not recognise the role of Park and Ride/ Park and Share in the mode choice for inter**

- urban Travel or take account of usage of the sites or the impact on modal share.*
- (iii) Indicator 30 - Length of disused transport routes re-used for transport, recreation, nature conservation or tourism use – it is unclear how this indicator provides a measure of ‘the effectiveness of policy to safeguard disused transport routes.**

Suggested Modifications:

- (i) Indicator 1 should be amended to acknowledge the need to also measure behaviour change or undertake Accessibility Analyses (walking and cycling network overlaid with census data to chart the catchment of infrastructure). Reference could be made to updating the GIS data base (provided to Council in the LTS Evidence Base) to facilitate an assessment of the length and quality of the walk and cycle network.**
- (ii) The definition of Indicator 29 should also acknowledge the role of Park and Ride/ Park and Share in the mode choice for inter urban travel and surveys should be undertaken of their use.**
- (iii) Indicator 30 should be amended to ‘length of disused transport routes developed for uses other than ‘transport, recreation, nature conservation or tourism use. It is suggested that an additional monitoring indicator should be included in relation to car parking. Data in relation to the turnover of town centre short stay and long stay should be reviewed to confirm the accessibility of Enniskillen and Omagh town centres to confirm their continued vitality.**

(DPS/048/04, DPS/317/73).

Response:

- (i)** The Council considers that in relation to Indicator 1, the additional requirements requested would be onerous and disproportionate to the monitoring information required for other key indicators of the LDP. Having reviewed all the indicators, it has been decided that this indicator should be removed.
- (ii)** Park and Ride/Park and Share are mainly facilities provided by DfI. The Council would not propose to undertake surveys of their use as this should be undertaken by the authority responsible for them.
- (iii)** The Council will consider the resource implications for annual monitoring of turnover of short stay and long stay car parking as part of its off-street parking responsibilities.

Conclusions:

Having considered the issues raised, the Council proposes to delete a number of indicators so as to ensure that the indicators focus on key areas such as housing, industry and environmental protection and where triggers and targets can be realistically provided and which clearly assist in measuring the performance and implementation of the LDP. The remaining indicators have been reviewed and

amended as necessary, taking into account the issues raised above. It is therefore proposed that the following indicators should be deleted: -

Indicator 1: Length of new footpaths and cycle paths created

Indicator 2: Length of rights of way and permissive paths lost through redevelopment

Indicator 3: New green and blue infrastructure created within new development

Indicator 12: Sports facilities, open space/recreation land lost to redevelopment and new facilities/open space created

Indicator 14: Number of new Riverside Walks created

Indicator 15: New rural start-up project or community development in RCAs

- Indicator 30: Length of disused transport routes re-used for transport, recreation, nature conservation or tourism use

Indicator 31: Level of telecommunication and high-speed broadband coverage

- Indicator 33: New or upgraded Waste Water Treatment Works

The following indicators have been amended or replaced to address issues raised above:

- Indicator 16: Number employed and number of new industry and business uses created across the District (To be replaced by Number of jobs created)
- Indicator 18: Development activity; diversity of uses and vacancy rates within town centres (To be replaced by Development Activity within Town Centres)
- Indicator 21: Extent of reserves and extracted mineral assets (To be replaced by Quantity of permitted reserves to meet Annual Production of Construction Aggregates (Sand and gravel))
- Indicator 22: Number and condition of Heritage Assets

The remaining indicators have also been reviewed and amended accordingly. All amended/proposed indicators are shown in the Amended Monitoring Framework (Appendix 1 to this report)

General Issues

Part One, Chapter 2.0, Legal Status and Policy Context	
<i>Ref:</i> DPS/115/01 DPS/250/10	<i>Representative (Main Issue):</i> NIHE (1) DAERA (NED) (2)
<p><i>Main Issue 1:</i> The Housing Executive would like to see additional information in relation to 'Legal Status and Context' with a view to seeing how prematurity would be applied. This relates to the Housing Executive view that policies they support should be implemented immediately and thus be a material consideration in considering applications. (DPS/115/01)</p>	
<p><i>Response:</i> Prematurity is dealt with at paragraph 5.73 of the SPPS. The Council did not consider it necessary to repeat this within the draft Plan Strategy. The paragraph clearly suggests that the refusal of planning permission on the grounds of prematurity can only occur in certain, limited circumstances.</p> <p>However, account can also be taken of policies in emerging Development Plan Documents (DPD). Where there are no representations made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong probability that they will be adopted. The converse will also apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies. Given that the Council received representations to a large number of the draft policies - most expressing opposition to them or at least indicating the need for some amendment - it is expected that planning applications will continue to be considered in the light of current policies until such time as the Plan is adopted.</p>	
<p><i>Main Issue 2:</i> It is suggested that the Regional Policy Context of the DPS includes narrative on the UK Marine Policy Statement (MPS) and the Council's legal obligations under Section 8 and Section 58 of the Marine Act (Northern Ireland) 2013 (MANI) and the Marine and Coastal Access Act (MCAA) 2009 respectively. (DPS/250/10)</p>	
<p><i>Response:</i> Given that the UK MPS is a material consideration and is of equivalent standing with terrestrial planning policy documents such as the RDS and the SPPS, the Council has no objection to the inclusion of a short paragraph referencing the purpose of the UK MPS and the legal obligations of public authorities in ensuring that decisions relating to any act which affects or might affect the whole or any part of the marine area are made in accordance with this document and any other appropriate marine policy documents.</p>	

Conclusions:

There is no requirement to provide additional information in the Legal Status and Context in regard to prematurity and that it is sufficiently covered in the SPPS. When the Draft Plan has gone through Independent Examination and subsequently adopted, the need for such information will no longer apply.

However, in response to Main Issue 2, the following text should be inserted after paragraph 2.13 on the SPPS: -

“The UK Marine Policy Statement (UK MPS)

The UK Marine Policy Statement (MPS) provides the policy framework for the marine planning system and taking decisions affecting the marine environment. This includes, for example, decisions on proposals that are not located near the coast but which might impact on the marine area. In addition, any function (e.g. LDP preparation) capable of affecting (or which might affect) the marine area must also have regard to the appropriate marine policy documents.

The UK MPS is a material consideration and is of equivalent standing to terrestrial policy documents, such as the Regional Development Strategy (RDS) and the Strategic Planning Policy Statement (SPPS). It also provides the high level policy context for the preparation of Marine Plans.”

Part One, Chapter 2.0, Paragraph 2.15 – Supplementary Guidance

Supplementary Guidance

2.1. The following supplementary documents produced by Central Government support the wider regional policies relevant to our Council area:

- **Living Spaces** – An Urban Stewardship and Design Guide (2014). It aims to clearly establish the key principles behind good place-making;
- **Building on Tradition** – A Sustainable Design Guide for the NI Countryside (2012). The guide promotes quality and sustainable building design in the countryside;
- **Creating Places (May 2000)** – provides guidance to improve the design, character and layout of new housing developments.

Ref:
DPS/022/01

Representative (Main Issue):
RSPB (1)

Main Issue 1:

It is not clear if only the three documents referenced will be relied upon or carried over into the LDP. A full list of supplementary guidance is contained within paragraph 1.14 of the SPPS. This should be clarified. (DPS/022/01)

Response:

As stated in paragraph 2.14 (Transitional Arrangements), any relevant supplementary and best practice which reflect the Council’s policies will continue to apply. This would include those listed at paragraph 1.14 of the SPPS for the

exception of Wind Energy Development in Northern Ireland Landscapes (2010) as the Council has brought forward its own Landscape Wind Energy Strategy at Appendix 7 of the Draft Plan Strategy. The documents referenced in paragraph 2.15 are considered to be the most important of these supplementary documents and it was not considered necessary to list everything from the SPPS.

Conclusions:

No amendments are considered necessary.

Part One, Chapter 3.0, Paragraph 3.6 Working with other Local Authorities

3.6 The Plan Strategy needs to take account of wider challenges, issues and opportunities affecting neighbouring areas. The Council area borders four counties in the Republic of Ireland, namely Donegal, Cavan, Monaghan and Leitrim, as well as bordering two local authority districts - Derry City and Strabane, and Mid Ulster. Our Council area contains part of the Sperrin Area of Outstanding Natural Beauty (AONB) which is also shared with these latter two districts along with Causeway Coast and Glens.

Ref:
DPS/022/02
DPS/317/70

Representative (Main Issue):
RSPB (1)
DfI Strategic Planning Directorate (2)

Main Issue 1:

The paragraph refers only to designations which cross council boundaries in NI. While it is recognised that the Slieve Beagh-Mullaghfad-Lisnaskea Special Protection Area (SPA) for hen harrier is a NI Natura 2000 designation, it should be noted that the site adjoins a proposed SPA for hen harrier in the Republic of Ireland. The paragraph should be amended to reflect this context. (DPS/022/02)

Response:

The paragraph is inclusive of cross boundary working with local authorities outside NI e.g. the Cross Border Forum set up by Mid Ulster includes representatives from Monaghan County Council. FODC has also engaged with representatives from Donegal, Cavan and Leitrim County Councils. In relation to environmental designations, the Plan Strategy also acknowledges at paragraph 5.37 of Part Two that natural environment assets are not constrained by lines on a map nor borders. If necessary, additional text in paragraph 3.6 can be inserted to strengthen the context that international and national environmental designations can adjoin similar designations in the Republic of Ireland and these have been taken into account in the preparation of the LDP.

Main Issue 2:

It is unclear if the draft policy for the Sperrin AONB (L01) has taken into account the approaches of neighbouring councils to this shared resource. Council should be able to demonstrate that policy in respect of this cross-

boundary designation does not conflict with the DPDs of neighbouring councils as required by soundness test CE1. (DPS/317/70)

Response:

The policy is broadly similar to that contained within Mid Ulster District Council’s Draft Plan Strategy which was published in February 2019, a few months after FODC’s publication. The Sperrins Forum, set up by Mid Ulster and which FODC is a member, recognises the need for protection of our sensitive landscapes and environmental assets and, in particular, the integrity of the Sperrin AONB designation.

Conclusions:

To provided clarity, the following additional text should be added to the end of paragraph 3.6 as follows:

“It is also recognised that the council area is adjacent or connected to a number of international environmental designated sites in neighbouring areas and these have been taken into account in the preparation of the LDP.”

Part Two, Chapter 1.0 Introduction, Paragraph 1.3

1.1. The draft Plan Strategy provides a plan-led policy framework for making day- to-day decisions to help Fermanagh and Omagh District Council (herein referred to as ‘the Council’ or ‘Council area’) deliver sustainable development including future housing, employment, retail and infrastructure provision across the District.

Ref:
DPS/022/05

Representative (Main Issue):
RSPB (1)

Main Issue 1:

The paragraph talks about delivering sustainable development, however, both the RDS and SPPS require the furthering of sustainable development. The policies of the DPS should ‘further’ rather than simply ‘deliver’ sustainable development. (DPS/022/05)

Response:

To ensure cohesiveness and consistency with draft Policy SP01 Furthering Sustainable Development, the Council accepts that the wording in this paragraph should be amended to be in keeping with both the RDS and SPPS.

Conclusions:

To provide clarity, the following contextual change to Paragraph 1.3 is proposed in order to ensure alignment with draft Policy SP01 and which includes a proposed wording from the Spatial Growth Strategy topic paper (shown in italics):

“The Planning Act 2011 establishes a plan-led system which gives primacy to the Local Development Plan in the determination of planning applications unless other

material considerations indicate otherwise. *In determining planning applications, planning authorities will also be guided by the precautionary approach that, where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest.* Our draft Plan Strategy provides the plan-led policy framework for day-to-day decisions to help realise the Council's Vision and Objectives and *further* sustainable development including future housing, employment, retail and infrastructure provision across the Council area."

Part Two, Chapter 6.0 Infrastructure

Chapter 6.0 covers policies for Flood Risk Management, Renewable and Low Carbon Energy Generation, Transportation, Public Utilities and Waste Management.

<i>Ref:</i> DPS/317/71 DPS007/01	<i>Representative (Main Issue):</i> DfI Strategic Planning Directorate (1) Private Individual (1)
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Main Issue 1:

The Plan Strategy should show how the objectives for a council area may be delivered and by whom, and when. In particular as set out in the RDS, the availability of necessary infrastructure, including sustainable water resources and sewerage capacity is particularly important. There is little discussion of capacity constraint within Chapter 6. Furthermore, it would have been preferable to identify within the draft Plan Strategy, the overall housing growth to individual villages and smaller settlements which in turn would provide greater certainty in relation to capacity of infrastructure to support proposed growth. (DPS/317/71; DPS007/01)

Response:

In Chapter 7.0, Monitoring and Review, the Council indicates in paragraph 7.2 that much of the implementation of the Plan Strategy will be through the determination of planning applications. It is also recognised that certain key functions fall under the responsibility of other service providers including government departments.

In regard to the remaining part of the issue concerning capacity constraint, this has been partly addressed in the Spatial Growth Strategy Paper under Main Issue 11 of SP03. The Council acknowledges that to include such information within the Spatial Growth Strategy Chapter 6.0 would have been beneficial. However, as the status of some WwTWs may change over the course of plan preparation and during the lifetime of the plan itself, it was considered unnecessary to highlight settlements which currently have specific capacity constraints. The Council will be taking into account such information, along with other factors, when considering the zoning of land for development at the Local Policies Plan stage. In the meantime, an indicative allocation of housing to each settlement within the settlement tiers is provided in the Housing Supplement Paper.

It should be noted that the reference that some settlements have been identified as having no remaining capacity within the waste water treatment infrastructure is made at paragraph 4.30 of Part One, 4.0 Spatial Portrait of the Fermanagh and Omagh District.

Conclusions:

No amendments are considered necessary.

Assessments

Rural Needs Impact Assessment	
<p><i>Ref:</i> DPS/023/02 DPS/134/04 DPS/265/06 DPS/267/10</p>	<p><i>Representative: (Main Issue)</i> Camphill Community Clanabogan (1) Cllr Sheamus Greene (2) Jemma Dolan MLA (2) Cllr Brian McCaffrey (2)</p>
<p><i>Main Issue 1:</i> Considers that the LDP is not consistent with the RNIA as the settlement hierarchy proposed in the LDP will not support and sustain rural communities outside of settlements and excludes Camphill Community Clanabogan from the small settlement hierarchy. This would hamper the capacity of the organisation to evolve and adapt to changing needs. (DPS/023/02)</p>	
<p><i>Response:</i> The role of the RNIA is set-out in the <i>Introduction and Background</i> (and this in turn is derived from the Rural Needs Act 2016). This states that the RNIA is “...<i>only one aspect that should be taken into account when developing the Plan Strategy and its policies</i>”.</p> <p>The Draft Plan Strategy must also take account of regional policy and be evidence-based. The Settlement Hierarchy of the DPS follows the spatial framework set out in the RDS. The Council has used the RDS Evaluation Framework and undertaken a Strategic Settlement Evaluation to identify a network of settlements across the district based on characteristics such as their population, role and function. This is the main evidence that has informed the settlement hierarchy and is discussed in full at Part 1 Para 6.6 to 6.19 of the DPS.</p> <p>The response to Main Issue 2, SP02 (Spatial Growth Strategy/Strategic Planning Policies Paper) specifically details why Camphill Community should not be included as either an extension to the Clanabogan small settlements or as another small settlement in the Settlement Hierarchy, as it would not meet the criteria for a small settlement.</p> <p>The RNIA correctly assesses the Rural Impact of policy SP02 (settlement hierarchy) on the social and economic needs of rural dwellers and if this will impact differently from people in rural areas. It also identifies that while the Settlement Hierarchy has been primarily driven by other needs/drivers (the RDS and evidence) it has also been influenced by rural needs.</p>	
<p><i>Main Issue 2:</i> The RNIA has not acknowledged nor investigated the impact to the residents, business and community groups of the eleven DRCs as</p>	

recognised in the settlement hierarchy of the Fermanagh Area Plan 2007. Furthermore, considers that:

- (i) No rational has been provided for the exclusion of DRCs (including in the DPS or Topic Papers) and the impact of this decision.**
- (ii) Retailing in the countryside has been completely prohibited (refers to policy on Town Centres, the Retailing Strategy and policy RCA01) and that this has not been addressed within the RNIA.**
- (iii) Advertising for businesses in the countryside has been banned (refers to policy DE07) and that this has not been addressed within the RNIA. (DPS/134/04, DPS/265/06; DPS/267/10)**

Response:

At their root the representations have concerns with the principle of policies that have been developed and are contained within the Draft Plan Strategy (e.g. disagrees that DRCs should not be maintained in the DPS). However, it is not the role of the RNIA to provide justification for the policies of the DPS but instead it is for the RNIA to: objectively assess the impact of the policies on the social and economic needs of the rural dweller; document what social and economic needs of rural dwellers have been identified (section 3 of the RNIA); and, identify how these rural needs were considered and how they influenced the DPS (section 4 and 5).

In respect of the above issues:

DRCs - Section 3 correctly documents that the loss of DRCs is an issue to rural dwellers and that this was identified through the POP consultation. Section 4 outlines that policies have been developed that would provide opportunities for development in the former DRCs. The former DRCs would be classified as open countryside but could also be defined as Rural Community Areas (RCAs). As such policies would allow for residential development, rural start-ups, social enterprise and community facilities and this therefore represents a limited change in the social and economic needs of rural dwellers within the DRCs.

The rational for not designating DRCs in the LDP was detailed in the Countryside Assessment paper (October 2018) published alongside the DPS. This rational includes that DRCs, given their scale (often several townlands) do not reflect a sustainable pattern of development, do not fit within a settlement hierarchy and do not reflect the regional planning framework (as contained in the RDS/ SPPS) which no longer allows for DRCs. RCAs therefore represent a creditable alternative.

Retailing – The RNIA identifies that several of the retail policies have been influenced by rural needs as well as being influenced by other needs/drivers. This includes policy TCR04 (Villages and Small Settlements) which allows for new retail development to meet the day-to-day needs of rural communities within villages and small settlements.

<p><i>Advertisement in the Countryside</i> – The RNIA recognises there is a differential impact on businesses in rural areas compared to businesses in urban areas as it is likely that it would be more difficult to obtain advertisement consent for a business within the ‘open countryside’ when policy DE07 is applied. However, this is because the main driver for this policy is to protect the countryside from a proliferation of signage which would negatively impact on the character and appearance of the countryside (in line with the SPPS). As such, the RNIA has correctly assessed the impact on the social and economic needs of the rural dweller.</p>
<p><i>Conclusions:</i> The RNIA is robust and fulfils the requirements of the Rural Needs Act 2016. It ensures that the Draft Plan Strategy has had due regard to rural needs. There are no changes proposed as a result of the comments received.</p> <p>The RNIA of the LDP Draft Plan Strategy will remain an important consideration when moving forward to the next stage of the Draft Plan Strategy process. If the intent of the policies of the Draft Plan Strategy are changed than this may require an Addendum to the RNIA of the LDP Draft Plan Strategy to reappraise such changes. A separate RNIA will be required for the Local Policies Plan.</p>

Equality Impact Screening Report	
<i>Ref:</i>	<i>Representative:</i> None
Main Issues: No issues raised.	
<p><i>Conclusions:</i> The Equality Impact Screening Report is robust and the conclusion that the Draft Plan Strategy will have no adverse impact with regards to equality and is likely to have a positive impact on all Section 75 Groups, remains the case.</p> <p>The Equality Impact Screening/Assessment of the LDP Draft Plan Strategy will remain an important consideration when moving forward to the next stage of the Draft Plan Strategy process. If the intent of the policies of the Draft Plan Strategy are changed than this may require an Addendum to the Equality Impact Screening Report or an Equality Impact Assessment of the LDP Draft Plan Strategy to reappraise such changes. A separate Equality Impact Screening/Assessment will be required for the Local Policies Plan.</p>	

Sustainability Assessment		
<i>Ref: DPS/022</i> <i>Representation: RSPB</i>		
Issue Raised – Summary	Ref	Response
<p>DPS/022/46 <i>Figure 6- SA Objectives and Decision-making criteria</i></p> <p>Considers that the Sustainability Objective ‘to conserve and enhance biodiversity’ should be split to cover ‘ecological’ issues (biodiversity, flora and fauna) or appropriately weight the various elements.</p>	SA001	The SA Objectives have been agreed by the consultation body (at the SA Scoping stage) and it would not be appropriate to alter them now. Furthermore, the iterative nature of SA/SEA as an assessment tool would also suggest that consistent application of the same, agreed objectives are applied. SA is a process and it would be difficult to complete the process effectively if the objectives agreed at the outset were not consistently applied.
<p>DPS/022/49 <i>Figure 6- SA Objectives and Decision-making criteria</i></p> <p>The SEA has not addressed the inter-relationship between the different topics (e.g. ecology and health) and there should be an additional topic to address this.</p>	SA002	See SA001 response above.
<p>DPS/022/50 <i>Figure 6- SA Objectives and Decision-making criteria</i></p> <p>An Ecosystems approach to the SEA is absent, its inclusion would allow consideration of the extent to which the alternatives delivers or affects eco-systems services.</p>	SA003	<p>There is no mandatory requirement to use an Ecosystems approach when undertaking an SEA. Given the current stage of the SA process it would not be appropriate to introduce an ecosystems approach now.</p> <p>Introduced at the right stage of the SA, there are potential benefits of the process, however, introduction of an Ecosystems approach should be applied with caution. It can create an overly complex report or assessment which highlights environmental interactions that may not be significant environmental effects. Similarly, proportionality may suffer if an ecosystems approach is used thus reducing the effectiveness of the assessment. It is</p>

		also acknowledged that the Ecosystems services approach does not describe some cross-cutting environmental issues in terms of services alone, such as climate change adaptation. There is a risk that using this approach may result in some issues being overlooked through the assessment. The language of ecosystems services does not always apply equally across all SA topics as they describe natural processes and the benefits that may be derived from these. For example, it can be difficult to apply to topics such as cultural heritage, landscape or social and economic factors considered through the SA. From the practitioner's perspective, application of the Ecosystems approach to the SA may require quite specific knowledge or skills to ensure that it has been applied effectively.
DPS/022/51 <i>SA Objectives</i> Include Green Infrastructure and Ecosystems as an SA Objectives (and recommends decision criteria).	SA004	See SA003 response above.
DPS/022/52 <i>SA Objective 9 – Flood Risk</i> Should be extended to include 'Water' in general terms including protection, enhancement and managing water resources and flood risk (and recommends additional decision-making criteria of "protect and enhance the status of aquatic and wetland systems")	SA005	It is considered that other SA objectives and decision-making criteria adequately deals with this requirement. SA Objective 10 (water quality) includes "will it reduce water consumption and improve water efficiency" and SA Objective 12 (biodiversity) includes "...conserve and enhance habitats of district or local importance...".
DPS/022/53 <i>SA Objectives 11 Air Quality, 12 Biodiversity and 15. Climate Change</i>	SA006	This is linked to the comments that have already been made about the use of ecosystems approach and revising SA objectives (see SA001 and SA003 above).

