

## Consultation Response

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To: Development Plan <developmentplan@fermanaghomagh.com>

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RES Response to FODC Draft Plan Strategy Dec 2020.pdf;

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Hi

Please find attached a consultation response in respect of: **Local Development Plan Draft Plan Strategy – Proposed Changes Consultation**

Please acknowledge receipt of this email.

Kind regards,

[REDACTED]

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3<sup>rd</sup> December 2020

Dear Sir/Madam

**Response to the Fermanagh & Omagh Local Development Plan Draft Plan Strategy - Proposed Changes Consultation**

Thank you for the opportunity to respond to the Fermanagh & Omagh Local Development Plan Draft Plan Strategy Proposed Changes Consultation. Please find to follow RES's response.

Yours faithfully,

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Senior Development Project Manager

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## **Response to the Fermanagh & Omagh Local Development Plan Draft Plan Strategy – Proposed Changes**

This document is submitted by RES Limited (hereafter “RES”) and provides a detailed response to the Fermanagh & Omagh District Council (“FODC”) Local Development Plan (“LDP”) Draft Plan Strategy (“dPS”) – ‘Proposed Changes’.

### **About RES**

RES is the UK’s largest independent renewable energy developer with interests in onshore wind, wave and tidal, offshore, solar, energy storage and demand-side response and is one of the world’s leading privately-owned renewable energy companies. RES now employs over 1000 people and is at the forefront of innovation and design. Locally RES has a team of some 20 staff covering environmental, planning, technical, legal, commercial, project management, construction, operations and administration disciplines. RES has also directly employed other related Northern Ireland industries through the development and construction of its 18 onshore wind farm sites in Northern Ireland and on wind farms in GB. The export of services beyond NI is a key economic driver, promoted by Invest NI.

We welcome the opportunity to respond to this draft Plan Strategy and would like to register our interest in participating in all further stages of the development of the plan and examination period.

Fermanagh Omagh District Council is a leading contributor to the Northern Ireland Strategic Energy Framework targets and has regularly outlined its intentions to continue to contribute to meeting climate change targets, which will be necessary to meet the Paris Agreement limit of 1.5C global temperature rise.

RES would anticipate that in 2021 the Department for the Economy (DfE) will set an ambitious strategy for energy decarbonisation which will likely stimulate further investment in renewables in the area. We would like to highlight the statement on 29th September 2020 by Economy Minister Diane Dodds relating to the setting of a new renewable energy target for Northern Ireland:

“Northern Ireland has been hugely successful at bringing forward renewable electricity investments. We continue to be a market leader, achieving almost 48% of electricity consumed in the region from indigenous renewable sources – largely onshore wind”.

“We have led the way in developing renewable electricity and this success has helped to support a low carbon and renewable energy economy made up of 3,500 businesses, 5,400 jobs and £269million of exports”.

“Whilst work is ongoing to gather the evidence needed to set a new target for Northern Ireland, I firmly believe that this target should not be below 70% by 2030”.

“This outlines how ambitious I want our Energy Strategy to be; and I want stakeholders and investors to be aware of our ambition.”

As demonstrated in The Wind Dividend report, renewable electricity helps to reduce consumer bills with

investment in wind energy saving consumers £135m between 2000-2020. In this period 9m tonnes of carbon have also been saved.

When we consider the further benefits of cleaner air and local job creation, the renewable electricity industry has provided significant benefit to our economy, people and environment.

### **Net Zero**

The UK Government has set in legislation a requirement for a 'net zero' economy by 2050. To achieve this the power sector, which has already made significant strides towards decarbonisation, would have to reach net zero by 2040. It is expected that for other sectors such as heat and transport the transition will be longer hence power having to do the early heavy lifting. Without more renewables, net zero cannot be achieved.

In Northern Ireland we have reached 45% of our electricity consumption from renewables and the 2030 target for renewable electricity will not be less than 70%, as referenced above. RES notes that the Republic of Ireland has set a target of 70% by 2030 with Scotland aiming for 100% by 2030.

We have an obligation to play our part in achieving net zero with a duty on all public authorities to facilitate this. RES therefore urges Council to ensure that the requirement to achieve net zero, and to achieve the ambition set out for a renewable electricity target of at least 70% by 2030, form a fundamental pillar of the Plan Strategy (PS) and its vision. The PS should prioritise policies that promote electricity from renewable sources. This will assist in meeting other shared objectives set out in the Regional Development Strategy (RDS), the Sustainable Development Strategy (SDS) and the Strategic Planning Policy Statement (SPPS).