<p>Suggests various additions to the decision-making criteria for these objectives.</p>		<p>To ensure a continuity of the approach that has already been taken in the SA it would be inappropriate to make significant changes to the agreed objectives now. Whilst the Ecosystems approach has many benefits, there are several recognised caveats associated with its use which in this instance are applicable.</p>
<p>DPS/022/54 <i>Section 5.0 – Summarising the Effects of the Draft Plan Strategy</i></p> <p>RSPB is of the view that it is unsatisfactory to state that reasonable alternatives will be limited simply because the existing policy is likely to remain unchanged.</p> <p>The benefit of a SEA is to look for more sustainable options and if this generates policy contradictions, then FODC should be open to looking at alternatives.</p>	<p>SA007</p>	<p>Reasonable Alternatives must be realistic. In the absence of any evidence which would support an alternative policy approach it would not be meet this requirement. Any ‘policy contradiction’ (between the regional framework and local policy) could not be resolved without evidence and therefore fail.</p> <p>It is noted that the response does not propose any alternatives.</p>
<p>DPS/022/55 <i>Identified Effects – para 5.1, and Cumulative Effects – para 5.4</i></p> <p>Notes that inclusion of SA Objective ‘Green Infrastructure and Ecosystem Services’ would allow the inter-relationship between all other sustainability topics to be looked at and will assist in the assessment of synergised effects on the environment.</p>	<p>SA008</p>	<p>Although ecosystems services is an integrated concept which can provide a basis for considering interrelationships and cumulative effects by looking across the assessment topics; an exclusive focus on ecosystems services risks the effective and compliant consideration of aspects such as heritage, air pollution and non-ecosystem service specific topics. There is a potential risk, therefore, of an incomplete understanding of the impacts of the plan.</p> <p>The decision to use an ecosystems services approach may be particularly appropriate for plans identified as having a greater impact on the environment. However, to be effective this should be done at the Scoping Stage. Its effectiveness is also highly dependent on the degree of environmental impact had by the plan. It is acknowledged that even within comprehensive ecosystem service SA/SEA there is a need to incorporate non</p>

		ecosystem services aspects as appropriate – for example relating to heritage, deprivation and non-ecosystem services health issues.
<p>DPS/022/56 <i>Section 6.0 – Monitoring and Implementation</i> <i>Table 5: SA Objectives and Monitoring Indicators</i></p> <p>As per comments on the DPS there are limited targets set and which would affect how measures can be robustly or competently measured.</p> <p>Monitoring should be clearly linked to the SA process, and on measuring the significant effects identified by the SA.</p> <p>Reference is made to the SEA prepared for the SPPS and monitoring suggestions.</p>	SA009	<p>A full review of the SA Monitoring Indicators will need to be undertaken. This could include setting more robust measures and targets and could also be clearly linked to the SA process. This could include a review of the SEA prepared for the SPPS.</p> <p>It is noted that the SA Monitoring Indicators as presented in the SA Report are technically in ‘draft’ form and are not finalised until the later stage of the SA process (the post adoption ‘SA Statement’).</p>
<p>DPS/022/57 <i>Appendix 2 – Key Characteristics and Baseline Information</i></p> <p>Suggestion that this refers to all priority species particularly where there could be transboundary issues or linkages, and not just those found within FODC.</p> <p>Recommends reference to various documents.</p>	SA010	Reference to priority species will be reviewed for future iterations of the SA, including where there is a transboundary issue.
<p>DPS/022/58 <i>Appendix 2 – 3.0 Biodiversity</i></p> <p>Recommends that this section also refers to nature conservations assets which may experience a transboundary effect and all areas currently managed by nature conservation organisations like RSPB NI.</p>	SA011	Updates and corrections to baseline information can be taken forward in future iterations of the SA.

RSPB NI reserves include Lower Lough Erne Islands, Aghatirourke.		
Ref: DPS/028/02 Representation: Derry City and Strabane District Council		
Issue Raised – Summary	Ref	Response
DCSDC comment that they are content with the extent of the 'Scoping', assessment of emerging policies against the SA Framework and new strategic options considered and development, and concur with the overall conclusion that there are anticipated significant negative effects either with regards to individual policy or proposal or when considered cumulatively. DCSDC recognise and acknowledge the stated limitations in both the baseline data and how some effects can be measured, resulting in some still unknown effects.	SA012	Noted. No action.
Ref: DPS/049/02 Representation: Causeway Coast & Glens Borough Council		
Issue Raised – Summary	Ref	Response
The responses notes the various points where the shared environmental asset of the Sperrin AONB is referred to in the SA Report. The same comment is made in respect of the following: <i>Table 04: MIN01</i> <i>Appendix 2 - Para 8.2 & 8.3</i> <i>Appendix 2 – Para 9.3</i>	SA013	The comment is linked to the wider concern of CCGBC on the potential impact of policy MIN01/ACMD designation on CCGBC area and is not a reflection of the outcome of the SA.

<p><i>Appendix 4 – Table 14</i></p> <p>This notes that the whole of the Sperrin AONB is proposed as an ACMD, and the concern of CCGBC that such a blanket designation (and MIN01 policy approach) would place pressure on CCGBC council area.</p>		
<p>Ref: DPS/110/07; DPS/111/07; and DPS/322/07 Representation: Tracey Concrete Ltd; McCaffrey & Sons Ltd; and, Quinn Building Products Ltd.</p>		
Issue Raised – Summary	Ref	Response
<p>Considers that the economic contribution of the minerals industry has been undervalued in the assessment table, particularly in relation to MIN01/ACMDs.</p>	SA014	<p>The representation notes that Policy MIN01 makes no provision for sites that are already operational in ACMDs (i.e. their client's site) – this is not the case MIN01(vii) does cover this. The SA does make clear reference to the positive economic effects relating to economic growth, reducing disparity and inward investment of mineral development. There appears to be an assumption that the inclusion of the landscape designations within the preferred option has given undue weight to the economic benefit associated with tourism over the economic benefit associated with mineral extraction. The SA does not reflect this assertion. In addition, landscape protection also performs a social and cultural function and contributes to strengthening the identity of a place.</p>
<p>The approach, to MSAs, whereby they are not identified in the DPS, means that the impact of such a designation cannot be accurately assessed within the SA.</p>	SA015	<p>The SA must give equal consideration to social, economic and environmental issues – this will always be within the parameters of the data baseline. In this instance there is an acknowledged information gap and the difficulties this creates for assessment are acknowledged.</p>

<p>The SA fails to appraise draft policy MIN03, the designation of MSAs which is at odds with the approach to designate ACMDs.</p>	SA016	<p>The lack of data means that MSAs cannot be identified at this stage (This is clearly detailed within the SA.). Therefore, it would be misleading to include this in the SA, rather than proposing an 'unbalanced policy approach' as suggested in the representation i.e. by only identifying areas of constraint rather than areas where the mineral is safeguarded.</p>
<p>The SA is incorrect in the assessment of policy MIN02 in the SA as the payment of a bond for minimal restoration will pose a financial constraint on operators. The payment of a restoration bond is seen as a departure from Regional policy.</p>	SA017	<p>In this instance, it is not the restoration bond per se that is being assessed, rather the outcome and the opportunity that this will provide to secure a degree of mitigation. It is an operational cost, however, without it the SA could have reflected a far greater and longer lasting environmental and social impact. Economic impacts may also have been greater and negative – without the security of a bond, unrestored areas could be less attractive for future investment, unemployment would increase along with disparity. As such, it is considered the SA has correctly assessed MIN02.</p>
<p>Ref: DPS/113 Representation: Department for Communities, Historic Environment Division</p>		
Issue Raised – Summary	Ref	Response
<p>DPS/113/01 The SA is not robust and does not provide evidence to support the policies articulated in the strategy in relation to the historic environment. (The Policy direction for the historic environment is unsound. Existing policies as per the POP are not carried forward and significantly deviate from strategic policy in SPPS)</p>	SA018	<p>It is not the role of the SA to provide evidence to support the policies articulated in the strategy. The role of the SA is outlined at para 1.19 of the SA Report (in summary to promote sustainable development, assessing providing recommendations to improve as they are developed).</p> <p>As also highlighted in the SA Report sustainability in all aspects of development cannot be secured through the SA. The SA can demonstrate how sustainable the policy may be and where negative effects are identified, that appropriate mitigation is necessary. Consideration of the historic environment is</p>

		important, but the SA also notes that positive social and economic aspects can outweigh environmental considerations in certain circumstances.
<p>DPS/113/16 <i>(Appendix 3 – Plans, Policies, Programmes and Strategies (PPPS): A: International</i></p> <p>Various requests for additional inclusions:</p> <ul style="list-style-type: none"> • 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 Heritage (1972) 	SA019	The requests for additional inclusions within Appendix 3 have been reviewed and all of these will be included in future iterations of the PPPS.
<p>DPS/113/22 <i>Appendix 3 – Plans, Policies, Programmes and Strategies (PPPS): B: European</i></p> <ul style="list-style-type: none"> • Item 34: The Valetta Convention is a revision of London Convention of 1969 (not Granada). The ‘Implications for the LDP’ shows a weak understanding of the Convention. • Item 40: The Granada Convention (should be 1995), Concerns with the summary of the implications. Note all objectives are articulated through the RDS and SPPS. • Items 210 and 211 are out of sequence. 	SA020	<p>Item 34: The implications for LDP can be updated as follows: <i>“Consideration should be given to conservation of archaeological resources including potential archaeological reserves. Article 5 seeks the integrated conservation of archaeological heritage through its consideration in the preparation of local development plans and the creation of planning policies designed to ensure well balanced strategies for the protection, conservation and enhancement of sites of archaeological interest; and highlights the need of devising plans to avoid adverse impact”.</i></p> <p>Item 40: The implications for LDP can be updated as follows: <i>“Consideration should be given to conservation of architectural resources. Article 10 states the protection of architectural heritage as an essential town and country planning objective and ensure that this requirement is taken into account at all stages,</i></p>

		<p><i>both in the drawing up of development plans and in the procedures for authorising work”.</i></p> <p>Items 210 and 211: A note at page 192 identifies that items 210-223 were late additions to the PPPSs and hence why they appear out of sequence.</p>
<p>DPS/113/26 <i>Appendix 3 – Plans, Policies, Programmes and Strategies (PPPS): C: National and Sub Regional</i></p> <ul style="list-style-type: none"> Item 61: PPS6: does not agree that the implications articulated marry minor adjustments as stated in the POP at 12.2 Item 166: The Historic Monuments and Archaeological Objects (NI) Order 1995. Lead Organisations should be changed to DfC HED and the specific implications should be the requirement for Scheduled Monument Consent in place before planning permission can be granted (and this is absent from the policy) <p>Various requests for additional inclusions:</p> <ul style="list-style-type: none"> 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) 	<p>SA021</p>	<p>Item 61: The ‘implication’ of PPS6 states “retention of these policies will be considered in preparing the LDP policies”. Para 12.2 of the POP states “...the operational policies within the relevant PPS are considered to be operating effectively and it is proposed that these will be carried forward into the LDP strategy with minor adjustments”. These statements are not considered to be contradictory, but it is more the case that HED are questioning the level and type of adjustments that have been made as well as the validity of the policy approach to HE in the DPS.</p> <p>Item 166: The implications for LDP can be updated as follows: <i>“There is a requirement for Scheduled Monument Consent for works within Scheduled Monument designated areas. This would be a consideration in zoning ground including or immediate to scheduled areas”.</i></p> <p>The request for additional inclusions within Appendix 3 has been reviewed. Protection of Military Remains Act 1986 and the Protection of Wrecks Act 1973 will be added to future iterations of the PPPSs.</p> <p>However, HED Guidance on Setting and Historic Environment and HED Guidance of SA and SEA for the Historic Environment are not plans, policies, programmes or strategies (they are guidance) and so should not be included in the PPPSs.</p>

<p>DPS/113/27 Considers that the baseline evidence/scoping content in relation to Historic Environment is insufficient and in particular:</p> <ul style="list-style-type: none"> • The scoping report should have been updated and should include Statements of Significance for Candidate ASAIs. • List of new AAPs identified from Gazetteer of Nucleated Historic Urban Settlements (and which should be identified in LDPS for information purposes). • The discussion in the SA does not reflect the additional evidence supplied or transboundary effect (e.g. the extension to the Beaghmore ASAI). 	SA022	<p>Updating and correcting to the environmental baseline is acceptable and the suggestions made can be taken forward in future iterations of the SA.</p> <p>However, making significant changes to the Scoping Report, a document that HED were consulted on, is not appropriate at this stage.</p> <p>Furthermore, transboundary environmental effects relate to potential effects on another Member State only. It is therefore not relevant to the extension to the Beaghmore ASAI (from Mid-Ulster).</p>
<p>DPS/113/28 <i>Appendix 2 – Key Characteristics and Baseline Information</i> <i>Section 7.0 – Cultural Heritage and Landscapes</i></p> <ul style="list-style-type: none"> • Considers this section is significantly out of date and too narrow. Note that HED is no longer part of NIEA since 2015 and DoE is referred to. • Insufficient analysis of what characteristics of the district are in terms of its historic environment, and some figures are out-of-date. • Tables of indicators (p 93, 95 and 96) contains out of date information. 	SA023	<p>Updates and corrections to baseline information can be taken forward in future iterations of the SA.</p>

<p>DPS/113/29 <i>Appendix 4 – Discussion Tables and Matrices</i></p> <p>Overall – question what historic environment expertise has informed the assessment; disagree with some of the scoring afforded; advice that the effects on HE should be subject to review.</p> <p>Concern how assessment has tended to neutral or positive and lack of articulation of potential forms of mitigation.</p>	<p>SA024</p>	<p>Para 2.12 of the SA Report details who carried out the SA. The RTPI guidance document “<i>Improving the effectiveness and efficiency of SEA/SA for land use plans</i>” outlines that there is no formal legal requirement around production on a SEA and “it requires the depth of insight and understanding that come with relevant professional expertise...recommend SEAs and SAs should be carried out by chartered town planners”.</p> <p>It may be necessary to revisit some of the commentary regarding mitigation, however, this will be dependent on what decisions are taken regarding the policy approach (if this is indeed to change).</p> <p>With regard to the tendency towards a positive or neutral assessment, where HED would perhaps anticipate more neutral and negative outcomes, the scale of the policy needs to be taken into account. The assessment of a strategic policy may not allow for some impacts (+ve and –ve) to be fully described. It may be that at the LPP stage, this will become more evident and then more appropriate/policy specific mitigation can be identified.</p>
<p>DPS/113/30 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 3 – SP03 Strategic Allocation and Management of Housing Supply</i></p> <p>Concern that no negative outcomes are envisaged to the allocation of almost a quarter of the housing supply to the countryside and the environmental effects on landscape and HE would be uncertain or perhaps ‘positive/negative’ rather than neutral; therefore mitigation of negative effects would be appropriate.</p>	<p>SA025</p>	<p>The policy deals only with the allocation and management of housing within the settlements only (not the countryside). Therefore a ‘neutral’ score for Landscape and Historic Environment reflects that new housing development will be required in all the settlements. Further information on the sites to be allocated would only be at the LPP stage.</p> <p>Mitigation would be ‘built in’ through considerations of other policies such as the Development & Design and HE policies (including LLPAs)</p> <p>The allocation of 27.1% of housing growth to the countryside (reduced to 23% in the DPS) was considered as one of three</p>

		reasonable alternatives in the POP (Option 3 'Balanced', Main Issue 2).
<p>DPS/113/31 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 04 – SP04 Strategic Allocation of Land for Industry and Business</i></p> <p>Suggest colour coding and symbol are at odds. Suggest scoring should be uncertain as the effects on HE including previous unidentified archaeological remains are uncertain (therefore mitigation could be required).</p>	SA026	<p>The colour coding and symbols appear to match.</p> <p>This policy is not allocating land for development per se. This would occur at the LPP stage. It would therefore be appropriate to identify any negative impacts on archaeological remains at this stage and when assessing any sites against the SA Objectives. The presence of remains may then be known/unknown and scored accordingly.</p>
<p>DPS/113/32 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 05 – Development and Design</i></p> <p>DE08: scoring of this policy in its current form is likely to be uncertain or negative given HED concerns with policy not reflecting SPPS.</p>	SA027	<p>Any amendment to this Matrix and discussion table can only occur following an assessment of any proposed changes to the policy following review of consultation comments including from HED.</p> <p>However, it is noted that this concern is principally with the validity of the policy as opposed to the SA assessment of it.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/113/33 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 06 – Housing in Settlements</i></p> <p>HOU06: Although scoring is neutral open space has the potential in some circumstances to preserve in situ of any significant or previously unidentified archaeological remains.</p>	SA028	<p>HOU06: This is not a key aim of this policy and therefore it would not be appropriate to account for this as a potential effect. This would not be a proportionate approach.</p> <p>HOU07: This could potentially be 'uncertain' however mitigation would be through policy HE03 (Listed Building).</p>

<p><i>HOU07: Scoring in terms of effect on HE is likely to be uncertain or negative due to the potential impact on the historic fabric within heritage asset (i.e. listed buildings)</i></p>		
<p>DPS/113/34 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 07 – Housing in Countryside</i></p> <p><i>HOU10: effects on HE are potentially negative or at best uncertain. This is because of the conflict between criteria c) and policy HE09</i></p> <p><i>HOU11: concern with this policy and considers it may be to ‘pre-emptive’ removal of structures or mature boundaries or provision of ‘services’ which would have a negative effect on HE.</i></p>	SA029	<p>Any amendment to the Matrix and discussion table can only occur following an assessment of any proposed changes to the policy following review of consultation comments including from HED.</p> <p>However, it is noted that these concerns are principally with the validity of the policy as opposed to the SA assessment of them.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/113/35 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 11 – Industry and Business</i></p> <p><i>IB04: Advise a negative scoring for effects on HE as consider this policy could lead to potential impacts on HE, setting etc.</i></p>	SA030	<p>Any amendment to this Matrix and discussion table can only occur following an assessment of any proposed changes to the policy following review of consultation comments including from HED.</p> <p>However, it is noted that this concern is principally with the validity of the policy as oppose to the SA assessment of it.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/113/36 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 13 – Tourism</i></p>	SA031	<p>Any amendment to this Matrix and discussion table can only occur following an assessment of any proposed changes to the policy following review of consultation comments including from HED.</p>

<p><i>TOU02 & 04:</i> Advise a negative scoring for effects on HE as consider this policy could lead to potential impact on HE, setting etc.</p>		<p>However, it is noted that this concern is principally with the validity of the policy as opposed to the SA assessment of it.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/113/37 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 15 – Historic Environment</i></p> <p>Overall HED consider significant amendments to HE policies are needed and as they do not take sufficient account of the SPPS. As such, disagree with the basis of the appraisal (that the policies do not deviate from the policy approach of the SPPS/PPS and therefore do not lead to significant effects). Reiterates previous concerns: failed to take on board previous expert advice; approach shows lack of understanding of HE issues.</p> <p><i>HE01:</i> HED strongly disagrees with the double positive scoring due to fundamental concerns with the structuring of the policy.</p> <p><i>HE02:</i> HED considers a negative scoring would be appropriate as the policy as drafted creates vulnerabilities in relation to monuments of regional and local significance.</p> <p><i>HE03:</i> HED disagrees with the scoring and as considers draft policy would have a significant negative outcome in relation to the protection, conservation and enhancement of listed buildings and their setting.</p>	<p>SA032</p>	<p>The response in the SA, will ultimately depend on the approach agreed by FODC following review of the HE policy framework (i.e. consideration of consultation responses including from HED).</p> <p>However, it is noted that all these comments all focused on the validity of the HE policies as opposed to how they were assessed in the SA. In this respect these comments display a fundamental misunderstanding of the SA process.</p> <p>If a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>

<p><i>HE04 & HE05:</i> Disagree with the scoring and consider that the policy as worded will have a negative outcome in relation to the historic environment.</p> <p><i>HE06:</i> HED consider that this policy is broadly in line with SPPS and therefore should be neutral.</p> <p><i>HE07:</i> HED consider that this policy is broadly in line with the SPPS and subject to addressing some concerns with wording would ensure a neutral-positive score.</p> <p><i>HE08:</i> HED considers that this policy has significant gaps and therefore would have a significant negative outcome.</p> <p><i>HE09:</i> Disagree with the scoring and consider that the policy as worded will have a negative outcome in relation to the historic environment.</p>		
<p>DPS/113/38 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 16 – Natural Environment</i></p> <p><i>NE01:</i> considers the policy weakens existing protection and therefore a negative impact in relation to natural environment.</p> <p><i>NE03:</i> considers the approach taken is not ‘business as usual’ and that an appraisal of alternative options of using existing protections would be appropriate.</p>	<p>SA033</p>	<p>As per above, some of the comments made may or may not be considered valid (subject to review following consultation) and this may or may not lead to changes to the matrix.</p> <p>However, HED acknowledge themselves that they are straying into policy areas that are not their area of expertise – for example the Natural Environment.</p>
<p>DPS/113/39 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 18 – Flood Risk Management</i></p>	<p>SA034</p>	<p>This is not considered a likely outcome or intention of this policy approach and so it would not be proportionate to take account of this as part of the assessment of it.</p>

<p><i>FLD01</i>: considers that item b) has potential for negative impacts on HE through potentially replacing heritage assets in these areas with additional defensive work – therefore should be a negative score.</p>		
<p>DPS/113/40 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 19 – Renewable Energy</i></p> <p>HED welcome a Wind Capacity Study, however disappointed and concerned that the study did not take account of HE evidence base particularly candidate ASAs.</p>	SA035	<p>ASAs and details of the Candidate ASAs were considered when preparing the Wind Energy Capacity Study.</p> <p>Again, it is noted that this comment, even through misplaced, is querying the validity of the policy as opposed to the SA assessment of it.</p>
<p>DPS/113/41 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 22 – Waste Management</i></p> <p>Considers the approach to these policies does not represent 'business as usual' and as the policies do not align with SPPS or PPS11, and envisage a potentially negative impact for policies WM01 to WM04 on natural, HE and landscapes.</p>	SA036	<p>Any amendment to this Matrix and discussion table can only occur following an assessment of any proposed changes to the policy following review of consultation comments including from HED.</p> <p>However, it is noted that this concern is principally with the validity of the policy as opposed to the SA assessment of it.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/113/42 <i>Section 6.0 – Monitoring and Implementation</i></p> <p>HED does not consider the indicators meaningful in assessing the effects of the plan on HE and advise on that additional meaningful indicators should be included (examples given).</p>	SA037	<p>A full review of the SA Monitoring Indicators will need to be undertaken. This will include a review of the indicators suggested by HED.</p> <p>It is noted that the SA Monitoring Indicators as presented in the SA Report are technically in 'draft' form and are not finalised until the later stage of the SA process (the post adoption 'SA Statement').</p>

<p>DPS/113/43 <i>Section 2.12</i></p> <p>Raises concern that SA assessment panel and questions what heritage expertise was on the panel in relation to assessing the effects of the plan in relation to HE and HE SA objective.</p>	<p>SA038</p> <p>Para 2.12 of the SA Report details who carried out the SA. The RTPI guidance document “<i>Improving the effectiveness and efficiency of SEA/SA for land use plans</i>” outlines that there is no formal legal requirement around production on a SEA and “it requires the depth of insight and understanding that come with relevant professional expertise...recommend SEAs and SAs should be carried out by chartered town planners”.</p> <p>The Scottish Government Guidance regarding SEA preparation is as follows: <i>The 2005 Act does not specify who can undertake a SEA. To secure added value from the assessment process, Responsible Authorities should seek to ensure that there is good interaction between those who are responsible for the SEA, and those preparing the plan. A SEA may not require a specialist practitioner, and in many cases can be undertaken as an integral part of the plan preparation process.</i></p> <p>With regard to legal ‘robustness’ the following guidance is given:</p> <p>To minimise the potential for legal challenge, Responsible Authorities should seek to ensure that they have the evidence required to demonstrate that the assessment process was meaningful and that it gave those with an interest in the plan an early and effective opportunity to contribute and participate in its preparation.</p> <p>Whilst the risk of legal challenge is an important consideration, it should not be allowed to overshadow the importance of proportionality and the need to secure benefits from the assessment process – i.e.in an effort to pre-empt legal challenge, the assessment and associated reports have been complex and detailed, but have not provided conclusive, easily identifiable findings.</p>
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		It is also worth remembering that it is agreed that accuracy is important, however, the SA has to be accessible to a range of audiences. The document may be scrutinised at examination or by professionals from a range of backgrounds, however, it must also be readily understood by the public. A balance needs to be struck and it should be accepted that professional judgement is a key element of the assessment process.
<p>DPS/113/37</p> <p><i>Section 2.23</i></p> <p>Raises concern that HED expert advice has not been taken on board and this is not evidenced in the SA.</p>	SA039	<p>In terms of the SA, Appendix 1 of the SA Report (Analysis of consultation responses to the SA Interim Report) details HED comments with responses and actions.</p> <p>In terms of the DPS, informal consultation did occur with HED on initial draft versions of policies. There was also consultation with other parties including Development Management. Some of the suggestions given as part of this consultation were taken forward and some were not. Appendix 5 of the SA Report ('Policy Tracker') details the broad stages and alterations to policies as they were drafted.</p>
<p>Ref: DPS/118/02 Representation: MKA Planning</p>		
Issue Raised – Summary	Ref	Response
<p><i>Discussion table 6: Housing in Settlements</i></p> <p>In relation to policy HOU03 refers to the statement in the Discussion table relating to the issue of other options being considered and discounted. Considers this demonstrates that the policy goes beyond the current SPPS planning policy and cannot be sustained.</p>	SA040	It is considered that this issue is less to do with whether the SA has been carried out correctly (e.g. Procedure Test P3 only states - has the DPD been subject to sustainability appraisal including Strategic Environmental Assessment?) and is more to do with the process and legitimacy of the policy coverage proposed in the DPS.

<p>Also, the policy fails test P3 as the SA in relation to affordable housing is flawed as the evidence base is inadequate, has not fully considered alternatives and has not been properly carried out.</p> <p>No regional policy guidance available therefore difficult to see how new councils can proceed with policy development for LDPS – local policy cannot be brought forward until policy context, principles and methodology defined in PPS.</p>		<p>The evidence base of the plan demonstrates that the approach within the SPPS to providing AH would not meet current need and therefore an alternative approach is proposed. This is in line with the 'local evidence' level of the SPPS. No other reasonable alternatives were identified. As such due process has been applied to the SA.</p>
<p>Ref: DPS/250 Representation: Department of Agriculture, Environment and Rural Affairs, Northern Ireland Environment Agency – Natural Environment Division (NED)</p>		
Issue Raised – Summary	Ref	Response
<p>DPS/250/11 Some of the information in the SA Report is out of date.</p>	SA041	Where specific references to out of date information are made these will be reviewed for future iterations of the SA.
<p>DPS/250/39 Reference to DARD should be changed to DAERA.</p>	SA042	These references will be identified and updated where appropriate.
<p>DPS/250/19 <i>Appendix 2, p90</i></p> <p>There are now 124 ASSIs within council area (4 additional).</p>	SA043	As part of any future review the number of ASSIs will be reviewed and corrected. In addition the number of Hectares and % of area covered by ASSIs in FODC area and the Region will be reviewed.
<p>DPS/250/20 <i>Appendix 4 – Discussion Tables and Matrices</i></p> <p><i>Strategic allocation and management of housing supply (Table 03) and Housing in Settlement (Table 06).</i></p>	SA044	It is acknowledged that the development of brownfield land (correctly promoted above greenfield land within policies SP03 and HOU01) has the potential to have a <u>Minimal Negative impact</u> (as it will not apply to all sites it would not be significant) and when assessed against the Biodiversity SA Objective

<p>The impact of these policies on brownfield land which contains Open Mosaic Habitat (a Priority Habitat Type) which host a wide variety of rare plants and invertebrates should be acknowledged in the SA and mitigated against.</p>		<p>(currently shown as neutral). In terms of the Matrices this would be amended to reflect this position and additional text added to the discussion tables.</p> <p>Mitigation of any impact would however still be available through application of other policies of the plan, such as NE03, at the Development Management stage.</p>
<p>DPS/250/21 <i>Appendix 4 – Discussion Tables and Matrices Housing in Countryside (Table 07)</i></p> <p>The impact of promoting housing in the countryside on water quality and air pollution should be acknowledged and mitigated. There is also the potential impact on bat roosts through redevelopment of former sites for dwellings.</p>	SA045	<p>As recognised within the SA the policy approach in relation to development in the countryside is not significantly different to the existing policy approach (primarily contained within the SPPS and PPS23) – i.e. the ‘Business as Usual’ approach. However, in relation to HOU10 (Option 1) and HOU11 (Option 1) these are new policies that may allow for a small number of opportunities for development in the countryside. As such, the matrix assessment and discussion should be amended to reflect the potential negative impact on biodiversity, water quality and air quality (where relevant). This change should be noted and given further consideration when determining the appropriateness of introducing this policy approach.</p> <p>However, it is noted that if the policies are maintained and unchanged, mitigation would still be available through application of other policies at the Development Management stage, notably NE03.</p>
<p>DPS/250/22 <i>Appendix 4 – Discussion Tables and Matrices Open Space, Recreation and Outdoor Recreation (Table 07)</i></p> <p>Assessment of OSR04 should be amended to reflect that this policy does not protect the natural heritage against the</p>	SA046	<p>Policy OSR04 continues the approach established by OS6 of PPS8 where it is noted that there is no requirement (for either visual or nature conservation) or cumulative assessment of impacts. There is therefore a discrepancy between criteria (a) and (b) of OSR04. The Matrix and discussion table could be amended to reflect there are different options or the alternative</p>

cumulative impact on of existing and/or proposed plans or projects should be acknowledge and mitigated against.		would be to amend Policy OSR04 to allow consideration of cumulative impact on biodiversity and landscape character as well as visual impacts.
<p>DPS/250/23 <i>Appendix 4 – Discussion Tables and Matrices Industry and Business (Table 11)</i></p> <p>The impact of ammonia emissions from agricultural development (IB06) is not highlighted and should be acknowledged and mitigated against.</p>	SA047	<p>The “Anticipated environmental effect” from ammonia is highlighted within the discussion table as is potential mitigation through the application of policy NE03.</p> <p>Policy IB06 is a ‘business as usual’ approach reflecting previous approach outlined in CTY12. However, and notably, policy IB06 adds that “development proposals for intensive farming or animal husbandry must demonstrate that it does not result in any significant adverse environment effects”. While not specifically referring to ammonia emissions this would be appropriate mitigation against any such effect. It is noted that this issue is likely to be addressed through amendments to policy clarification in the DPS and recommended in the HRA.</p> <p>As such, no change is required to the SA Report.</p>
<p>DPS/250/24 <i>Appendix 4 – Discussion Tables and Matrices Tourism (Table 13)</i></p> <p>It should be acknowledged that draft policies TOU02 to TOU04 do not offer protection for the natural environment and this should be acknowledged in the SA and mitigated against.</p>	SA048	<p>It is acknowledged that there is no specific reference to the protection for the natural environment within these policies. However, as with any application for development, proposals must be considered in the round, which includes assessment against policies including policy NE03. When completed the matrix assessment takes on board these policies. Mitigation will therefore be offered through the application of all policies at the development management stage. The ‘mitigation’ section of the discussion table should be amended to reflect this.</p>

<p>DPS/250/25 <i>Appendix 4 – Discussion Tables and Matrices Natural Environment (Table 16)</i></p> <p>Does not agree with the significant positive scoring for biodiversity (for policies NE01, NE02 and NE03) and linked to how NED do not consider that the policies are sound and comply with nature conservation legislation, caselaw or policy set down in PPS2 (see response to the Draft Plan Strategy). Request that this should be reflected in the SA.</p>	SA049	<p>Any amendment to this Matrix and discussion table can only occur following an assessment of any proposed changes to the policy and following review of consultation comments including from NED.</p> <p>However, it is noted that this concern is principally with the validity of the policy as opposed to the SA assessment of it.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/250/26 <i>Appendix 4 – Discussion Tables and Matrices Historic Environment (Table 15)</i></p> <p>Although Policy HE06 mentions botanical interest it does not fully recognise the biodiversity importance of veteran trees.</p>	SA050	<p>As per previous responses the application of policy HE06 would need to be weighed against other policies of the plan (including NE03). This therefore provides mitigation.</p>
<p>DPS/250/27 <i>Appendix 4 – Discussion Tables and Matrices Landscape (Table 17)</i></p> <p>Does not agree with the significant positive scoring for landscape and townscape for policy LO01 because it does not offer sufficient protection for the AONB.</p>	SA051	<p>Any amendment to this Matrix and discussion table can only occur following an assessment of any proposed changes to the policy and following review of consultation comments including from NED.</p> <p>However, it is noted that this concern is principally with the validity of the policy as opposed to the SA assessment of it.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/250/28 <i>Appendix 4 – Discussion Tables and Matrices Flood Risk Management (Table 18)</i></p>	SA052	<p>Any amendment to this Matrix and discussion table can only occur following an assessment of any proposed changes to the policy and following review of consultation comments including from NED.</p>

<p>Concern that FLD01 and FLD05 do not protect for impacts on the natural environment.</p>		<p>However, it is noted that this concern is principally with the validity of the policy as oppose to the SA assessment of it.</p> <p>As such, if a consensus was reached on any re-wording of the policy this may negate the need for further SA assessment.</p>
<p>DPS/250/29 <i>Appendix 4 – Discussion Tables and Matrices Renewables (Table 19)</i></p> <p>Concern that the Wind Energy Strategy map does not include nature and biodiversity designation.</p>	SA053	<p>It is noted that this concern is with the validity of the approach to the Wind Energy Strategy map as oppose to the SA assessment of it. The map illustrates the findings of the strategy. It is clear this principally relates to landscape features. There are other policies of the plan relating to nature and biodiversity designations and which would not necessarily be overridden by the illustrations on the Wind Energy Strategy map.</p> <p>It is likely that the DPS will be amended to address this as a point of clarification.</p>
<p>DPS/250/30 <i>Appendix 4 – Discussion Tables and Matrices Public Utilities (Table 21)</i></p> <p>The potential impact of OHP lines (PU02) on bird flight lines should be acknowledged in the SA.</p>	SA054	<p>The policy allows for this consideration ('avoid Sensitive Locations and Features') and therefore the SA Assessment is correct. It is also noted in the discussion table that this policy is a continuation of existing policy PSU11 of the PSRNI.</p>
<p>DPS/250/31 <i>Appendix 4 – Discussion Tables and Matrices Waste Management (Table 22)</i></p> <p>The potential impact of siting Waste management facilities (WM01) in quarries, which have biodiversity interest, should be acknowledged in the SA and mitigation put in place.</p>	SA055	<p>This is not considered to be a likely or significant impact and it would not be proportionate to give consideration to it within the SA. In any event mitigation would be provided by other policies of the plan.</p>

<p>DPS/250/32 <i>Appendix 2 – Key Characteristics and Baseline Information</i> Section 12 Waste</p> <p>The overview is out of date as Tullyvar landfill closed in 2018 and Drummee landfill is still operating.</p>	SA056	Updates and corrections to baseline information can be taken forward in future iterations of the SA. This change would not fundamentally impact on the assessment of policies against the SA objectives.
<p>DPS/250/33 <i>Appendix 2 – Key Characteristics and Baseline Information</i></p> <p>Section does not appear to cover contaminated land / brownfield land and it would be good to capture this.</p>	SA057	Updates and corrections to baseline information can be taken forward in future iterations of the SA. This omission would not fundamentally impact on the assessment of policies against the SA objectives.
<p>DPS/250/34 <i>Appendix 2 – Key Characteristics and Baseline Information</i> Section 1.0 – Air Quality and Climate Change</p> <p>Notes there are 19 AQMAs in Northern Ireland, and suggest the following for up-to-date regional data:</p> <p>2017 Progress Report for Fermanagh and Omagh 2018 Updated Screening Report for Fermanagh and Omagh (when published) 2016 Air Pollution in Northern Ireland Report</p>	SA058	Updates and corrections to baseline information can be taken forward in future iterations of the SA. This change would not fundamentally impact on the assessment of policies against the SA objectives.
<p>DPS/250/35</p> <p>Suggest that the indicator for Water Quality should include the number of waterbodies within the LDP area at ‘Good’ status under the Water Framework directive.</p>	SA059	<p>A full review of the SA Monitoring Indicators will need to be undertaken. This can include a review of suggestion by NED.</p> <p>It is noted that the SA Monitoring Indicators as presented in the SA Report are technically in ‘draft’ form and are not finalised until</p>

		the later stage of the SA process (the post adoption 'SA Statement').
<p>DPS/250/36 <i>Appendix 2 – Key Characteristics and Baseline Information</i> <i>Section 13.0 – Water</i></p> <p>Considers that potential impacts on and linkages to transitional and coastal waters, good ecological status and good environmental status need to be included and considered.</p>	SA060	Updates and corrections to baseline information can be take forward in future iterations of the SA. This omission would not fundamentally impact on the assessment of policies against the SA objectives.
<p>DPS/250/37 <i>Appendix 3C – Plans, Policies, Programmes and Strategies (PPPS)</i></p> <p>Suggests the following marine legislation are included: MANI, MACC, EU Directive 2014/89/EU</p>	SA061	The suggestions have been reviewed and will be added to future iterations of the PPPSs.
<p>DPS/250/38 <i>Appendix 3 – Plans, Policies, Programmes and Strategies (PPPS)</i></p> <p><i>222 – UK Marie Policy Statement & 223 – (draft) Marine Plan for Northern Ireland</i></p> <p>The 'Implications for LDP' should be amended to align with the legal requirements set out in section 8 & 58 of MANI and MCAA.</p> <p>The 'Objective/Requirement' for 223 - <i>(draft) Marine Plan</i> should be changed to "The Marine Plan for NI will inform and guide the regulation, management, use and protection of the NI marine area. The Plan contains policies that reflect, clarify</p>	SA062	Item 222: The implications for LDP can be updated as follows: <i>"Any development arising from the LDP will need to be in conformity with the MPS and NI Marine Plan (once the latter is adopted) in order to protect the marine environment, inclusive of the historic environment and heritage assets. Section 58 of the MCAA 2009 and section 8 of the Marine Act (NI) 2013 states that "a public authority must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents, unless relevant considerations indicate otherwise". A public authority must have regard to the appropriate marine policy documents in taking any decision which relates to the exercise of any function capable of affecting the whole or any part of the UK marine area, but which is not an authorisation or enforcement decision".</i>

<p>and signpost current legislation, policy measures and practices from the UK MPS and across NI and UK Government Departments and Agencies. Its policies will be used by public authorities in taking decisions which affect or might affect the marine area. The draft Marine Plan was published for consultation in April 2018.</p>		<p>Item 223: The 'Objectives/Requirement' can be amended as suggested.</p> <p>(A reference to the NI Marine Plan is also to be inserted under the Regional Policy Context of the DPS)</p>
<p><i>Ref: DPS/252</i> <i>Representation: SSE Renewables</i></p>		
Issue Raised – Summary	Ref	Response
<p>DPS/252/10 Considers that the Options 1 and 2 of Main Issues 8: Overarching Policy for Renewable Energy Development (POP) are not described sufficiently to ascertain whether they are sufficiently distinct.</p> <p>Furthermore, consider no reasoning is given on why the preferred option is taken forward and the alternative option is rejected.</p>	SA063	<p>The consultants note that any difficulties in carrying out the SA and identifying the preferred options, including 'technical deficiencies or lack of knowhow' have not been highlighted; thus suggesting a lack of transparency in the SA process. It is always preferable to acknowledge such gaps if they exist, however, it is equally important to recognise in the SA when new data/information has been used to inform the assessment. There have clearly been significant developments in FODC's understanding of renewable energy and more information is now available to inform the policy position particularly in relation to wind energy since the POP (i.e. the Wind Energy Study). This consultation refers to the assessment of the policies in the DPS. There is a clear explanation of the development of the policy approach in the SA and in the DPS.</p>
<p>DPS/252/20 Considers that the SA Report does not make it clear as to why a hybrid of option 1 and 2 is carried forward and considers that this should have been subject to SA alongside Options 1 and 2 in the POP.</p>	SA064	<p>There is an explanation referring to the consultation process informing policy development and the SA and how the Landscape Wind Capacity Study has informed the wind energy aspect of the policy.</p>

<p>DPS/252/21 Given that the Wind Energy Strategy / Landscape Wind Energy Capacity Strategy is, in the opinion of SSE's consultants, flawed this does not provide a sound evidence base for the SA assessment.</p> <p>As such considers that reasonable alternative to RE01 should include a strategic policy approach that does not seek to prevent wind energy development from designated landscapes rather than considering 'alternative locations for development'. SSE considers that this is a reasonable and policy compliant alternative that should be considered by the SA.</p> <p>This is related to concerns that the policy approach within RE01 would sterilise areas for wind energy development and instead should be considered on a site-specific and case by case basis.</p>	<p>SA065</p>	<p>The issue raised is based on the policy approach that has been taken, rather than the validity of the sustainability assessment that has been undertaken.</p>
<p><i>Ref: DPS/256/05</i> <i>Representation: Green Party</i></p>		
<p>Issue Raised – Summary</p>	<p>Ref</p>	<p>Response</p>
<p>Considers the SEA alternatives are not fully developed and are only giving passing mention without definition or elaboration.</p>	<p>SA066</p>	<p>The Plan Strategy is a 'higher level' plan and as such contains alternatives that reflect the broad characteristics of the strategy. Reasonable Alternatives were detailed in the preferred options paper and assessed at this level. More detailed plans (the Local Policies Plan) can provide more specific alternatives</p> <p>Overall, the SA provides such an assessment. Care has been given to provide a proportionate level of assessment. Too much detail given to the explanation and development of alternatives can result in an assessment that loses focus and clarity and can</p>

		ultimately confuse rather than inform the decision-making process.
<p><i>Ref: DPS/271</i> <i>Representation: Dalradian</i></p>		
Issue Raised – Summary	Ref	Response
<p>DPS/271/01 Identifies several documents which are considered relevant to the SA process and refers to their contents throughout the submissions. This includes DPP4 and the 2004 EAPP NI Regs but also refers to 'A Practical Guide to SEA (DCLG 2005) and the National Planning Practice Guidance.</p>	SA067	<p>DPP4 and the Practical Guide to SEA are referred to within the SA Report at para 1.28. The EAPP NI are referred to in the SA Report in setting the legal requirements for the SA (para 1.24).</p> <p>There may be merit in referring to the NPPG and potentially reviewing the SA process to date against this guidance. However, it would need to be clearly outlined that the NPPG applies to the Local Plan system within England and therefore its relevance could be limited where there is variance between this and the NI LDP system.</p> <p>It is noted that Para 1.28 of the SA Report also refers to guidance prepared by the RTPi "<i>Improving the effectiveness and efficiency of SEA/SA for land use plans</i>" (2018) and which is of relevance to the NI plan system but this has not been referred to by Dalradian.</p>
<p>DPS/271/20 Failure of the SA to recognise the economic potential of the gold reserves at a sufficiently early stage to warrant and appropriate and reasonable policy response in accordance with the SPPS.</p> <p>Appendix 2 fails to update the baseline to account for the submission of an outline planning application by Dalradian</p>	SA068	<p>The economics of mineral extraction are only one consideration in the overall assessment. It would be difficult for FODC to assess the 'economic potential' of the gold reserves due to market forces and determination of the commercial viability of resources. Local authorities are often reliant on operators to provide information about reserves and their viability as this information is usually deemed to be commercially sensitive.</p>