### **Economic Benefits of Renewables**

Increasingly foreign direct investment (FDI) companies wish to locate near to a secure supply of clean renewable electricity, many of whom have corporate policies on green energy and decarbonising. For example, two solar farms provide renewable energy privately to large energy users such as Belfast International Airport and Brett Martin. A model for future energy projects, Power Purchase Agreements (PPAs) such as these, should be given additional policy direction and protection. Renewable electricity PPAs can not only lower our regional reliance on fossil fuels but can also help our local indigenous companies to reduce energy costs and be more competitive.

RES suggests that the Council should include in its PS reference to the wider role that the renewable energy sector can play in generating jobs, encouraging investment, protecting against increasing utility bill increases, strengthening the grid, reducing harmful emissions and the over-reliance on imported fossil fuels.

### **Existing Planning Policy**

RES is supportive of the existing planning policy regime and in particular the balance that is struck in the Strategic Planning Policy Statement (SPPS), between the need to protect and conserve our most precious landscapes, and the need to proactively tackle climate change through enhanced proportion of renewable energy sources.

The Regional Development Strategy (RDS), through its Strategic Planning Guidelines seeks to reduce our carbon footprint: one measure promotes the increased use of renewables to reduce Northern Ireland's dependency on fossil fuels. Similarly, the SPPS directs local councils to provide policies and proposals in their LDPs that support a diverse range of renewable energy developments.

The SPPS stipulates that LDPs must take into account the aim and regional strategic objectives of the SPPS in relation to renewable energy, local circumstances, and the wider environmental, social and economic benefits of renewable energy development.

In the context of the Net Zero requirement these policies will need to be updated and will only further emphasise the facilitation of renewable projects in order to meet our climate objectives. Council should be devising its LDP with this at the forefront, lest it become out of date before it is published.

### **Fermanagh & Omagh Local Development Plan Draft Plan Strategy – Proposed Changes**

We are concerned about the proposals contained within the draft Plan Strategy regarding additional restrictions on the development of renewable electricity in the Council area. We are also concerned about the reference to turbine separation distances deviating from current policy text in the SPPS and PPS 18. The SPPS states that local councils should set out policies and proposals in their Local Development Plans that support a diverse range of renewable energy development. It continues that LDPs must take into account the aim and regional strategic objectives of the SPPS in relation to renewable energy, local circumstances, and the wider environmental, social and economic benefits of renewable energy development. These benefits are considered to be material and should be given appropriate weight in determining whether planning permission should be granted.

We believe that the suggestion that there is no capacity for onshore wind energy development within AONBs and other sensitive landscapes is contrary to national planning policy. It is also inconsistent with decision making for onshore wind energy development within AONBs in NI (see schemes such as Brockaghboy, Crockandun, Dunbeg etc). We provide detailed information on a range of aspects in our response below, particularly legislative compliance, environment and infrastructure, and note the following recommendations.

**We strongly recommend** that the approach proposed by the Council, which is tantamount to applying an 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. This approach is fundamentally in conflict with the SPPS. We recommend that the Council reconsiders the intent of Policy RE01 and considers the evidence base of supporting documentation. The policy wording should be amended to align with SPPS and PPS 18 RE1. Furthermore, design criteria relating to the siting and location of turbines should be reconsidered to take account of existing and operating wind energy developments so as to avoid unduly restricting existing operations.

Current wording of Draft Policy L01:

“Development proposals which adversely affect or work to erode the distinctiveness special character including landscape character, visual amenity, natural, historic or cultural heritage of the Sperrin

AONB, or its views or setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted”.

**We recommend** that the wording of Draft Policy L01 is updated to state:

*“Development proposals that would have an unacceptable adverse impact on the distinctive special character including landscape character, visual amenity, natural, historic or cultural heritage of the Sperrin AONB or its setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted.”*

Furthermore, the policy clarification text should refer to the need to protect the landscape character of the area, as provided for in an up to date assessment. We recommend further robust analysis of the landscape character of the AONB. This will provide a robust baseline against which development proposals can be assessed and will enable the Council to monitor the impact of future development on the character of the AONB.

**We recommend** that the proposal for the introduction of an SCA at the Sperrins is reconsidered by the Council. The evidence provided in support of the Council’s draft policy and the extension of the proposed designation has been found to be flawed. A full and detailed review of the methodology for designating SCAs should be undertaken by the Council and a robust assessment of landscape character carried out to inform the baseline for any such designations. In considering the character of the area, the Council should avail of all information available to them, including detailed Landscape and Visual Impact Assessments (LVIAs) which have been provided in support of planning applications.

Regarding infrastructure **we recommend** that the wording of criterion one and two is revised to say:

- *Where possible*, they avoid Sensitive Locations and Features.
- They have *no significant adverse impacts* on residential amenity or other sensitive receptors.