<p>which provides detailed information with regards to the scale of gold reserves and their estimated value. This is contrary to the written assurances at Appendix 1 that the baseline has been updated to address previous concerns raised in response to the SA Interim report.</p>		<p>In addition, viability can change over time due to market fluctuations. The SA can only be carried out to reflect circumstances at a point in time based on the information that is currently available. For this type of development, the EIA for the application that has been submitted will be more significant.</p> <p>The request to update the baseline is noted and this will be reviewed in any future iteration of the SA including adoption statement. There is also the SA assessment at the LPP stage, where policy MIN03 outlines that MSAs will be identified. The particular issue raised, with regards to the scale of gold reserves and their estimated value, will be noted and considered at LPP stage.</p>
<p>DPS/271/21 <i>Appendix 4 – Discussion Tables and Matrices</i> <i>Table 14 – Mineral Development.</i></p> <p>Strongly disagrees with the conclusion that the difference between Options 1 and 2 is minimal and as the inclusion of the AONB within the ACMD incorporates many areas of known mineral reserves. This would be a severe restriction upon mineral development.</p>	SA069	<p>FODC have acknowledged in the DPS that there is a gap of information of the extent of mineral reserves across the entire district and markets at this time. The policy approach reflects this (especially with regards to MSAs) and it would be inappropriate for the SA to second guess this and as there is an incomplete district-wide analysis of mineral reserves.</p> <p>It is also acknowledged in the SA, including at Table 14, that the SA is only one aspect of the decision-making process in determination of the policy approach.</p>
<p>DPS/271/22 A blanket restriction to mineral development within the AONB is not in accordance with the SPPS and is therefore not regarded as a sound and reasonable alternative.</p>	SA070	<p>This is more a concern with the validity of the policy approach as opposed to the SA assessment itself. This is addressed within the Mineral Development Topic Paper but, in summary, the policy approach (and therefore the reasonable alternative) is not considered a blanket restriction as there is provision for mineral development within the ACMD (which includes the AONB) subject to meeting certain criteria.</p>

		As such, the policy approach is reasonable, and the SA assessment is therefore valid.
<p>DPS/271/23 The SA fails to comply with the EAPP regulations with respect to MIN01 as no reasonable alternative was identified or assessed for the selection of a 15-year extraction limit within the policy. Reference is made to case law.</p>	SA071	<p>It is correct that no reasonable alternative was identified with respect to the 15-year extraction limits. This is because none were identified as being realistic or evidence based.</p> <p>The SPPS identifies, at para 6.1.46, that “an exception to minerals development could be justified within an area of constraint where the proposed operations are limited to short term extraction...”. However, no definition for ‘short-term’ is provided in the SPPS or other regional guidance.</p> <p>The 15-year period limit for planning permission for minerals development (detailed in policy MIN01) is linked to the 15-year period associated with the, yet to be enacted, legislative provision under Schedule 3 Periodic Review of Old Mineral Permissions of the Planning Act (Northern Ireland) 2011. This sets the first review date falling 15 years from the grant of planning permission. This is therefore considered reasonable.</p>
<p>DPS/271/24 Disagrees with the assertion within the SA that there is insufficient information at this stage to identify and designate mineral safeguarding areas. The SA has failed to provide a sound reason for the rejection of a reasonable alternative for protecting valuable mineral resources.</p>	SA072	<p>This is noted above (SA070) and is addressed within the Mineral Development Topic Paper. MIN03 establishes the strategy for MSAs but there is a lack of robust evidence to identify MSAs at this stage. As such it would not be a realistic reasonable alternative at this time and so was discounted.</p>
<p>DPS/271/25 Overall recommends the following course of action to address above deficiencies and make the SA legally compliant.</p>	SA073	<p>For the reasons given in response to SA068 to SA072 the suggested measures are not appropriate or necessary.</p>

<ol style="list-style-type: none"> 1. Update the baseline section of the SA to correctly reflect the scale of the nationally and globally significant mineral resources. 2. Develop a fresh set of reasonable alternatives to: facilitate the sustainable extraction of mineral resources; correctly identify minerals safeguarding areas; and reconsider time limits for mineral extraction. 3. Undertake a fresh independent SA on all reasonable alternatives, consult on the revised material, publish a refreshed DPS and supporting SA. 		
<p><i>Ref: DPS/273</i> <i>Representation: Friends of the Earth</i> (NB: DPS/052 and DPS/053/ are written in support of this response and therefore replicate the comments in relation to the SA)</p>		
Issue Raised – Summary	Ref	Response
<p>DPS/052/01, DPS/053/01, DPS/273/01 SEA alternatives are described in only an “infantile and tokenistic way”; insufficient analysis what they mean or insufficient breadth in their scope.</p>	SA074	<p>The Plan Strategy is a ‘higher level’ plan and as such contains alternatives that reflect the board characteristics of the strategy. Reasonable Alternatives were detailed in the preferred options paper and assessed at this level. More detailed plans (the Local Policies Plan) can provide more specific alternatives.</p> <p>Overall, the SA provides such an assessment. Care has been given to provide a proportionate level of assessment and description of the alternatives. Too much detail given to the explanation and development of alternatives can result in an assessment that loses focus and clarity and can ultimately confuse rather than inform the decision-making process.</p>
<p>DPS/052/13, DPS/053/13, DPS/273/13 Insufficient consideration of transboundary impacts of pollutants, for example nitrates, ammonia and phosphates.</p>	SA075	<p>Recognition is given to trans-boundary impacts, however consideration of specific pollutants is probably more appropriately dealt with through EIA. The transboundary screen</p>

		of the dPS can be viewed at document reference FODC1003. There are other regulatory frameworks and assessments that will have an influence on these pollutants also.
DPS/052/14, DPS/053/14, DPS/273/14 Failure to address the impacts of mining and quarrying and intensive agriculture in relation to transboundary impacts and how the SEAs in both jurisdictions will strategically align.	SA076	See above comment.
DPS/052/15, DPS/053/15, DPS/273/15 Fails to address reasonable alternatives including: <ul style="list-style-type: none"> • Resource use and the circular economy • Sustainable non-factory farm models 	SA077	The SA could refer to these factors and recognise the contribution that they could make towards improving sustainability, however, their implementation generally falls outwith the remit of planning. The DPS can only address planning policy.
DPS/052/16, DPS/053/16, DPS/273/16 Baseline in relation to major environmental problems is not adequately addressed and therefore SA/SEA is fatally undermined. As such, there is no clear mechanism for monitoring the impacts and therefore it is not possible to monitor impacts with any degree of certainty.	SA078	A baseline has been established. As this is a land use planning document, the focus of the baseline reflects the purpose and remit of the plan. Some of the detail and environmental issues highlighted in the representation fall outwith the remit of planning. The SA must give equal consideration to economic and social factors (as well as environmental factors) and as already highlighted, it is only one of the factors in determining policy.
<i>Ref: DPS/321</i> <i>Representation: Private Individual</i>		
Issue Raised – Summary	Ref	Response
DPS/321/01 Typographical /proof reading errors within Section 6.0 Monitoring and Implementation and where it cross-refers to the DPS.	SA079	Note: this was raised during the consultation process. A correction was issued.

<p>DPS/321/02 <i>Section 6.0 – Monitoring and Implementation</i></p> <p>Considers that the monitoring measure “Extent of Mineral reserves and extracted Minerals assets” is included for Objective 10 - Water Quality.</p> <p>This would recognise and measure the potential pollution of surface and ground water and as reflected in para 4.75 of the DPS and also how assessment table 14 scored water quality as a negative.</p>	SA080	<p>A full review of the SA Monitoring Indicators will need to be undertaken. The suggestion could be acceptable if the data about mineral reserves is available, however, at present there is an acknowledged data gap.</p> <p>It is noted that the SA Monitoring Indicators as presented in the SA Report are technically in ‘draft’ form and are not finalised until the later stage of the SA process (the post adoption ‘SA Statement’).</p>
<p>DPS/321/03 <i>Section 6.0 – Monitoring and Implementation</i></p> <p>Considers that the monitoring measure “Extent of Mineral reserves and extracted Minerals assets” is including for Objective 11 – Air Quality. Sets out reasons for this including the pollution for greenhouse gases and dust particles from mineral exploration and extraction.</p>	SA081	As per SA080 above.
<p>DPS/321/04 <i>Section 6.0 – Monitoring and Implementation</i></p> <p>Considers that the monitoring measure “Extent of Mineral reserves and extracted Minerals assets” is including for Objective 16 - Waste Management and given that large amounts of industrial waste are produced by mineral extraction.</p>	SA082	As per SA080 above.
<p>DPS/321/05 With regards to Flooding considers a 1%/ 1 in 100-year probability is inaccurate and the effects of climate change are increasing the likelihood of flooding.</p>	SA083	<p>Flooding policy is based on national databases and statistics. The policy may become out of step as new data becomes available (i.e. when flood maps are reviewed and updated). It is, however, proposed to amend the clarification of policy FLD01,</p>

		and so that the technical definition of a floodplain will refer to Probability Climate Change 2080 EPOCH.
<p>DPS/321/06 <i>Appendix 4 – Discussion Tables and Matrices Minerals (Table 14)</i></p> <p>Considers the discussion within the SA Report / assessment with regards to the ‘social’ aspect of sustainable development is limited.</p> <p>With regards to the mineral industry considers that, due to the finite nature of the resource and the need for specialist teams being ‘brought-in’ has not been discussed or assessed. This would potentially have a negative impact on social fabric. Also raises concerns about the potential impact of exploration rights on social cohesion.</p> <p>Considers that the assessment against ‘15 year’ time limit for exploration does not allow for consideration of a ‘phased’ mineral extraction (i.e. multiple sites).</p>	SA084	<p>Consideration of the Social, Environmental and Economic impacts through the SA should be balanced wherever possible, however, the assessment can only be based on the baseline that is available to the practitioner.</p>
<p>DPS/321/07 Cumulative effects – does not agree with the SA approach to cumulative impacts or the conclusion that there are no significant negative cumulative impacts.</p> <p>Transboundary cumulative effects – considers that this has not been appropriately assessed and notes the potential cumulative impacts of mineral exploration and extraction licences which can cover multiple council areas.</p>	SA085	<p>Consideration of cumulative effects is important; however it is only one aspect of the assessment. This must be balanced with the other aspects of the assessment.</p> <p>With regard to transboundary effects, it is important to recognise these if they exist, however, the policy remit of the FODC DPS is limited to planning matters and the Council’s administrative area (therefore it is not a relevant consideration when determining applications for mineral licences).</p>

Habitats Regulation Assessment		
<i>Ref: DPS/250</i> Representation: DAERA		
Issues Raised HRA - Title	Issues Raised - Summary	Response
DPS/250/12 In-combination and cumulative effects (p14)	HRA does not state whether any other types of projects or plans have been identified that may, in combination with the Draft Plan Strategy, give rise to adverse effects on Natura 2000 sites. Considers this must be addressed by the HRA	Cumulative impacts are further discussed in Chapter 7, page 60, which refers to types of project including livestock installations and recreation. REC02, REC05, REC16 and REC18 specifically relate to addressing potential cumulative effects. At the time of update of the HRA any further plans can be considered, and it may be possible to refer to the HRAs for the draft Plan Strategies for neighbouring councils. In updating the HRA infrastructure projects such as Enniskillen bypass and the A5 Western Transport Corridor, and any major planning application that may be in process, can be referred to. The HRAs for the roads projects found no adverse effect on site integrity.
DPS/250/40 Fermanagh and Omagh Wind Energy Strategy	Concerned about the Fermanagh and Omagh Wind Energy Strategy in terms of how it will impact on SACs, SPAs and Ramsar sites. Considers it does not adequately take into consideration the impact on international sites. Considers that the Fermanagh and Omagh Wind Energy Strategy has therefore not taken into consideration international sites, even though it will have a significant impact on them. This must be fully reflected in the HRA.	Within the DPS it is proposed to amend the title of the Wind Energy Strategy map to Landscape Wind Energy Capacity Map to reiterate the purpose and role of this map. It is also proposed to amend paragraph 6.24 of the DPS to make specific reference to environmental designations (including International sites) as being relevant considerations. This approach is broadly in line with 'REC04: Include explicit reference to the need to assess impacts on International sites and supporting habitat in the Policy Clarification for RE01 and in Appendix 7 of the Plan Strategy.'

DPS/250/41	Disagrees with the statement on p29 of the HRA that the Natural Environment policy is protective and considers the draft policy undermines the legal process which must be followed when considering development proposals which may have an impact on European designated sites. Considers the draft policy misinterprets and misrepresents the three tests by deviating from the language used in the legislation and creating weaker policy tests, and do not correctly reflect the 'imperative reasons of overriding public interest' (IROPI) test'.	While the policy box does not refer to 'alone and in combination' this is in the policy clarification at 5.39 which also sets out the assessment process consistent with the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) which will apply to all development. It is agreed that in condensing the policy from SPPS and PPS2 the outcome of appropriate assessment and imperative reasons of overriding interest are combined and this could lead to misunderstanding. It is also agreed that the exceptional circumstances could be clarified. As such it is proposed to amend and expand the draft Natural Environment policies to fully reflect the SPPS (See Topic Paper – Natural Environment). As such, the statement at p29 is correct and the Natural Environment policies are protective.
DPS/250/42 Recommendations (p60-64)	Notes the recommendations, however it does not agree with the conclusions of the HRA that “the draft plan policies that may have an adverse effect on site integrity are too general to assess”. Considers that it is still necessary to go to Stage 2 Appropriate Assessment, as some of the policies can be assessed at	The HRA will be reviewed and updated before adoption of the Plan Strategy, progression to appropriate assessment will be considered at that stage. This may not identify any mitigation measures additional to the measures that have already been recommended in the current HRA, although it will allow for consideration of the effectiveness of those proposed.

	<p>this stage and mitigation measures can be put in place. This issue must be addressed by the HRA.'</p>	
<p><i>Ref: DPS/022</i> <i>Representation: RSPB</i></p>		
Issues Raised HRA - Title	Issues Raised - Summary	Response
<p>DPS/022/47 General Commentary</p>	<p>Considers there is a heavy reliance placed on mitigation and avoiding adverse effects at later stage. Considers mitigation measures need to be set out 'in greater detail in Plan Strategy HRA, and it should be clearly stated that these measures must be included at the LPP/project stage for the conclusion of no adverse effects to be reached at this stage.</p>	<p>The HRA will be reviewed and updated before adoption of the Plan Strategy, progression to appropriate assessment will be considered at that stage. More detailed mitigation at the Plan Strategy stage, additional to the 21 recommendations in the dHRA, is firstly difficult to identify, even if the HRA is progressed to appropriate assessment. Secondly, it does not remove the requirement for the Habitats Regulations to continue to apply to development management when mitigation can be conditioned where necessary. Some of the current recommendations could be strengthened e.g. from 'should' or 'consider' to 'must'.</p> <p>It should also be noted that the HRA did not state a conclusion of no adverse effect at this stage.</p>
<p>DPS/022/59 Protective measures incorporated in the draft Plan Strategy (p.46)</p>	<p>Appears to suggest that 'not likely to have a significant effect' should be used in place of 'no adverse effect'.</p>	<p>'No adverse effect' is considered the appropriate statement in this context.</p>

<p>DPS/022/60 Protective measures incorporated in the draft Plan Strategy (p.46)</p>	<p>Considers that summarising tests for NE01 should be avoided as it may, inadvertently lower protection.</p>	<p>It is agreed that in condensing the policy from SPPS and PPS2 the outcome of appropriate assessment and imperative reasons of overriding interest are combined which could lead to misunderstanding. As such, it is proposed to amend and expand the draft Natural Environment policies to fully reflect the SPPS (See Topic Paper – Natural Environment).</p>
<p>DPS/022/61 In-combination and cumulative effects (p.14)</p>	<p>Advises that plans include a wider range of spatially based plans and refers to a list of potential plan types in RSPB publication 'The Appropriate Assessment of Plans in Northern Ireland: a guide to why, when and how to do it' and this should be addressed in any revised version of the HRA.</p>	<p>Cumulative impacts are further discussed in Chapter 7, page 60, which refers to types of project including livestock installations and recreation. REC02, REC05, REC16 and REC18 specifically relate to addressing potential cumulative effects. At the time of update of the HRA any further plans can be considered.</p>
<p>DPS/022/62 Assessment Assumptions and Limitations (p.15)</p>	<p>Queries reference to SPPS policies (Re: International sites) given that these policies are not fully reflected in DPS and are weakened. Indicates a preference for NE01 to be strengthened, however if it is not the HRA should consider implications of new wording.</p>	<p>As noted above, amendments are proposed to policy NE01 so it fully reflects the SPPS. Therefore, the statement of the HRA is correct.</p>
<p>Consideration of CJEU Case C323/17 (People over Wind & Sweetman (p.16)</p>	<p>This approach is welcomed.</p>	<p>No comment is necessary.</p>
<p>DPS/022/63 Climate Change (p.17)</p>	<p>Recommends that consideration should be given to whether the plan inhibits the potential of species and habitats to adapt to climate change.</p>	<p>The conservation objectives for SPAs do not refer to climate change and those for SACs have an action 'When developing SAC management plans, the likely future impacts of climate change should be considered and appropriate changes made.' proposed in the HRA as it is considered these should be informed by</p>

		management plans developed by DAERA. If future site specific evidence and management plans identify climate change adaptation measures these will be taken into account when this HRA is finalised to assess whether any draft Plan Strategy policies inhibit the potential of selection features to adapt to climate change. This will also be considered at LPP stage.
DPS/022/64 Renewable Energy (p.30)	Request that reference to further designated sites is included in the Plan Strategy. Queries Map 8, this is expanded on in following issue.	Within the DPS it is proposed to amend paragraph 6.24 of the to make specific reference to environmental designations (including International sites) as being relevant considerations. This approach is broadly in line with 'REC04: Include explicit reference to the need to assess impacts on International sites and supporting habitat in the Policy Clarification for RE01 and in Appendix 7 of the Plan Strategy.'
DPS/022/65 HRA Appendix 7, Map 8 – further clarification sought (p.155)	Queries about Map 8 in relation to whooper swan and RSPB recommends that NIEA should be consulted on all single turbines.	The consultation zones represent areas beyond designated sites and along important flight paths where NIEA should be consulted on single turbines, in addition to being consulted on applications within any international site. They allow for consideration of impacts on all protected species which include hen harrier. At development management planners also refer to other layers of data including that provided by NIEA for whooper swan. The additional information provided by RSPB is welcomed and will be taken into account in finalising the HRA. It is recommended that RSPB brings it to the attention of NIEA so that current GIS layers can be updated. NIEA advises on the circumstances in which it is consulted therefore it would be for NIEA to change the triggers for consultation.
Protective Measures in the Draft Plan Strategy (p. 46) Additional statements and caveats that protect designates (sic) sites	Identifies two typos.	These do not affect the content and will be corrected when HRA is updated.

<p>DPS/022/66 Preparation for Appropriate Assessment (p.51)</p>	<p>RSPB NI is extremely disappointed that FODC has concluded 'it was not considered that the HRA could be meaningfully progressed to appropriate assessment...RSPB NI recommends that FODC revisit its conclusion particularly given the number of internationally designated sites within and connected with outwith their council boundary (including transboundary).</p>	<p>The HRA will be reviewed and updated before adoption of the Plan Strategy and progression to appropriate assessment will be considered at that stage.</p>
<p>DPS/022/67 Outcome and Recommendations (p.56)</p>	<p>RSPB NI strongly welcomes additional reference to protection of the natural environment in some additional policies. Also refers to terminology.</p>	<p>The council has considered the recommendations relating to clarification for protection of the natural environment. Responses to individual policies are referred to within the various Topic Papers and some amendments are proposed where these are considered necessary. Terminology will be reviewed in any update of the HRA.</p>
<p>DPS/022/68 REC10: Ensure that NE01 provides clarity on how the habitats Regulations will be implemented through the LDP. (Plan Strategy) (p.62)</p>	<p>Reiterates comments relating to NE01 above.</p>	<p>In condensing the policy from SPPS and PPS2 the outcome of appropriate assessment and imperative reasons of overriding interest are combined which could lead to misunderstanding. Consider expanding the policy box to fully, or more closely, reflect the SPPS. REC10 applies: 'Ensure that NE01 provides clarity on how the Habitats Regulations will be implemented through the LDP.'</p>
<p>DPS/022/69 Conclusions of the HRA (p.65)</p>	<p>Reiterates comments relating to reliance placed on mitigation and avoiding adverse effects at later stage. 'RSPB NI reserves the right to make further comment on any further revisions of the FODC draft Plan Strategy HRA.'</p>	<p>The HRA will be reviewed and updated before adoption of the Plan Strategy and progression to appropriate assessment will be considered at that stage.</p>

DPS/022/70 Appendices – see end of response, Map 1&2	The reference to appendices is taken to refers to Appendix 7, Map 8	The additional information provided by RSPB is welcomed and will be taken into account in finalising the HRA. It is recommended that RSPB brings it to the attention of NIEA so that current GIS layers can be updated.
<i>Ref: DPS/277/44</i> <i>Representation: National Trust</i>		
Issues Raised HRA - Title	Issues Raised - Summary	Response
DPS/277/44 Marsh fritillary butterfly - General Commentary	The importance of the European protected Marsh fritillary butterfly in the Fermanagh and Omagh district has not been highlighted.	Habitats Regulations Assessment is only a requirement for designated international sites. There are no sites with marsh fritillary butterfly as a site selection feature therefore the species is not subject to HRA.
Update of HRA - General Commentary	Welcomes that the HRA will be added to and finalised and relevant plans will be reviewed to assess potential in combination effects.	No response is required.
DPS/277/50 Climate Change (p.17)	Quotes HRA text that refers to MIN01 and refers to earlier comments that there should be a separate policy to protect peatland areas from inappropriate development in the interests of nature conservation and climate change.	This is a Plan Strategy rather than an HRA issue and is addressed within the Minerals Topic paper.
Renewable Energy - General Commentary	Acknowledges HRA refers to SPA as a significant constraint to wind energy; again refers to marsh fritillary butterfly.	No response is required.
DPS/277/51 Monitoring and Review (p.50)	Suggests that more detail is required for annual monitoring.	There will be limitations to what information is available to the council on an annual basis about international sites however monitoring can be reviewed when the HRA is updated.

<p><i>Ref: DPS/054/24 et al⁴</i> <i>Representation: Multiple Groups and Private Individuals</i></p>		
Issues Raised HRA - Title	Issues Raised - Summary	Response
Terms of Reference for HRA - General Commentary	Sought clarification on and a copy of the HRA and a copy of the Terms of Reference.	The draft HRA was published with the draft Plan Strategy and comments on it invited. The Council has a service level agreement with Shared Environmental Service in Mid and East Antrim Borough Council. This sets out the service to be provided in respects of HRAs for Local Development Plans.
<p><i>Ref: DPS/273</i> <i>Representation: Friends of the Earth</i> (NB: DPS/052 and DPS/053 are written in support of this response and therefore replicate the comments)</p>		
Issues Raised HRA - Title	Issues Raised - Summary	Response
DPS052, 053 and 273/10 Prematurity – General Commentary (point 1.1 of representation letter)	Prematurity - believes a legally compliant Habitats Regulations Assessment cannot be produced without addressing gaps in knowledge and analysis.	This relates to the evidence base for the Plan Strategy. The evidence base is considered to be robust and up-to-date at the time of publication. The Council will update its evidence base in response to representations received as it considers necessary.
DPS052, 053 and 273/17 Duty to restore European Sites to favourable conservation status – General Commentary (point 1.2)	The duty to restore protected European sites to favourable conservation status is not addressed, in breach of the Habitats Directive.	HRA takes account of conservation objectives, which have the overall objective to maintain (or restore where appropriate) the site selection features to favourable condition. This will be addressed when the HRA is reviewed and updated before adoption of the Plan Strategy.
DPS052, 053 and 273/18 Duty to restore European Sites to favourable conservation status - General Commentary (point 1.2)	Considers that the duty to adopt a precautionary approach is ignored.	The screening of sites took a precautionary approach to consideration of effects of the plan; to sites to be considered for screening; and to the sites and features screened in for future appropriate assessment. This will be reflected in any update to the HRA.

<p>DPS052, 053 and 273/19 Transboundary considerations - General Commentary (point 1.6)</p>	<p>Asserts that nowhere are land, air and water trans frontier impacts assessed in breach of the SEA Directive, ESPOO Convention and Gothenburg protocol. In this regard Habitats Regulation Assessment is considered to be fatally flawed.</p>	<p>The HRA considered all international sites within 15km of the plan area or otherwise connected to it, e.g. hydrologically. This included sites outside the council area and in Ireland. Screening identified 22 sites in Ireland where there may be a likely significant affect to be considered further in any update to the HRA.</p>
<p>DPS052, 053 and 273/20 Relevant alternatives and Evidence Base - General Commentary (point 1.7)</p>	<p>Considers that relevant alternatives fail to be considered particularly in relation to minerals extraction and non-factory farm models and suggests that SAC/SPA deterioration is not adequately assessed.</p>	<p>This is raised in the context of SA/SEA. Any update to the HRA would take account of the condition assessment of site selection features based on available information at that time.</p>
<p>DPS052, 053 and 273/21 Review of Extant Consents for extractive industries - General Commentary (point 1.7)</p>	<p>A review of extant consents for extractive industries (and factory farms) must be completed to comply with the legal requirements under Regulation 45, 46, 50, 51 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 to ensure compliance with Article 6 of the Habitats Directive.</p>	<p>This is not an HRA issue however any review, if applicable to any extant consents, would be subject to Regulations 43 requiring appropriate assessment where there is a likely significant effect. For information the regulations refer as follows: 45. Review of existing decisions and consents, etc; 46. Consideration on review; 50. Planning permission: duty to review; 51. Planning permission: consideration on review.</p>
<p>DPS052, 053 and 273/22 HRA not informed by impacts and threats - General Commentary (point 6.1)</p>	<p>Considers that the SEA and the Habitats Regulations Assessment are not informed by the potential impacts of mining, or threats from existing extractive industries.</p>	<p>The HRA considered the MIN policies. MIN01 includes constraints which limit where development take place, including all International sites which are Areas of Minerals Constraint. It is acknowledged that there are some exceptions however MIN01 specifies that developments must not have an unacceptable adverse impact on the natural environment and the water environment. Cumulative effects on an international site would be a consideration at LPP and development management.</p>

<p>Cannot assess HRA in advance of identifying sites - General Commentary (point 6.4)</p>	<p>As Mineral Safeguarding Areas have not been identified believes that MIN03 must be removed and that it is neither logical nor acceptable to attempt conduct an HRA and an SEA (and various landscape and other assessments) and yet assume that these Areas can be introduced at some stage in the future without being adequately assessed for their impacts. (Also refers to the Waddenzee and Sweetman rulings of the European Court of Justice which renders this policy in relation to the HRA unlawful.)</p>	<p>The HRA acknowledged 'Mineral Safeguarding Areas (MSAs) are to be identified at LPP. All International sites are Areas of Minerals Constraint however minerals extraction outside sites may have impacts. This will be a consideration in identifying the full extent of MSAs within the LPP. MIN03 sets out a strategic approach for the identification of MSAs and this is considered an appropriate response given the 'two-stage' plan system.</p>
<p>Intensive factory farms - - General Commentary (point 7.1)</p>	<p>Considers that there should be a policy presumption against approval for any new intensive factory farms. Sets out reasons as sites being damaged, transboundary issues, and need for a cumulative assessment to provide a 'scientifically accurate baseline'.</p>	<p>Given the transboundary issues referred to it could be argued that this is better addressed as a regional issue. The issue is acknowledged in the HRA with specific reference to IB06. REC18 also applies: 'Seek further information from DAERA before finalising the HRA to identify any new evidence about International sites, habitats and species.' This would inform the Council as to those International sites where there is a risk of proliferation of development having an adverse effect on site integrity. There are several references to ammonia in the SA/SEA in baseline data and appraisals. It is proposed to include additional clarification wording relating to ammonia for IB06 where it is already acknowledged that there is a need for additional consideration of impacts from development for intensive farming or animal husbandry (see Topic Paper – Industry and Business). There is modelling at the national level that provides estimates of background levels for all international sites at www.apis.ac.uk. At development management</p>

		appropriate assessments also take account of projects in process which are not reflected in the background levels.
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Table 8 DPS/054 et al – 76 group and private individual representations containing the same content

DPS/054; DPS/071; DPS/072; DPS/073; DPS/074; DPS/093; DPS/094; DPS/096;
 DPS/097; DPS/098; DPS/100; DPS/101; DPS/102 SOS Save Our Sperrins; DPS/103;
 DPS/114; DPS/122; DPS/136; DPS/146; DPS/147; DPS/148; DPS/149; DPS/150;
 DPS/151; DPS/152; DPS/153; DPS/155; DPS/157; DPS/171; DPS/185; DPS/186;
 DPS/222; DPS/225; DPS/226; DPS/234; DPS/235; DPS/240; DPS/241; DPS/242;
 DPS/243; DPS/262; DPS/263; DPS/272; DPS/279; DPS/280; DPS/281; DPS/282 CAMIO
 Cooperation Against Mining in Omagh; DPS/283; DPS/284; DPS/287; DPS/288; DPS/289;
 DPS/290; DPS/291; DPS/293; DPS/295; DPS/296; DPS/297; DPS/298; DPS/299;
 DPS/300; DPS/301; DPS/302; DPS/303; DPS/304; DPS/305; DPS/306; DPS/307;
 DPS/308; DPS/309; DPS/310; DPS/311; DPS/312; DPS/313; DPS/314; DPS/315;
 DPS/316.

Table 9 DPS/029 et al – 111 group and private individual representations containing the same content

DPS/029; DPS/030; DPS/031; DPS/032; DPS/033; DPS/034; DPS/035; DPS/036;
 DPS/037; DPS/038; DPS/039; DPS/040; DPS/041; DPS/042; DPS/043; DPS/044;
 DPS/045; DPS/046; DPS/077; DPS/078; DPS/079; DPS/080; DPS/081; DPS/082;
 DPS/083; DPS/084; DPS/085; DPS/086; DPS/087; DPS/088; DPS/089; DPS/090;
 DPS/091; DPS/092; DPS/107; DPS/143; DPS/144; DPS/145; DPS/154; DPS/156;
 DPS/158; DPS/159; DPS/160; DPS/161; DPS/162; DPS/163; DPS/164; DPS/165;
 DPS/166; DPS/167; DPS/168; DPS/169; DPS/170; DPS/172; DPS/173; DPS/174;
 DPS/175; DPS/176; DPS/177; DPS/178; DPS/179; DPS/180; DPS/181; DPS/182;
 DPS/183; DPS/184; DPS/187 Townlands Residents Association; DPS/188; DPS/189;
 DPS/190; DPS/192; DPS/194; DPS/195; DPS/196; DPS/197; DPS/198; DPS/199;
 DPS/200; DPS/201; DPS/202/01; DPS/203; DPS/204; DPS/205; DPS/206; DPS/207;
 DPS/208; DPS/209; DPS/210; DPS/211; DPS/212; DPS/213; DPS/214 Mothers Voice for
 Justice; DPS/215; DPS/216; DPS/217; DPS/218; DPS/219; DPS/220; DPS/221; DPS/223;
 DPS/224 Standing our Ground Women of the Sperrins; DPS/230; DPS/231; DPS/232;
 DPS/233; DPS/275; DPS/285; DPS/286; DPS/318; DPS/319; DPS/320.

Summary of Counter Representations and Council Response

1. Introduction

- 1.1 This report summarises the responses received in relation to the Fermanagh and Omagh Local Development Plan (LDP) draft Plan Strategy site-specific (counter) representations stage, in accordance with the Council's Statement of Community Involvement (SCI) and the Planning (Local Development Plan) Regulations (NI) 2015. It provides a summary of the key issues raised through the counter representations consultation process and should be read alongside the more detailed Consultation Report on Main Issues Raised in Representations.
- 1.2 This report, alongside a full copy of all the representations submitted as part of the counter representation consultation, will form part of the assessment of the soundness of the Plan Strategy.

2. The Counter-Representation Process

- 2.1 The draft Plan Strategy and supporting evidence were published for an 8-week consultation period commencing on 26th October 2018 and ending on 21st December 2018. A copy of all representations received during the public consultation were then published on 14th February 2019 to allow the opportunity to submit counter representations. The consultation period ended on 11th April 2019 by which time it had been discovered that there had been an error in the original notification procedures. With the agreement of the Council, the 8-week consultation period was rerun from 2nd May to 27th June 2019.
- 2.2 In accordance with Regulation 18 of the LDP Regulations, counter-representations can only be made on any representation on a site-specific policy. A "site specific policy" means a policy in a development plan document which identifies a site for a particular use or development. A "site specific policy representation" means any representation which seeks to change a development plan document by:
 - a) Adding a site specific policy to the development plan document; or
 - b) Altering or deleting any site specific policy in the development plan document.
- 2.3 Counter representations were therefore required to relate to a site specific policy representation and should not propose any change to the draft Plan Strategy document itself. This is set out in paragraph 8.0 of the Department's Development Plan Practice Note 9.

3. Summary of responses received

- 3.1 A total of 60 counter representations were received. Of these, 32 are a generic or duplicate version. In terms of the number of issues raised, the majority of these (out of a total of 147) related to the following policy topic areas:
- Minerals Development (47%)
 - Town Centres and Retailing (15%)
 - Housing in the Countryside (7.5%)
 - Landscape (7.5%)
 - Renewable and Low Carbon Energy Generation (7%)
- 3.2 The 32 generic counter representations all cited draft policies MIN01, MIN02 and MIN03. MIN01 was cited as an issue 22 times in 7 other representations. This reflects the original representations received where policy MIN01 was by far the policy with the largest number of issues relating to it. In contrast, policy TCR01 Town Centres invited more comment as part of the counter representation process rather than the original draft plan strategy consultation. Other specific policies which generated a number of issues raised within some of the counter representations included HOU09, HOU11, HOU13 and HOU15, the policies for the Sperrin AONB (L01) and Special Countryside Areas (L02); and the Renewable and Low Carbon Energy Generation policy (RE01). A very small number of issues referred to policies HE02 (Archaeology); PU02 (Overhead Lines); TR06 (Disused Transport Routes) and TOU01(Protection of Tourism Assets and Tourism Development).
- 3.3 The Council has not determined which of the counter representations can be considered to meet the relevant definition set within Regulation 18 of the LDP Regulations, and leaves this as a matter for the Planning Appeals Commission to determine. Only 3 could clearly be identified as being non-site-specific in nature with four being expressions of support for either the dPS or a specific policy. A full copy of all representations submitted as part of the counter representation consultation, alongside this summary report, will form part of the submission of the Plan Strategy to be considered as appropriate as part of the future Independent Examination.

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant 'Site Specific Representation'	Summary of Issue Raised	Council Response ⁹
CRDPS 001 01	Elm Grange	DPS011	DPS005	The Enniskillen Town Centre Boundary should not be extended to include the Asda store. It would be undesirable as this would not maintain a vital and viable retail environment/a vibrant town centre. It is also noted that Asda provide no evidence or justification for its inclusion in the town centre.	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing. The Council has no intention to extend the town centre boundary in Enniskillen.
CRDPS 001 02	Elm Grange	DPS011	DPS005	Disagrees with Asda's support of the 500 sqm threshold for Retail Impact Assessment	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing
CRDPS 001 03	Elm Grange	DPS011	DPS245	Disagrees with Retail NI's support for the 500 sq m threshold for Retail Impact Assessment. Welcomes Retail NI's acceptance of the Enniskillen town centre being physically and historically constrained and considers this supports the case for the designation of client's site as a District Centre. In respect of Retail NIs suggestion for a call for sites considers this would only be appropriate if the NEXUS report robustly set out the retail capacity of the Council. In absence of this considers client's site is the most appropriate location for future retail development (as a District centre).	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing
CRDPS 002 01	Fane Valley C/O Turkington Holdings	DPS010	DPS106	Disagrees with the Showgrounds Retail Park's support for the introduction of a RIA test for retail proposals of 1000 sqm in a town centre but outside the Primary Retail Core and as there is no basis to introduce such a test which would be anti-competitive and deter town centre investment and undermine town centres.	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing
CRDPS 002 02	Fane Valley C/O Turkington Holdings	DPS010	DPS106	Disagrees that the PRC should be extended to include the Showgrounds as this would include a much wider area and include significant non-retail land. However, if the Council chose to extend the PRC then (clients) lands at Drumragh Avenue are of the same proximity and connectively to Market Street/High Street and benefit from extant retail planning permission and should also be included in any enlarged PRC.	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing
CRDPS 002 03	Fane Valley C/O Turkington Holdings	DPS010	DPS245	Disagrees with Retail NI's support for the 500 sq m threshold for Retail Impact Assessment. Evidence of Nexus is that average convenience shops in Omagh are 482 sqm. Considers that such a low threshold would be a deterrent on small regional shops seeking representation in the town. There is no evidence that shops between 500 and 1000 sqm pose a threat to town centres. A threshold of 1000 sqm should be applied to all retail developments outside town centres.	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing
CRDPS 002 04	Fane Valley C/O Turkington Holdings	DPS010	DPS245	Note Retail NI's suggestion that there should be a 'call for sites' and considers that clients site, as it benefits from an extant retail permission, should be identified as a Development Opportunity Site to accommodate large scale mixed retail development as it would be an ideal location for retail development.	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing
CRDPS 002 05	Fane Valley C/O Turkington Holdings	DPS010	DPS245	Disagrees with Retail NI's suggestion that a 300 sqm threshold should be applied for RIA for retail warehousing (under policy TCR01). Retail Warehouse formats are well established, do not easily fit inside town centres, tend to be 1000 sq. m +. Such a test would be a barrier to investment, and there is no regional policy or evidence to support this proposal.	The Council's view on the matter is set out in the Topic Paper - Town Centres and Retailing
CRDPS 003 01	Private Individual	DPS025	DPS317	DfI Roads comments are a repeat of PSRNI policy IC15 for Roadside Service Facilities and do not elaborate or justify any aspects of policy. DfI should provide more robust evidence on whether the policy is acceptable or not, and if not, why not and what should be done to make the policy acceptable.	Noted.
CRDPS 004 01	Crawford M	DPS004	N/A	Supportive of the Draft Plan Strategy and considers it sound. There is no reference to a site-specific representation.	Noted.

⁹ The reference to Topic Papers in the responses refers to the series of topic papers in the LDP Consultation Report which set out the responses to main issues raised in representations.

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant 'Site Specific Representation'	Summary of Issue Raised	Council Response ⁹
CRDPS 005 01	SSE Renewables Developments (UK) Ltd	DPS252	DPS022	Disagrees that it would be appropriate to inform Areas of Constraint on wind energy by an assessment of habitats and species and not just visual capacity. Notes draft policy RE01 makes provision for the impact of developments on natural heritage on a case by case basis.	Noted.
CRDPS 005 02	SSE Renewables Developments (UK) Ltd	DPS252	DPS028	Disagrees with the support offered for SCAs and as considered the extent of these is founded on flawed evidence (refers to para 5.12 to 5.21 of DPS252).	The Council's view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation
CRDPS 005 03	SSE Renewables Developments (UK) Ltd	DPS252	DPS028	Objects to the approach to renewables as proposed by draft Policy RE01 and opposes the blanket ban against the development of wind energy development within the AONB. Refers to flawed evidence and to DPS252 Para 5.2 and Appendix 1.	The Council's view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation. There is no 'blanket ban' on wind energy development proposed within the AONB.
CRDPS 005 04	SSE Renewables Developments (UK) Ltd	DPS252	DPS029 - 046; DPS077 - 093; DPS107; DPS143 - 144; DPS154; DPS158 - 170; DPS172 - 184; DPS188 - 190; DPS 192 - 205; DPS 207 - 213; DPS 215 - DPS221; DPS223; DPS 230 - 233; DPS375; DPS318	Objects to the request to extend the area identified as not having capacity to accommodate wind farms to include the extension to Beaghmore ASAI as draft policy L02 is founded on flawed evidence (refers to para 5.12 to 5.21 of DPS252).	The Council's view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation
CRDPS 005 05	SSE Renewables Developments (UK) Ltd	DPS252	DPS047	Considers the extent of SCAs proposed under policy L02 is based on flawed evidence (refers to para 4.12 to 5.21 of DPS252). This is in respect of MUDC noting the provisions of L02.	The Council's view on the matter is set out in the Topic Paper – Landscape.
CRDPS 005 06	SSE Renewables Developments (UK) Ltd	DPS252	DPS047	Considers the extent of SCAs proposed under policy L02 is based on flawed evidence (refers to para 4.12 to 5.21 of DPS252). This is in respect of MUDC noting the location of a SCA within the high Sperrins being of interest and as it is a shared environmental asset.	The Council's view on the matter is set out in the Topic Paper – Landscape.
CRDPS 005 07	SSE Renewables Developments (UK) Ltd	DPS252	DPS047	Opposes the Council's proposal to introduce a blanket ban against wind energy development within the AONB and considers the evidence that has been prepared to support the draft policy (RE01), including the Landscape Wind Capacity Study, is flawed (refers to DPS252 Para 5.2 and Appendix 1). This is in respect of MUDC noting the provisions of draft policy RE01 and with particular attention to the capacity of the Sperrins and Slieve Beagh.	Noted. The Council's view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation. There is no blanket ban against wind energy development proposed for the Sperrin AONB. However, it is recognised that there are different levels of underlying capacity for wind energy development across the AONB and this is fully set out in Appendix 7 Landscape Wind Energy Strategy
CRDPS 005 08	SSE Renewables Developments (UK) Ltd	DPS252	DPS047	Considers the evidence that has been prepared to support the draft policy (RE01) and the Wind Energy Strategy, is flawed (refers to DPS252 Para 5.2 and Appendix 1). This is in respect of MUDC welcoming the designation of the northern most part of the South Sperrin LCA as an 'area of no underlying capacity' but querying the reference at Page 297 * which states 'the character of parts of upland landscape would support larger scale wind energy development.' *The page number is incorrectly quoted by CRDPS 005 and should be page 298)	The Council would advise that only part of the text on Page 298 has been quoted by both MUDC and CRDPS 005. The full text taken from Annex 1 to Appendix 7 is " <i>The character of parts of the upland landscape would support larger scale wind energy developments, however the high landscape value significantly constrains development potential. Lowland landscapes are also small scale, enclosed and sensitive. Limited smaller scale wind energy developments within broader river valley areas only.</i> " This clearly indicates the limitations for wind energy development in a landscape of high value which is the AONB.
CRDPS 005 09	SSE Renewables Developments (UK) Ltd	DPS252	DPS049	Opposes the Council's proposal to introduce a blanket ban against wind energy development within the AONB and considers the evidence that has been prepared to support the draft policy (RE01), including the Landscape Wind Capacity Study, is flawed (refers to DPS252 Para 5.2 and Appendix 1). This is in respect of CCGBC acknowledging the very detailed wind energy study that has informed draft policy and noting draft policy RE01.	The Council's view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation and response to CRDPS 005 Issue 07 above.

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant ‘Site Specific Representation’	Summary of Issue Raised	Council Response ⁹
CRDPS 005 10	SSE Renewables Developments (UK) Ltd	DPS252	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Considers that there is no robust evidence that wind turbines have an adverse impact on health and well-being has been provided. This is in respect on a comment requiring policy RE01 to be flexible to take account of emerging evidence of negative impacts on health and well-being.	The Council’s view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation
CRDPS 005 11	SSE Renewables Developments (UK) Ltd	DPS252	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to the proposed revision to policy PU02 on the basis that this would conflict with SPPS. This is in respect of a request that the policy should specify that OHP cables should not be permitted in the Sperrins AONB.	The Council’s view on the matter is set out in the Topic Paper – Public Utilities.
CRDPS 005 12	SSE Renewables Developments (UK) Ltd	DPS252	DPS156; DPS 187; DPS191; DPS206; DPS214; DPS224;	Objects to statement made that the historic landscape (Sperrins) is unsuitable for wind development and this has been recognised by the planning authorities in recent years when various applications for turbines were refused.	The Council’s view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation
CRDPS 005 13	SSE Renewables Developments (UK) Ltd	DPS252	DPS156; DPS 187; DPS191; DPS206; DPS214; DPS224;	Considers that there is no robust evidence that wind turbines have an adverse impact on health and well-being has been provided. This is in respect of a comment requiring policy RE01 to be flexible to take account of emerging evidence of negative impacts on health and well-being.	The Council’s view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation
CRDPS 005 14	SSE Renewables Developments (UK) Ltd	DPS252	DPS259	Opposes the request for the Sperrins AONB to be an "Area of No Underlying Capacity". Considers there would be no robust evidence for this.	The Council’s view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation
CRDPS 005 15	SSE Renewables Developments (UK) Ltd	DPS252	DPS259	Opposes the introduction of a blanket ban against wind energy development within the AONB and considers the evidence that has been prepared to support the draft policy (RE01), including the Landscape Wind Capacity Study, is flawed (refers to DPS252 Para 5.2 and Appendix 1). This is in respect of a comment noting the health implications of infrasound and low-frequency noise by allowing other wind turbines in areas of significant cumulative development.	The Council’s view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation. The Council would reiterate that there is no blanket ban on wind energy development proposed within the AONB.
CRDPS 005 16	SSE Renewables Developments (UK) Ltd	DPS252	DPS277	Objects to the introduction of additional policy considerations under policy L01 and which would conflict with SPPS.	The Council’s view on the matter is set out in the Topic Paper – Landscape.
CRDPS 006 01	Dalradian Gold Ltd	DPS271	DPS022	Objects to proposed amendment in DPS022 to MIN01 to have policy tests vii) to xi) applied to applications to extend existing operations to avoid a policy loophole. The approach is unsound for reasons set out at paragraph 4.23 to 4.35 of representation DPS271	The Council’s view on the matter is set out in the Topic Paper – Minerals Development.

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant 'Site Specific Representation'	Summary of Issue Raised	Council Response ⁹
CRDPS 006 02	Dalradian Gold Ltd	DPS271	DPS028	With reference to comments made in DPS028, objects to proposed ACMD of policy MIN01 for reasons elaborated in paragraphs 4.1 to 4.38 of DPS271.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 03	Dalradian Gold Ltd	DPS271	DPS028	With reference to comments made in DPS028, objects to policy L01 as it is based on flawed evidence as set out in paragraphs 5.8 to 5.17 of DPS271.	The Council's view on the matter is set out in the Topic Paper – Landscape.
CRDPS 006 04	Dalradian Gold Ltd	DPS271	DPS049	With reference to representation DPS049 which notes the proposed 'blanket' ACMD covering the Sperrin AONB located within FODC boundaries, objects to the proposed ACMD for reasons set in paragraphs 4.1 to 4.38 of DPS271.	The Council's view on the matter is set out in the Topic Paper – Minerals Development. The Council would point out that policy MIN01 provides for exceptions for mineral development within an ACMD.
CRDPS 006 05	Dalradian Gold Ltd	DPS271	DPS273	Objects to the request raised in DPS273 to have a policy presumption against the exploration and extraction of precious minerals. This would be in conflict with the SPPS.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 06	Dalradian Gold Ltd	DPS271	DPS273	Objects to the request raised in DPS273 to have a moratorium placed on new extractive industries. In the absence of information set out in DPS273, this would have a detrimental impact on an important sector of the NI economy.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 07	Dalradian Gold Ltd	DPS271	DPS273	Objects to the assertion that policy MIN01 is too permissive and argues as set out in DPS273 that MIN01 is too restrictive.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 08	Dalradian Gold Ltd	DPS271	DPS273	Objects to the approach that ACMDs should have a definitive presumption against any extraction. This would be in conflict with prevailing policy provisions of the SPPS.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 09	Dalradian Gold Ltd	DPS271	DPS273	Objects to suggestion that policy MIN03 should be removed as the areas have not been identified. Argues that MSAs should be identified as set out in DPS271	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 10	Dalradian Gold Ltd	DPS271	DPS052 and DPS053	Objects to assertion made that mineral activity will be unrestricted as the ACMD will have a presumption against mineral development and Dalradian objects to its extent.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 11	Dalradian Gold Ltd	DPS271	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to assertion made that mineral activity will be unrestricted as the ACMD will have a presumption against mineral development and Dalradian objects to its extent.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 12	Dalradian Gold Ltd	DPS271	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to the statement made in duplicate representations that gold mining is an unsustainable activity. The statement is not supported by any evidence and refers to paragraphs 4.14 and 4.15 of DPS271 which summarises the LVIA associated with the proposed mineral extraction facility at Curraghinalt and which demonstrates that there will not be a significant adverse impact on the AONB.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant 'Site Specific Representation'	Summary of Issue Raised	Council Response ⁹
CRDPS 006 13	Dalradian Gold Ltd	DPS271	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to statement made in a number of duplicate representations "that in view of the intolerable risk of enduring environmental damage, precious mineral mining will not be permitted in or close to the Sperrins AONB or in areas hydraulically linked to protected waterways, wells or reservoirs". Points out that policy MIN01 will require that mineral development will only be permitted where it is demonstrated that it will not have an 'unacceptable adverse' impact on the natural or water environment.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 14	Dalradian Gold Ltd	DPS271	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to assertion that as Omagh Sperrins is high in radon gas, mining would release more radioactive contaminants into the air causing additional cancers. Also, that ACMDs would not protect the environment from mining and 'would allow vultures in to plunder our natural resources, ruin our beautiful landscape and damage our health, water and air'. Dalradian considers there is no supporting evidence for these statements and points to policy MIN01 and the restrictive nature of the proposed ACMD whilst at same time criticising the extent of the ACMD and associated draft policy.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 15	Dalradian Gold Ltd	DPS271	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to the view put forward that there should be absolutely no mineral development in ACMD or any part of the Council District. This would conflict with the prevailing policy set out in the SPPS.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 16	Dalradian Gold Ltd	DPS271	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to proposal put forward that as mining is similar to fracking, there should be a presumption against the granting of planning permission for mining precious metals anywhere in the Council area. This would conflict with the SPPS where the responsible exploitation of minerals is supported.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.

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CRDPS 006 17	Dalradian Gold Ltd	DPS271	DPS054; DPS071 - 074; DPS093 - 094; DPS096 - 98; DPS100 - 103; DPS114; DPS122; DPS136; DPS146 - 153; DPS155; DPS157; DPS171; DPS185 - 186; DPS222; DPS225 - 226; DPS234 - 235; DPS240 - 243; DPS262 - 263; DPS272; DPS279 - 284; DPS287 - 291; DPS293; DPS295 - 316	Objects to the proposed revision to policy HE02 whereby development proposals which would adversely affect archaeological remains of regional importance or the integrity of their settings should not be permitted in any circumstances because of the intrinsic historical and cultural value of such remains. This would conflict with the SPPS.	The Council's view on the matter is set out in the Topic Paper – Historic Environment
CRDPS 006 18	Dalradian Gold Ltd	DPS271	DPS109	With reference to the view expressed that the policy should state that cyanide will not be permitted so that it reflects the European Union Resolution of 27 April 2017 on the implementation of the Mining Waste Directive, it is stated that the use of cyanide remains the Best Available Technique for mining. A restriction on the use of cyanide is not endorsed in the SPPS.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 19	Dalradian Gold Ltd	DPS271	DPS113	Objects to the proposed revised wording in MIN01 to delete "unacceptable" from 'unacceptable adverse impact upon...' Instead, Dalradian advocates using "significant" as suggested in their representation DPS271	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 20	Dalradian Gold Ltd	DPS271	DPS239	Objects to statements that the policies condone unlimited gold mining across the district and the biggest cyanide mine in Europe within an ACMD. Dalradian points to the restrictive nature of the policy MIN01 and the extent of the ACMD which they object to. They also point to the criteria for MIN01 which includes consideration of impacts on natural environment, water and human health.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 21	Dalradian Gold Ltd	DPS271	DPS256	Disagrees with view that the plan provides no impediment to current threats from extractive industries to the District's community and environment and points to the ACMD and its extent.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 22	Dalradian Gold Ltd	DPS271	DPS277	Objects to representation DPS277 which seeks to strengthen the policy with the inclusion of a clear presumption against mineral development in ACMD and only in exceptional circumstances should such proposals be allowed. The proposed ACMD is not acceptable as set out in paragraphs 4.1 to 4.38 of DPS271	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 23	Dalradian Gold Ltd	DPS271	DPS047	Objects to the view of support provided to FODC in introducing ACMDs as Dalradian objects to the proposed ACMD for the reasons set out in DPS271.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 006 24	Dalradian Gold Ltd	DPS271	DPS051	With reference to the view expressed that the use of cyanide should be forbidden consistent with the European Union Resolution of 27 April 2017 on the implementation of the Mining Waste Directive, it is stated that the use of cyanide remains the Best Available Technique for mining. A restriction on the use of cyanide is not endorsed in the SPPS.	The Council's view on the matter is set out in the Topic Paper – Minerals Development.
CRDPS 007 01	Phoenix Natural Gas Ltd.	N/A	N/A	No plans for this Council area. There is no reference to a site-specific representation.	No comment.
CRDPS 008 01	Donegal County Council	N/A	N/A	No observations at this time. There is no reference to a site-specific representation.	No comment.
CRDPS 009 01	Rasdale B	DPS061	N/A	Boho should be categorised as a settlement. There is no reference to a site-specific representation.	No comment.

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CRDPS 010 01	Department for Communities - Historic Environment Division	DPS113	DPS271	Notes that the representation proposed the modification of deleting draft Policy HE02. HED considers this would be contrary to the SPPS (amongst other matters). Also notes that the representation contends that the identified extension to the Beaghmore ASAI is not based on sound evidence. HED outlines that the identification of the extension to the ASAI meets the soundness text and is line with the SPPS in relation to the designation of the ASAI. Provides further information of this evidence including reference to NI Monument Record, viewshed analysis, Landscape Character Assessment, fieldwork, and review of existing ASAI designation.	The Council acknowledges the input provided by HED in regard to the proposed identified extension of Beaghmore ASAI
CRDPS 011 01	Mid Ulster District Council	DPS047	DPS266; DPS270	An SCA should be designated in the Sperrins AONB which will protect our most sensitive landscapes from inappropriate development.	The Council's view on the matter is set out in the Topic Paper – Landscape
CRDPS 011 02	Mid Ulster District Council	DPS047	DPS024; DPS105; DPS110 - 111; DPS271	ACMDs will protect our most sensitive areas, which are important for their intrinsic landscape, amenity, scientific or heritage value.	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 012 01	Omagh Cycling Initiative	N/A	DPS317	Supports comments provided by DfI in regard to the absence of active travel and sustainable transport focus in draft policy. Disappointed at the lack of reference to cycling and cycling routes within the dPS. Also notes that the only reference to cycling routes are at para 6.37 and in Table 8.1 no targets are stated for any footpaths or cycle paths.	The Council's view on the matter is set out in the Topic Paper – Transportation
CRDPS 013 01	Natural Environment Division, NI Environment Agency, DAERA	DPS250	DPS021; DPS024; DPS105; DPS110 - 111; DPS248; DPS322	Supports the identification of site specific Areas of Constraint on Mineral Development, as per policy MIN01, in Sperrins AONB, Upper & Lower Lough Erne Lakelands, West Fermanagh Scarplands SAC, Pettigoe Plateau SAC/SPA and the Slieve Beagh SPA based on SPPS 6.155	No comment.
CRDPS 013 02	Natural Environment Division, NI Environment Agency, DAERA	DPS250	DPS252	Supports the designation of the Sperrins AONB as a Special Countryside Area.	No comment.
CRDPS 014 01	Enniskillen Business Partnership	N/A	DPS011	Counter representation (CR) states Nexus Report considered to be robust and sound. CR claims DPS011 site has a lapsed planning permission and therefore they can have no interest in the retailing environment in Enniskillen.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing. The Council welcomes the positive comments regarding the Nexus Report.
CRDPS 014 02	Enniskillen Business Partnership	N/A	DPS011	DPS011 is flawed in that it seeks to promote the creation of a new district centre in an out of centre location and fails to provide any evidence base whilst seeking to discredit the Nexus Report.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 014 03	Enniskillen Business Partnership	N/A	DPS011	DPS011 seeks removal of a site from the town centre boundary (the railway yard site) which EBP argue if left unzoned and within the town centre, provides flexibility for retail or other town centre uses suitable to Enniskillen.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 014 04	Enniskillen Business Partnership	N/A	DPS011	Objects to DPS011 which seeks restriction of town centre boundary to assist delivery of designation of Cornagrade Road site through manipulation of the Council's need/capacity assessment & removal of an available alternative site that is sequentially superior.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant ‘Site Specific Representation’	Summary of Issue Raised	Council Response ⁹
CRDPS 014 05	Enniskillen Business Partnership	N/A	DPS011	Point 13 of DPS011 alleges deficiencies in the Nexus Report. EBP states that there is no evidence base for these assertions and rebuts a series of points which were raised in DPS011.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 014 06	Enniskillen Business Partnership	N/A	DPS011	EBP refutes claim made in DPS011 that all Opportunity Sites in the town have been developed. EBP provide examples of areas which could be developed including those identified in the DSD Enniskillen Town Centre Masterplan.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 014 07	Enniskillen Business Partnership	N/A	DPS011	Point 22 of DPS011 claims that PPS 5 had a sequential test and EBP points out that this was not the case.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 015 01	Station Green Limited	N/A	DPS011	Disagrees with DPS011 and the request for reduction in the Town Centre boundary of Enniskillen which would entail removal of part of Station Green site from the TC boundary and provides counter arguments of why the site should remain in the TC. Disagrees that there is a need for a district centre at Cornagrade Road and disagrees that suggested policy is not consistent with SPPS and RDS. Also points out inaccuracies in the floorspace figures for 'extant comparison goods commitments' in the Nexus report but asserts this does not make the report unsound.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 016 01	McClellan C	DPS072	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 017 01	Save Our Sperrins (SOS)	DPS102	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 018 01	Private Individual	DPS156	DPS252	Disagrees with statement made in DPS252 that "it is important to recognise that there is no embargo on wind energy development within AONBs" and that the quotation, taken from Mullaghturk Wind Farm Appeal Decision has been used inappropriately. Points out that the appeal was dismissed and that impact on the landscape in LCA24 and the Sperrins AONB were important considerations.	The Council's view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation
CRDPS 019 01	Blakiston Houston Estate Co.	N/A	DPS029 – 046; DPS054; DPS071 – 74; DPS077 – 098; DPS100 -103; DPS107; DPS114; DPS122; DPS136; DPS133 0 153; DPS155; DPS171; DPS 185 – 192; DPS194 – 226; DPS230 – 235; DPS240 – 243; DPS259; DPS262 – 263; DPS272; DPS275 – 276; DPS280 – 291; DPS293; DPS295 – 311; DPS313 – 316; DPS318	Disagrees with statement that 'the introduction of turbines in the Sperrins AONB would have a distinctive negative visual impact' which was expressed in a large number of representations. The counter argument or evidence of the CR as presented relies on referencing planning application LA10/2015/0292/F for Doraville Wind Farm and its landscape and visual assessment, and to criticise the LCA and LWECs prepared by Ironside Farrar on behalf of the Council.	The Council's view on the matter is set out in the Topic Paper – Renewable and Low Carbon Energy Generation.

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant 'Site Specific Representation'	Summary of Issue Raised	Council Response ⁹
CRDPS 020 01	McAleen N	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 021 01	McCullagh T	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 022 01	McCullagh C	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 023 01	McGinn C	DPS274	DPS021; DPS248	Although it refers to representations DPS021 and DPS248, the content is largely a rehearsal of representation DPS274. Additional opinion is offered on fracking in response to comments made by DfE (DPS248) to policy MIN04 and the damaging effects of this process on the environment such as methane gas release.	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 024 01	Campbell E	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 025 01	Retail NI	DPS245	DPS010	Contrary to DPS010, argues that the approach set out in TCR01 with regard to floorspace thresholds is appropriate. However, does consider that the test for the Primary Retail Core is more restrictive whilst acknowledging that it does not mean that any proposal >500sqm is unacceptable. Also agrees with logic of DPS010 that the subject site should be identified as a development opportunity site.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 026 01	Retail NI	DPS245	DPS011	Contrary to DPS011, argues that the approach set out in TCR01 with regard to floorspace thresholds is appropriate. However, does consider that the test for the Primary Retail Core is more restrictive whilst acknowledging that it does not mean that any proposal >500sqm is unacceptable. DPS011 does not demonstrate that L/2010/0924/F has commenced and there is no evidence for requirement of a District Centre in Enniskillen. Disagrees with the suggestion to remove Thompsons Feed Yard Site from the town centre.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 027 01	Retail NI	DPS245	DPS120	Supportive of policy IB02 in seeking to provide a flexible approach to meeting the varying needs of different types of economic activity and that DOS and KSRs can enable individual/specific sites which are vacant or where there is a specific need for a particular use.	Noted.
CRDPS 028 01	Retail NI	DPS245	DPS104	Contrary to DPS104, argues that the approach set out in TCR01 with regard to floorspace thresholds is appropriate, logical and sound. However, does consider that the test for the Primary Retail Core is more restrictive and should be amended to proposals outside the town centre to be consistent with the SPPS.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 029 01	Retail NI	DPS245	DPS106	Contrary to DPS106, argues that the approach set out in TCR01 with regard to floorspace thresholds is appropriate. However, does consider that the test for the Primary Retail Core is more restrictive and should be amended to proposals outside the town centre to be consistent with the SPPS.	The Council's view on the matter is set out in the Topic Paper – Town Centres and Retailing

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant ‘Site Specific Representation’	Summary of Issue Raised	Council Response ⁹
CRDPS 030 01	Retail NI	DPS245	DPS121	Contrary to DPS121, argues that the approach set out in TCR01 with regard to floorspace thresholds outside the PRC is appropriate and accords with the SPPS. However, does consider that the test for the Primary Retail Core is more restrictive and should be amended to proposals outside the town centre to be consistent with the SPPS.	The Council’s view on the matter is set out in the Topic Paper – Town Centres and Retailing
CRDPS 031 01	Conway A	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 032 01	Conway M	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 033 01	McAleer F	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 034 01	McCullagh JV	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 035 01	McCullagh J	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 036 01	McCullagh G	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 037 01	McCullagh C	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 038 01	McCullagh R	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant ‘Site Specific Representation’	Summary of Issue Raised	Council Response ⁹
CRDPS 039 01	Keenan J	DPS179	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 040 01	Keenan C	DPS176	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 041 01	Keenan L	DPS182	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 042 01	Keenan P	DPS180	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 043 01	Simpson G	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 044 01	West Tyrone Against Turbines	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 045 01	Ward A	DPS074	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 046 01	Ward B	DPS096	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 047 01	McKenna Family	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant 'Site Specific Representation'	Summary of Issue Raised	Council Response ⁹
CRDPS 048 01	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that the policy MIN01 is too restrictive particularly the 15-year limit and argues that the policy provides exemptions which, in their view, should be removed to secure the safety of the AONB. Argues that precious metals and minerals are not the same as aggregates and should be subject to more stringent environmental legislation, monitoring etc	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 048 02	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view on restoration and aftercare which considers the policy MIN02 to be too onerous. Argues for the need for AONB to be protected given the long term consequences of gold mining and that a financing bond and warranty covering total closure, remediation and monitoring should be established at the outset and checked periodically for validity to ensure that the company does not go into administration overnight.	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 048 03	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that approach to MSAs in policy MIN03 is flawed given that the lack of understanding on the extent of reserves. Argues that entire AONB should be an MSA (In taking this view, CRDPS048 has wrongly interpreted the meaning of Mineral Safeguarding Area)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 048 04	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy TOU01 is in conflict with and inconsistent with the approach set out in prevailing regional policy. Stresses the importance of the AONB as a tourist asset.	The Council's view on the matter is set out in the Topic Paper – Tourism Development
CRDPS 048 05	Private Individual			Disagrees with Dalradian's view that policy HE02 which provides for a proposal to extend Beaghmore ASAI is not justified. Dalradian has no right to determine the size of ASAI's and overrule DfC HED.	The Council's view on the matter is set out in the Topic Paper – Historic Environment
CRDPS 048 06	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy L01 is unsound and is based on flawed evidence. Considers this is a reasonable policy for the Sperrins AONB and its removal would fail soundness tests	The Council's view on the matter is set out in the Topic Paper – Landscape
CRDPS 048 07	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy PU02 does not provide sufficient flexibility to assess proposals for OH lines associated with minerals development. Considers that all powerlines should be forced to go either around AONB or underground.	The Council's view on the matter is set out in the Topic Paper – Public Utilities
CRDPS 048 08	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy TR06 would prohibit development where it would prejudice the reuse of disused routes etc. Considers policy is sound and should be retained and cites example of The Green Road, a 10th century route from Tullyhogue fort to Donegal.	The Council's view on the matter is set out in the Topic Paper – Transportation
CRDPS 048 09	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy HOU09 is not supported by evidence or assessment. Considers the policy is a positive one for bringing people back to the countryside and retaining family links.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 048 10	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy HOU11 is inconsistent with current regional policy and would increase development in the countryside. Considers the policy is positive one for bringing people back to the countryside and retaining family links.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 048 11	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy HOU13 is inconsistent with prevailing regional policy. CRDPS048 offers no contrary evidence other than to state that the policy should remain intact.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 048 12	Private Individual	DPS259	DPS271	Disagrees with Dalradian's view that policy HOU15 is inconsistent with prevailing regional policy. CRDPS048 offers no contrary evidence other than to state that the policy should remain intact.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 049 01	Dunn G	DPS240	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council's view on the matter is set out in the Topic Paper – Minerals Development

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant ‘Site Specific Representation’	Summary of Issue Raised	Council Response ⁹
CRDPS 050 01	McElduff P	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 051 01	McElduff D	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 052 01	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that the policy is too restrictive particularly the 15-year limit and argues that the policy provides exemptions which, in their view, should be removed to secure the safety of the AONB. Argues that precious metals and minerals are not the same as aggregates and should be subject to more stringent environmental legislation, monitoring etc	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 052 02	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view on restoration and aftercare which considers that policy MIN02 to be too onerous. Argues for the need for AONB to be protected given the long term consequences of gold mining and that a financing bond and warranty covering total closure, remediation and monitoring should be established at the outset and checked periodically for validity to ensure that the company does not go into administration overnight.	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 052 03	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that approach to MSAs in MIN03 is flawed given that the lack of understanding on the extent of reserves. Argues that entire AONB should be an MSA (In taking this view, CRDPS048 has wrongly interpreted the meaning of Mineral Safeguarding Area)	The Council’s view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 052 04	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that policy TOU01 is in conflict with and inconsistent with the approach set out in prevailing regional policy. Stresses the importance of the AONB as a tourist asset.	The Council’s view on the matter is set out in the Topic Paper – Tourism Development
CRDPS 052 05	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that policy HE02 which provides for a proposal to extend Beaghmore ASAI is not justified. Dalradian has no right to determine the size of ASAs and overrule DfC HED.	The Council’s view on the matter is set out in the Topic Paper – Historic Environment
CRDPS 052 06	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that policy L01 is unsound and is based on flawed evidence. Considers this is a reasonable policy for the Sperrins AONB and its removal would fail soundness tests	The Council’s view on the matter is set out in the Topic Paper – Landscape
CRDPS 052 07	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that policy PU02 does not provide sufficient flexibility to assess proposals for OH lines associated with minerals development. Considers that all powerlines should be forced to go either around AONB or underground.	The Council’s view on the matter is set out in the Topic Paper – Public Utilities
CRDPS 052 08	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that policy TR06 would prohibit development where it would prejudice the reuse of disused routes etc. Considers policy is sound and should be retained and cites example of The Green Road, a 10th century route from Tullyhogue fort to Donegal.	The Council’s view on the matter is set out in the Topic Paper – Transportation
CRDPS 052 09	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that policy HOU09 is not supported by evidence or assessment. Considers the policy is a positive one for bringing people back to the countryside and retaining family links.	The Council’s view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 052 10	Private Individual	N/A	DPS271	Disagrees with Dalradian’s view that policy HOU11 is inconsistent with current regional policy and would increase development in the countryside. Considers the policy is a positive one for bringing people back to the countryside and retaining family links.	The Council’s view on the matter is set out in the Topic Paper – Housing in the Countryside

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant ‘Site Specific Representation’	Summary of Issue Raised	Council Response ⁹
CRDPS 052 11	Private Individual	N/A	DPS271	Disagrees with Dalradian's view that policy HOU13 is inconsistent with prevailing regional policy. CRDPS052 offers no contrary evidence other than to state that the policy should remain intact.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 052 12	Private Individual	N/A	DPS271	Disagrees with Dalradian's view that policy HOU15 is inconsistent with prevailing regional policy. CRDPS052 offers no contrary evidence other than to state that the policy should remain intact.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 053 01	McCullagh S	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 054 01	McGurk P	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 055 01	McCullagh T	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 056 01	McGurk M	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 057 01	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy MIN01 is too restrictive particularly the 15-year limit and argues that the policy provides exemptions which, in their view, should be removed to secure the safety of the AONB. Argues that precious metals and minerals are not the same as aggregates and should be subject to more stringent environmental legislation, monitoring etc	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 057 02	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view on restoration and aftercare which considers that policy MIN02 to be too onerous. Argues for the need for AONB to be protected given the long term consequences of gold mining and that a financing bond and warranty covering total closure, remediation and monitoring should be established at the outset and checked periodically for validity to ensure that the company does not go into administration overnight.	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 057 03	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that approach to MSAs in MIN03 is flawed given that the lack of understanding on the extent of reserves. Argues that entire AONB should be an MSA (in taking this view, CRDPS048 has wrongly interpreted the meaning of Mineral Safeguarding Area)	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 057 04	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy TOU01 is in conflict with and inconsistent with the approach set out in prevailing regional policy. Stresses the importance of the AONB as a tourist asset.	The Council's view on the matter is set out in the Topic Paper – Tourism Development
CRDPS 057 05	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy HE02 which provides for a proposal to extend Beaghmore ASAI is not justified. Dalradian has no right to determine the size of ASAs and overrule DfC HED.	The Council's view on the matter is set out in the Topic Paper – Historic Environment

Counter Rep Number – Issue	Name/ Organisation	Previous Rep Number (if applicable)	Rep Number of relevant 'Site Specific Representation'	Summary of Issue Raised	Council Response ⁹
CRDPS 057 06	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy L01 is unsound and is based on flawed evidence. Considers this is a reasonable policy for the Sperrins AONB and its removal would fail soundness tests	The Council's view on the matter is set out in the Topic Paper – Landscape
CRDPS 057 07	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy PU02 does not provide sufficient flexibility to assess proposals for OH lines associated with minerals development. Considers that all powerlines should be forced to go either around AONB or underground.	The Council's view on the matter is set out in the Topic Paper – Public Utilities
CRDPS 057 08	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy TR06 would prohibit development where it would prejudice the reuse of disused routes etc. Considers policy is sound and should be retained and cites example of The Green Road, a 10th century route from Tullyhogue fort to Donegal.	The Council's view on the matter is set out in the Topic Paper – Transportation
CRDPS 057 09	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy HOU09 is not supported by evidence or assessment. Considers the policy is a positive one for bringing people back to the countryside and retaining family links.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 057 10	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy HOU11 is inconsistent with current regional policy and would increase development in the countryside. Considers the policy is a positive one for bringing people back to the countryside and retaining family links.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 057 11	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy HOU13 is inconsistent with prevailing regional policy. CRDPS057 offers no contrary evidence other than to state that the policy should remain intact.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 057 12	Bradley M	DPS152	DPS271	Disagrees with Dalradian's view that policy HOU15 is inconsistent with prevailing regional policy. CRDPS057 offers no contrary evidence other than to state that the policy should remain intact.	The Council's view on the matter is set out in the Topic Paper – Housing in the Countryside
CRDPS 058 01	McAleer E	DPS296	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 059 01	Friends of the Earth	DPS273	DPS021; DPS105; DPS271	Disagrees with views expressed in DPS271, DPS021 and DPS105 that 15-year constraint within ACMDs is too restrictive and points to the overly permissive approach to the extractive industries and that in FoE's view, there should be no exceptions. Argues that ACMD designation is necessary and that there is more than sufficient evidence to show the ecological, archaeological, cultural and social importance of the Sperrin AONB.	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 059 02	Friends of the Earth	DPS273	DPS021; DPS105; DPS271	Disagrees with objections raised in regard to restoration and aftercare bond and that policy MIN03 is consistent with the LDP's aims and objectives	Noted.
CRDPS 059 03	Friends of the Earth	DPS273	DPS021; DPS105; DPS271	Disagrees with Dalradian's proposed amendment to this policy which in FoE's view should be removed as the areas would not be designated until a later date and it would give supremacy to minerals over farming, tourism, nature conservation and the rights of residents. Reiterates the need to reject all proposals for gold mining and indeed any metalliferous and other mining until the conditions detailed in 2.0, 3.0 and 4.0 of their representation are met.	The Council's view on the matter is set out in the Topic Paper – Minerals Development
CRDPS 060 01	McCullagh K	N/A	DPS021; DPS105; DPS271	Disagrees with views/objections to draft policies MIN01, MIN02 and MIN03 raised by Dalradian, Crown Estate and QPANI representations citing environmental and public health risks associated with gold mining in the Sperrin AONB. Seeks removal of exceptions vii), ix), x) and xi) from MIN01. (NB: Most of the content of the counter representation is a rehearsal of information raised previously at representations stage).	The Council's view on the matter is set out in the Topic Paper – Minerals Development

Appendix 1

Fermanagh and Omagh District Council
DRAFT PLAN STRATEGY

Landscape Consultation Responses

Ironside**Farrar**
Environmental Consultants

50368/ March 2019

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1.0 INTRODUCTION

- 1.1. The following report provides a response to matters raised in representations to the Fermanagh and Omagh District Council Draft Plan Strategy where they relate to the FODC Landscape Wind Energy Capacity Study (LWECS), Landscape Character Assessment Review (LCR) and the Landscape Designation Review (LDR), undertaken by Ironside Farrar in 2017 – 2018.
- 1.2. Ironside Farrar were requested by Fermanagh and Omagh District Council to review the consultation responses received from the following organisations where they relate to these assessments:
 - RSPB;
 - Canavan Associates;
 - SSE Renewable;
 - The Northern Ireland Renewables Industries Group (NIRIG);
 - RES; and
 - Dalradian.
- 1.3. The most comprehensive set of comments relating to landscape matters is provided in the consultation response by SSE Renewables, which includes an appraisal by landscape architects OPEN. Some representations repeat the comments of others, for example that of RES largely repeat the comments of the Northern Ireland Renewables Industries Group.
- 1.4. This report firstly addresses the comments provided by OPEN within the SSE Renewables representation as this addresses many of the issues raised by other respondents. Issues raised by other consultees are addressed by either referring back to the IFL response to the OPEN comments, or addressed individually where unique.

2.0 SSE RENEWABLES

- 2.1 The SSE Renewables representation includes the OPEN Review of Landscape and Visual Implications, included as Appendix 1 of the representation document. A response to the OPEN document is provided first, after which any further points in the SSE representation are addressed. Page references are those of the OPEN report and the SSE representation document unless stated otherwise.

OPEN Review of Landscape and Visual Implications (Appendix 1)

- 2.2 The OPEN report provides observations on the FODC Draft Plan Strategy, including Wind Energy Strategy which forms the Appendix 7 of the strategy document.
- 2.3 OPEN refer to the following landscape related studies produced by Ironside Farrar:
- Landscape Wind Capacity Study (LWECS) for Fermanagh and Omagh (2017)
 - Landscape Character Review for Fermanagh and Omagh (2018)
 - Landscape Designation Review for Fermanagh and Omagh (2018)

The FODC Wind Energy Strategy is informed by the LWECS.

- 2.4 The OPEN report addresses key issues arising from the Draft Plan Strategy under the following headings:
- 1) Wind Energy Development within the Sperrin Area of Outstanding Natural Beauty (AONB)
 - 2) Consistency in Landscape Character Classification
 - 3) 'The Wind Energy Strategy' and 'Fermanagh and Omagh District Council Landscape Character Assessment Review
 - 4) LCA24 South Sperrin; and
 - 5) The Wind Energy Strategy Section 4.3 'Assessment of Landscape and Visual Impacts'.

We comment on each of these in turn.

Wind Energy Development within the Sperrin Area of Outstanding Natural Beauty (AONB) (p2)

a. National Planning Policy (p2)

- 2.5 The OPEN review highlights how SPSS 2015 and Wind Energy Development in Northern Ireland's Landscapes (2010); Supplementary Planning Guidance, do not place an embargo on wind energy development within AONB. OPEN cite parts of this guidance as support for wind energy development within AONB.
- 2.6 We note that most of the guidance and policy extracts cited by the OPEN document apply to wind energy developments generally in all landscapes:
- OPEN cite the preamble on p5 the 2010 guidance, stating the need for assessment of wind energy applications on a case by case basis. This statement, included within this broad strategic guidance document, applies to all landscape and is not directed specifically at development within AONB;

- SPPS 2015 para 6.229, describes the general contextual factors requiring consideration for wind energy development in all locations. This part of the guidance applies to all landscapes and is not directed specifically at development within AONB.
 - SPPS 2015 para 6.230 “...wind farm developments are by their nature highly visible yet this in itself should not preclude them as acceptable features in the landscape...” applies to all landscapes and is not directed specifically at development within AONB.
- 2.7 The only guidance, cited in part by OPEN, which relates specifically to AONB is SPPS 2015 para 6.223, which in full states:

*“A cautious approach for renewable energy development proposals will apply within designated landscapes which are of significant value, such as Areas of Outstanding Natural Beauty, and the Giant’s Causeway and Causeway Coast World Heritage Site, and their wider settings. **In such sensitive landscapes, it may be difficult to accommodate renewable energy proposals, including wind turbines, without detriment to the region’s cultural and natural heritage assets.**”* (IFL emphasis, text omitted by OPEN).

- 2.8 Therefore, the parts of the policy and guidance specifically direct at development within AONB, while not placing an embargo on wind energy development, highlight how it may be difficult to successfully accommodate such development within sensitive landscapes such as AONB.

b. Draft Plan Strategy October 2018 (p3)

- 2.9 IFL did not prepare the Wind Energy Strategy (FODC Draft Plan Strategy Appendix 7), however this has been informed by the 2017 Landscape Wind Capacity Study (LWECS). The OPEN document attempts to highlight contradiction between the Draft Plan Strategy and SPPS 2015 as follows:

- The OPEN document states in para 1 p3 that SPPS 2015 “...gives support to wind energy development within the Sperrin AONB...”. As noted in the preceding section, SPPS gives no such support, but highlights the potential difficulty in accommodating such development.
- The final paragraph on p3 of the OPEN report states that the LWECS concludes there is no capacity for any wind energy development within the Sperrins AONB This is incorrect, as the LWECS identifies capacity for wind turbines up to 80m in height (pages 61 and 62) within the LCAs 24, 25 and 26 will comprise most of the AONB within Fermanagh and Omagh. We see no contradiction with this assessment and the “cautious approach” advocated in SPPS 2015.

- 2.10 The OPEN document also comments upon the wording of Draft Policy L01. The wording of this policy document is a matter for FODC, however we agree with the OPEN comment that any wind energy development would most likely result in significantly adverse impacts on the landscape and visual resource at some level.

c. Wind Energy Strategy Mapping (p4)

2.11 Comments here relate to the wording of the Wind Energy Strategy (Draft Plant Strategy para 2.10) and their consistency with the LWECS. IFL have no comment on the Wind Energy Strategy as this was prepared by FODC.

d. Wind Energy Strategy/ LWECS Assessment of Capacity within the AONB in relation to SPPS 2015 (p4)

2.12 The OPEN document highlights how the LWECS identifies the landscape of LCAs 24 (South Sperrin) and 26 (Bessy Bell & Gortin) to have some characteristics suited to larger scale wind energy developments, yet are assessed with no capacity for turbines >80m due to the AONB. It is contended by OPEN that this is in contradiction of SPPS 2015, i.e. effectively applying a moratorium on wind energy development within the AONB irrespective of local landscape characteristics. We note that:

- The assessment of the LWECS accounts for the value of the landscape attributed by society through the AONB designation, and the sensitivity of the character of the wider AONB to intrusion from large scale wind energy development, as described more fully in the assessment of the LWECS.
- We find no inconsistency with the conclusions of the LWECS and the cautious approach to wind energy development in AONB advocated in SPPS 2015, as described earlier in this report. The LWECS simply identifies a low capacity for wind energy development due to its value and the wider sensitivity of the AONB landscape.
- OPEN highlight the need for detailed LVIA to identify the landscape and visual effects of a specific proposal. The LWECS endorses this view on p2.

e. Wind Energy Strategy/ LWECS Assessment of Capacity – Methodology (p6)

2.13 This section of the OPEN report provides commentary on the methodology of the LWECS. The OPEN report finds that methodology for establishing landscape capacity largely accords with best practice guidance but discusses a number of points, which we respond to below:

i) The Incorporation of Value in the Assessment of Capacity (p8)

2.14 The OPEN report discusses at some length the role of 'value' in capacity assessment. We note the inclusion of 'value' is recommended in Topic Paper 6¹⁰, which is the established guidance on the subject referred to by OPEN, as illustrated in Figure 1(b) of that publication. The IFL methodology conforms with the recommendations of this best practice guidance.

2.15 The OPEN report points out that valued landscapes are not necessarily sensitive ones. This is described in Topic Paper 6. Landscape sensitivity and landscape value are assessed separately in the capacity assessment. It is therefore unclear which aspect of the IFL methodology OPEN dispute.

¹⁰ Landscape Character Assessment Guidance for England and Scotland: Topic Paper 6 Techniques and Criteria for Judging Capacity and Sensitivity (SNH/ Countryside Agency, 2002)

2.16 The OPEN report contends on p9 final paragraph that the LWECS “...does not include discussion of why and how the AONB is of high value, but simply attributes a blanket ‘high’ value...”. We note that

- IFL does not assess the value of the AONB, but that of each LCA within the FODC area. Formal designation, such as AONB is one of 5 considerations in the assessment of ‘value’ for each LCA, the others being, community value, cultural value, perceptual qualities and rarity, as described in LWECS Appendix 1 table 5.
- Value assessments for each LCA are set out in Appendix 4 of the LWECS, including those within the AONB. The reasonings for the value assessment are clearly set out.
- LWECS Appendix 1 Section 2.8.5 describes in detail how landscape value is determined. Here a ‘high’ value landscape is defined as ‘a landscape type or area, all or much of which is covered by national landscape or landscape related designations; has value to local and wider communities; widely recognised cultural heritage designations or associations and has clearly distinctive and/or unusual perceptual values’. We consider LCA 24 South Sperrin corresponds to this definition.

2.17 A second key issue identified by OPEN (page 11 second bullet point) contends that the capacity assessment has been unduly weighted by landscape ‘value’. As set out in the LWECS, the limited capacity for wind energy development in LCA 24 South Sperrin is based upon evaluations of ‘high’ landscape value, ‘medium’ landscape character sensitivity and ‘medium/ high’ visual sensitivity (LWECS Table 6.(vi)). This relatively high sensitivity assessment corresponds with the low capacity assessment, and a narrative justification of the capacity assessment are provided on p59 and 60 of the capacity assessment.

2.18 Seemingly OPEN contend that landscape value should be excluded from the capacity assessment, with capacity derived only from landscape sensitivity alone, an approach which is contrary to that recommend in Topic Paper 6, the established guidance on the subject. It is also of note the Guidelines for Landscape and Visual Impact Assessment 3rd Edition (2013, Landscape Institute/ IEMA) require the assessment of value and susceptibility in the determination of landscape sensitivity.

iii) Operational/ Consented Wind Energy Development in the AONB (p11)

2.19 The OPEN report highlights the presence of existing wind farm developments within the AONB, and considers that the LWECS does not fully recognise this development, resulting in a major flaw to the assessment.

LWECS 6.3.7 “...AONB, which is currently free of any wind farm development.”

2.20 Open highlights that the statement of the LWECS Section 6.3.7 that ‘...the AONB...is currently free from any wind farm development.’, demonstrates a lack of awareness of the level of wind energy development in the AONB. This statement in the LWECS is included in a summary of capacity and cumulative development for the ‘Sperrin’ area within Fermanagh and Omagh, and clearly does not relate to the AONB as a whole. Wind energy developments within the AONB are shown on Figure 5.1.

Brackagh and Crockandun Wind Farms

2.21 OPEN highlight that, Brackagh and Crockandun wind farms, both within the AONB, are not acknowledged within the LWECS. Brackagh Wind Farm is approximately 7km beyond the FODC boundary to the east, 5km south west of Draperstown, comprising 3x110m wind turbines. Crockandun wind farm comprises 6 x 125m turbines, located 6km south of Draperstown, approximately 10km east of the FODC boundary. We provide clarification that:

- Brackagh Wind Farm was included within the dataset of cumulative windfarms considered as part of the assessment, but is not shown Figure 5.1 because the figure it does not extend to the full 15km wider study area;
- Crockandun Wind Farm was not included in the wind farm data received by IFL; and
- Wind turbines listed in Appendix 3 are those within FODC only, not the whole study as stated in Section LWECS Section 5.1.

2.22 OPEN contend that this represents a major flaw in the assessment of the capacity AONB to accommodate wind energy development. We note that:

- The capacity of the landscapes falling within the AONB to accommodate wind energy development will vary; wind farm development in one part of the AONB does not indicate capacity for wind farm development in another.
- The OPEN report fails to differentiate between the underlying landscape capacity assessments and residual landscape capacity assessments of the LWECS. The former relates to landscape capacity irrespective of existing/ consented levels of wind energy development. The latter is a 'snapshot' of remaining capacity at the time of assessment, based on existing and consented levels of development;
- By definition, the assessment of underlying capacity of LCAs within the AONB is unaffected by the presence of the aforementioned or any other wind farms, and therefore cannot be flawed by any omissions of existing/ consented wind farms;
- Residual capacity is dynamic and will change according to levels of wind energy development. The omission of wind energy developments, such as Brackagh, in the assessment will tend to overstate residual capacity i.e. less underlying capacity will have been utilised; and
- There would be no change to the capacity assessments for LCA 24 and other LCAs within the AONB when including presence of Crockandun Wind Farm, located 10km east of the FODC area.

f. Conclusion: Wind Energy Development within the Sperrin Area of Outstanding Natural Beauty (p12)

2.23 This section provides a summary of the points raised in the preceding sections a – e in relation to wind energy development in the AONB. We have no addition to the responses provided above

Consistency of Landscape Character Classification (p13)

2.24 The OPEN document highlights some differences in the naming and extents of LCAs and LCTs between the Wind Energy Strategy, LWECS and the Landscape Character Assessment Review. We note the potential confusion, however the LCA review proposes only:

- Subdivision of a small number of NICLA 2000 LCAs to better describe variations in landscape character; and
- Renaming of LCAs to accord with common practice for landscape character assessment;

2.25 These changes have no implications on the capacity assessments provided in the LWECS and there has been no change to the boundaries of the LCAs within the AONB, which are the principal focus of the OPEN report.

‘The Wind Energy Strategy’ and ‘Fermanagh and Omagh District Council Landscape Character Assessment Review’ (p14)

2.26 This part of the OPEN response highlights how the Landscape Character Assessment Review (LCR) was undertaken after the LWECS, and that therefore the LWECS has been undertaken using an out of date baseline. We note that:

- Landscape assessments including wind capacity assessments, have been undertaken in many parts of the UK based upon landscape character assessments dating from the 1990s; an updating of the landscape character assessment study is not a prerequisite for undertaking a capacity study.
- While the NILCA 2000 study forms the basis for establishing the landscape and visual baseline, desk study and site visits were undertaken to confirm and update the landscape baseline as part of the LWECS. This verification and updating of the landscape baseline is the usual practice for any landscape related study such as a capacity assessment or LVIA; and
- While the OPEN report is critical of the timing between the two studies, they provide no examples of where the capacity study may have been materially affected through reference to the older NILCA 2000 study.

LCA 24 South Sperrin (p15)

2.27 In this section the OPEN report provides a critique of the landscape characterisation of LCA 24 South Sperrin. In summary the open report concludes that the LCR understates the existing level of human influence, in particularly in relation to afforestation, deforestation, residential development and roads, overstating qualities of tranquillity, remoteness, scenic qualities and sensitivity. The points raised in the OPEN report (p15 – 16) are addressed individually below:

Characterising influence of forestry

2.28 OPEN consider that coniferous forestry should be included as a key characteristic of the LCA 24, quoting from the 2010 Wind Energy Development in Northern Ireland SPG “Key

Landscape and Visual Characteristics and Values” for LCA 24 which mentions forestry several times. We note that:

- The SPG describes a large number elements and features of the landscape under 13 sub-headings, 3 of which mention forestry (‘Enclosure’, ‘Man-made influence’, ‘Wildness and tranquillity’). This limited mention does not suggest it is a key characteristic of the LCA as a whole.
- Forestry is not identified as a key characteristic in the NILCA 2000 study, although it was present in the landscape at that time.
- In our assessment coniferous forestry is only a notable characteristic of eastern parts of the LCA, rather than the LCA as a whole.

Few intrusive man-made features

- 2.29 The OPEN report focuses on the statement of the LCR “*There are long scenic views from upland areas with few intrusive manmade features*”, which is taken in the OPEN report as a lack of acknowledgement of the presence of forestry and at odds with the SPG. This statement in the LCR does not imply that forestry is not present in other views; the presence of forestry is mentioned in the LCR in the ‘*Landscape Description*’, within the ‘*Key Issues*’ section, and within the ‘*Trees and Woodland – sensitivities and forces for change*’.

Wildness and unspoilt character

- 2.30 The OPEN report describes how the character of the landscape can not be described as wild and unspoilt due to the effects of afforestation/ deforestation. We agree that the LCA is not ‘wild’ in the sense that it is unaffected by man-made influences. The LCR acknowledges the characterising effect of forestry (described above), however parts of the landscape have qualities wildness due to its upland character, remoteness and absence of significant built development. The 2010 SPG Wind Energy Development in Northern Ireland also refers to a ...”*Wild character on the ridge tops and upper valley reaches*” for LCA 24.

Scenic quality

- 2.31 The LCR describes good scenic qualities and the availability of long scenic views – the area is not described as being of the highest scenic quality. It is of note that the 2010 SPG describes the LCA to be ‘*generally of very high scenic quality*’.

Overall Conclusions

- 2.32 Overall, we do not disagree with the view of OPEN that human activity has influenced the character of LCA 24. However, we consider that the LCR provides a reasonable and balanced assessment of its character, taking into account its remote, upland and undeveloped characteristics while also acknowledging the presence of forestry and other development in a more limited capacity.

The Wind Energy Strategy Section 4.3 ‘Assessment of Landscape and Visual Effects’ (p16)

- 2.33 This section of the report provides some comments on the parts of the Wind Energy Strategy which describe the assessment of landscape and visual effects. OPEN provide some comment on where parts of the guidance do not correspond with the methods and terminology of GLVIA 3.
- 2.34 IFL did not draft the strategy document and so we do not comment in detail. However, we agree generally with the OPEN comments that recommended methods of assessment should correspond with those of GLVIA 3.

Comments in the Remainder of the SSE Response

2.35 Comments in the SSE representation largely repeat the responses of the OPEN report and therefore these are not addressed again, however we provide broad comments on some of the issues raised in the SSE response.

Section 3. Strategic Environmental Assessment and Sustainability Assessment (p6)

2.36 This section of the representation describes how, as a result of its flaws, LWECS does '*...not constitute a robust evidence base for the formulation of Draft Plan Strategy Policy RE01 ...*' (para. 3.13). We note that:

- The OPEN report identifies no significant flaws in the methodology of either the LWECS or LCR, and certainly none which undermine the assessments of the LWECS; and
- The majority of points raised in the OPEN report relate to differences in professional judgement relating the 'value' of the AONB and the underlying landscape character of LCA 24 South Sperrin.

Section 4. Infrastructure (p13)

Draft Policy RE01 – Renewable and Low Carbon Energy Generation

2.37 Most comments here make reference to issues such as separation distances between turbines and properties, shadow flicker, removal of redundant infrastructure, solar farms. These comments therefore apply to Draft Policy rather than LWECS or related studies.

2.38 The response repeats comment from the OPEN report regarding the effective embargo on wind energy development within the AONB, under the following 4 bullet points (p15)

- LWECS conclusion that there is no capacity for wind energy development in the AONB. The LWECS in fact concludes that there is low capacity for turbines <80m within the LCAs of the AONB
- '*The theoretically 'high' value of the AONB that restricts the capacity for development.*' The role of landscape character sensitivity, visual sensitivity and landscape value in the capacity assessment are described earlier in this report.
- Failure to assess the value of the AONB. The assessment of 'value' of LCAs with the AONB is discussed earlier in this report.
- The final bullet point appear to repeat those of the preceding points. We have no further comment

Section 5. Environment (p19)

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

2.39 This section of the SSE response summarises several supposed flaws in the IFL assessments relating to the capacity of the AONB to accommodate wind energy. These points are mostly addressed in detail above however we respond to points raised in para. 5.4 - 5.5 briefly as follows.

- The use of NICKLA 2000 rather than the LCR as the baseline for the LWECS. It has been highlighted above how the use of the NICKLA 2000, rather than that of the LCR, has no effect on the outcome of the LWECS. It is usual for older landscape character studies to be the starting point for establishing the landscape baseline for capacity assessments of other studies, which are updated as part of the assessment.
- It is stated how the LCR fails to consider the impact of historical development on the character of the AONB, highlighting the growth in dwellings and other forms of development in the AONB. The LCR highlights the various forms of development, including settlements, housing, forestry and wind energy within the LCA 24 South Sperrin. As discussed above we consider that the LCR provides a balanced characterisation of LCA 24.
- The supposed undue weighting of 'value', overriding landscape characteristics favourable to wind energy development within the AONB, placing an effective embargo on wind energy development. This point is addressed in the response to the OPEN report above, where it is described how 'value' is assessed and its role in the final capacity assessment.
- The final bullet states how the "...*approach does not reflect the varying characters and sensitivities across the AONB...*". The LWECS is based on the assessment of landscape character areas precisely to ensure that the assessment reflects the varying character of the AONB landscape within Fermanagh and Omagh.
- Para. 5.5 highlights how there is no citation setting out the special features and characteristics of the AONB to inform the baseline. The AONB designation is a matter for national planning policy, but is just one of 5 factors used for the evaluation of landscape value in the LWECS. Our assessment that AONB landscapes are generally of 'high' value to society is reasonable and consistent with evaluations typically attributed to other nationally important landscapes in the UK such as National Scenic Area (Scotland) and AONB in England.
- Para. 5.11 recommends how a further robust analysis of the character of the AONB is undertaken. The LCR provides a robust and up to date assessment of the character of LCAs falling within the Fermanagh and Omagh area. However, as stated above, this does not materially affect the conclusions regarding wind energy capacity.

Draft Policy L02 – Special Countryside Areas

2.40 Section 5.12 – 5.21 refer to the identification of the SCA in the Sperrins area. IFL was not involved in the definition of the proposed SCA, and therefore we have no comment on the method used for its identification.

3.0 NORTHERN IRELAND RENEWABLES INDUSTRY GROUP

3.1 The Northern Ireland Renewables Industry Group (NIRIG) response raises a number of issues related to the Ironside Farrar LWECS, the LCR and LDR. Some comments repeat those of the SSE/ OPEN response and in places we refer back to the detailed responses provided above as appropriate. We provide the following comments on selected sections of the NIRIG response.

Key NIRIG concerns and recommendations (p2-3)

3.2 Key concerns and recommendations, so far as they related to the LWECS/ LCR and LDR, are summarised on p2 – 3 as follows.

The suggestion that there is no capacity for onshore wind energy development within the AONB: As noted above, the LWECS does not state there to be no capacity for wind energy development within the AONB, but low capacity within LCAs included in the AONB based on a range of factors. This is discussed in Section 2.0 of this report.

Inconsistency with consenting of wind energy schemes within the AONB: It is contended that the presence of wind energy schemes within the AONB is inconsistent with the supposed moratorium on wind energy development in the parts of the AONB within Fermanagh and Omagh. The presence of wind energy development in other parts of the AONB has no bearing on the underlying capacity within the landscape of Fermanagh and Omagh and currently limited bearing on the remaining capacity.

Need for an up to date assessment of the AONB: The LCR provides a robust and up to date assessment of the character of LCAs falling within the Fermanagh and Omagh area.

Draft Policy L01 – Development within the Sperrin Area of Outstanding Natural Beauty (p6-7)

3.3 In this section the report repeats three points set out in the SSE response relating to:

- Disparities in the baseline data use (NILCA 2000 v LCR)
- Impact of historical development on the character of the AONB; and
- The 'overriding' effect of the AONB designation on a landscape with characteristics suited to wind energy development and the failure to acknowledge the varying character of the AONB landscape.

All of these points have been addressed in response the SSE submission.

Draft Policy L02 – Special Countryside Area (p7-8)

2.41 Comments here are the same as those of the SSE submission. IFL was not involved in the definition of the proposed SCA, and therefore we have no comment on the method used for its identification.

Draft Policy RE01 – Renewable and Low Carbon Energy Generation p11-15)

2.42 Points raised here are the same as those included in the SSE response, and accordingly we refer back to our responses provided above to the SSE submission (2.37 - 2.38 of this report).

4.0 RES

4.1 RES provide a general response to the Draft Plan Strategy, and then more detailed comments including in relation to Draft Policies L01 (Development within the AONB), L02 (Special Countryside Areas) RE01 (Renewable and Low Carbon Energy Generation).

Introductory Comments p2-4

4.2 This section raises some general concerns, including references to turbine separation distances, and the supposed moratorium on wind energy development within the AONB. We note that:

- We assume that the concern regarding turbine separation distances refers to separation from properties, rather than those proposed between wind energy developments. Separation distances between wind turbines are defined in the Draft Plan Strategy rather than the LWECS.
- We have commented on the supposed moratorium on wind energy development in the AONB earlier in this report (refs).

Comments on Draft Policy L01, L02 and RE01

4.3 The comments here repeat those of the SSE and NIRIG submissions. We refer to our comments earlier in this document (paras 2.37 – 2.40).

5.0 CANAVAN ASSOCIATES

- 5.1 Canavan Associates provided an email response to the Draft Plan Strategy. Some general introductory comments are provided, followed by specific comments on the Fermanagh and Omagh Wind Energy Strategy (Draft Plan Strategy Appendix 7).

Introductory Comments

- 5.2 Here the need for capacity assessment is questioned. It is suggested in the submission that wind farm developments can be assessed '*...with reference to environmental and planning designation and through dedicated landscape and visual impact assessment*'. The submission goes on to state that '*Areas for wind energy development are already significantly constrained by such designations, and the application of further designation may discourage future development*'. We comment that:

- The purpose of capacity assessment is to inform a spatial strategy which steers wind energy development to those landscapes in which it can be best accommodated, and anticipates cumulative wind energy development beyond the scope of individual LVIA;
- Capacity studies provide a consistent basis against which individual project LVIA can be measured, highlighting landscape sensitivities or undesirable cumulative situations which may not be apparent from a landscape character assessment or LVIA.
- The capacity assessments and 'wind energy landscapes' of the capacity study are not designations, but provide guidance on acceptable levels of cumulative wind energy development in a landscape.
- We agree however that the landscape, visual and cumulative effects of an individual scheme can only be established through a specific LVIA.

Comments on Draft Policy RE01

- 5.3 Further comment here is provided on the detail of the Wind Energy Strategy. Some of these refer to the definitions used in the strategy document. The LWECS is considered to include adequate definitions of the terminology used.
- 5.4 There is also comment on the need to apply flexibility in the guidance provided by the capacity study. As highlighted in Section 1.4 of the LWECS all wind energy proposals should be considered on their own unique locational and design characteristics as well as their strategic context.

6.0 RSPB

- 6.1 RSPB provide some comment on the Draft Wind Energy Strategy and identifies a number of locations potentially sensitive to wind energy development due to the presence of birds, with a number of bird species and locations highlighted.
- 6.2 As a general response we highlight that the LWECS assessment was undertaken solely on the basis of landscape and visual issues. The capacity assessment does not account for constraints arising from natural or cultural heritage designations, noise, settlement separation etc (see LWECS Section 1.4).
- 6.3 We would expect a Wind Energy Strategy to assimilate all of the relevant constraints to wind energy development alongside the findings of the LWECS.

7.0 DALRADIAN GOLD LTD

7.1 A representation from Dalradian Gold raises objections to two draft policies which relate to landscape. These policies are:

- Draft Policy MIN01 – Minerals Development
- Draft Policy L01 – Development within the Sperrin Area of Outstanding Natural Beauty

The representation also provides a response to Question 9 (Do you agree with the Council's preferred option for addressing mineral development?), under the heading Main Issue 7: Mineral Development, which includes issues relating to landscape.

7.2 We provide a response to each where comments relate to the Ironside Farrar landscape assessments.

Draft Policy MIN01 – Minerals Development (p7-9)

7.3 The representation from Dalradian Gold objects to policy MIN01. Included within the objection on p7 are listed a number supposed flaws in a Council assessment, referred to as Position Paper 14. The submission then goes on to comment on the applicability of the LWECS/ LCR and LDR to the development of the policy. We note the following:

Position Paper 14

7.4 Para 4.11 refers to Position Paper 14, which appears to be a character assessment (published in 2015) based on NILCA 2000. IFL did not author, nor do we have access to, this assessment and therefore cannot comment on the issues raised.

LWECS/ LCR/ LDR

7.5 Para 4.12 goes on to refer to the LWECS, LCR and LDR which support the Draft Plan Strategy. Dalradian comment that these documents do not consider the capacity for minerals development, which is true; and the LWECS considers only the capacity for wind energy development, which cannot be applied to mineral development. This is also true.

7.6 Para 4.13 goes on to refer to the LCR, and is critical of the assessment LCA 24 South Sperrin. It is stated that there is no evidence to support the assessment that the LCA is highly sensitive to minerals development. Furthermore, the LCA assessment is stated to be incorrect in stating that there are no past or current mineral workings of significance within the LCA. We note the following:

- The LCR provides reasoning for its assessment of high sensitivity to intrusion from minerals development '*...which have the potential to be intrusive features on sloping hill sides and within enclosed valleys...*' (LCR p79). This assessment is based on the analysis of landscape character and key characteristics set out in the character assessment, and the assessment corresponds to the best practice guidance on the subject¹¹.

¹¹ An Approach to Landscape Character Assessment (Natural England, 2014), Landscape Character Assessment Guidance for England and Scotland (SNH/ Countryside Agency, 2002)

- The LCR is not a capacity assessment, but provides a description of landscape character and a high level assessment of sensitivity to different development types. The landscape capacity for accommodating a particular development type would need to be determined through a capacity assessment specific to the development type in question.
- The LCR states that there were no current or historical mineral developments of **significance** within the LCA i.e. those that significantly impact on views or landscape character. This was an accurate description of the landscape at the time of the assessment.
- Paragraphs 4.14 – 4.15 of the representation make reference to the LVIA for the unconsented mineral extraction proposal at Curraghinalt, included as an appendix to the Dalradian representation. It is stated that the LVIA demonstrates that minerals development can be accommodated within the landscape, contrary to the assessment of the Council. We note the following:
 - The purpose of the LVIA is to determine the significant landscape and visual effects of a particular proposal. General conclusions on the ability of a landscape to accommodate a particular development type cannot be drawn from such an assessment.
 - The LCR and other studies produced by IFL do not assess the capacity of the landscape to accommodate minerals development;
 - The LCR for LCA 24 South Sperrin includes broad planning and management guidelines (p79) for accommodating minerals development within the landscape i.e. while the landscape is sensitive, it may be possible to accommodate an appropriate level of minerals development in a suitable location when considering landscape character alone;
 - We see no contradiction between the LVIA and the assessment of the LCR.
- As a side note, we observe from the summary of the LVIA provided in paragraph 4.14 of the representation that the local landscape value is assessed as 'high' on account of the AONB designation, corresponding with our own assessment for the LWECS.

Draft Policy L01 – Development within the Sperrin Area of Outstanding Natural Beauty (p19)

- 7.7 In this section of the Dalradian representation, further reference is made to the LWECS/ LCR and LDR, and the LVIA for the Curraghinalt proposal is cited as demonstrating capacity for minerals development, as discussed above. We have no comment further to that provided above.

Main Issue 7 Mineral Development (Question 9) (p12 – 21)

- 7.8 This section includes a critique of Position Papers supporting the Preferred Options Paper (POP) which related to landscape (Position Papers 5 Environmental Assets, 14 Landscape Character Assessment and 15 Development Pressure Analysis). A detailed analysis is set

out in document Fermanagh and Omagh Local Development Plan Review of Landscape Evidence (LUC, 2016), provided in Appendix 1 of the representation.

- 7.9 Council Position Papers were not prepared by IFL, and a response to the comments put forward in the representation would require review of the Council Position Papers, which is beyond the scope of this report.

8.0 CONCLUSION

8.1 In this report we have provided a response to issues raised in a number of representations where they relate to the Ironside Farrar Landscape Wind Energy Capacity Study, Landscape Character Assessment Review and Landscape Designation Review produced for Fermanagh and Omagh District Council in 2017 and 2018.

8.2 In response to the key criticisms of these studies raised in the representations, we summarise that:

- The LWECS does not in effect impose a moratorium on wind energy development within the AONB, rather it provides a reasoned assessment that the LCAs within the AONB have a low capacity for wind energy development based on landscape character sensitivity, visual sensitivity and landscape value.
- While the inclusion of landscape value in the LWECS is questioned in the OPEN report, we highlight that the inclusion of landscape value is the approach recommended in Topic Paper 6, which provides the established best practice guidance on capacity assessment;
- The evaluation of landscape value for LCAs with the AONB takes account of five separate factors, including the presence of the nationally important AONB designation, a signifier of a highly valued landscape in Northern Ireland. We observe that the extracts of the LVIA submitted in support of the Dalradian representation also attribute a 'high' value to the landscape of the AONB.
- Landscape capacity within the LCAs of the AONB have not been unduly weighted or overridden by landscape value, rather they have been determined through a balanced assessment accounting for landscape character sensitivity, visual sensitivity and landscape value;
- The undertaking of the LWECS using the NILCA 2000 landscape baseline does not result in a flawed assessment as asserted. Contemporary landscape baseline conditions were established as part of the LWECS process, as is usual practice for all such assessments. An updated landscape character assessment study is not a pre-requisite for undertaking such an assessment.
- The OPEN document points to the omission of 2 small wind farm developments (total 9 turbines) 7 – 10km beyond the FODC boundary, as a fundamental flaw in the assessment. The OPEN comments demonstrate a failure to understand the concepts of underlying and residual capacity which underpin the assessment, and the findings of the assessment remain sound.
- We dispute the contention of the OPEN report that the LCR underplays the man made influences present in the landscape of LCA 24 South Sperrin. We consider that our assessment provides a reasonable description of its landscape character and key characteristics, while OPEN seeks to emphasise features which promote suitability for wind energy development. The LWECS acknowledges that LCA 24 has some

landscape characteristics, such as forestry and simple landforms, which are suited to accommodating wind energy development.

- The Ironside Farrar studies do not assess landscape capacity for accommodating minerals development. In relation to LCA 24 the LCR simply highlights the sensitivity of the landscape to this development type in accordance with best practice guidance for landscape character assessment.