We would also recommend that the policy is revised to take account of temporary or time restricted development proposals.

We urge that Fermanagh Omagh District Council review its approach to low-carbon growth and aim to develop this sector for environmental, social and economic reasons. Existing wind farms contribute more than £4.2 million annually in business rates to the Council. Community benefit funds provide an additional £625,000 to local communities each year, and these funds are guaranteed for the lifetime of the project. Not only this, but there are local skilled jobs in supply chain companies such as Adman Civil Projects Limited, Access Rescue Consulting at Height (ARCH) and specialist wind turbine technician jobs with global companies such as Enercon.

By 2030 we expect that Northern Ireland will require up to 3.74TWh of additional renewable generation to meet new decarbonisation targets. This means up to 1000MW of new onshore wind, 200MW of solar PV and 330MW of battery storage, although the mix is likely to vary based on government policy. The economic value of such development will be significant for those Councils who actively seek to engage and develop their natural resources as low cost renewable energy will provide resilience and assist in attracting inward investment particularly for large scale energy users.

Our specific points are laid out below but we wish to conclude this introduction with the suggestion that rather than seeking to limit renewable development, Fermanagh Omagh District Council should plan for growth of its low-carbon economy, and indeed should assess whether the Council itself could develop future renewable projects itself. This approach would deliver even more direct benefit.

### **Legislative Compliance**

In preparing their dPS, FODC is required to adhere to the provisions of the Planning Act (Northern Ireland) 2011 ('Act') and the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 ('Regulations'). This section identifies weaknesses in the compliance of the draft Plan Strategy (dPS) with the Act and the Regulations.

### **Planning Act (Northern Ireland) 2011**

Under Part 2 (8) of the Act the Plan Strategy must set out:

- the council's objectives in relation to the development and use of land in its district;
- its strategic policies for the implementation of those objectives; and
- such other matters as may be prescribed.

We note that the dPS identifies a number of strategic objectives under the themes of people and communities, Economic and Environment and includes proposed strategic policies under the same themes. Below are comments on the soundness of the proposed objectives and policies.

The Act also stipulates that the Plan Strategy should be prepared in accordance with the Council's Timetable, as approved by the Department and in accordance with Council's Statement of Community Involvement.

In preparing a plan strategy, the council must take account of:

- "the regional development strategy;
- the council's current community plan
- any policy or advice contained in guidance issued by the Department;
- such other matters as the Department may prescribe or, in a particular case, direct, and may have regard to such other information and considerations as appear to the council to be relevant."

Our response considers the above requirements, which form part of the soundness test, with specific comments on whether this requirement is met.

The Act also requires that the Council:

- (a) carry out an appraisal of the sustainability of the plan strategy; and
- (b) prepare a report of the findings of the appraisal."

We note that this information has been prepared and is provided as part of the consultation information, however our detailed comments on the findings of the SA are also provided.

## **The Planning (Local Development Plan) Regulations (Northern Ireland) 2015**

In addition to the Act, Parts 4 & 5 of the Regulations set out the requirement for the preparation of the Plan Strategy DPD. Part 4 set out the requirements for the Form and Content of Development Plan Document Part 4 Regulation (1) establishes that a development plan document must contain:

- (a) a title which must give the name of the council district for which the development plan document is prepared and indicate whether it is a plan strategy or a local policies plan, and
- (b) a sub-title which must indicate the date of the adoption of the development plan document.

We note that the date of adoption of the development plan documents is not provided. The date provided is 2030. We acknowledge the draft status of the documents at this stage but request that this is corrected prior to formal adoption of the DPD.

Part 4 Regulations (2)& (3) set out that a development plan document must contain a reasoned justification of the policies contained in it and that the policy and justification text should be readily distinguishable. The Council has provided justification text associated with each proposed policy, however this should be considered alongside detailed comments on the soundness of the proposed policies, contained within the remainder of this representation.

Part 5 of the Regulations relates to the procedures for the preparation of the Development Plan Documents. Regulations 15 and 16 relate to the preparation of the dPS. Regulation identifies a schedule of the information that should be made available alongside the publication of the dPS. This includes:

*“such supporting documents as in the opinion of the council are relevant to the preparation of the local development plan.”*

It is our view that insufficient supporting information is available to support a number of the proposed policies in the dPS. We have identified these concerns below.

### **Environment**

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

##### **Key points**

We consider that the wording of Draft Policy L01 is unsound as it is based on flawed evidence and is contrary to the provisions of the SPPS. We consider that the proposed policy fails soundness tests CE2 & CE3

##### **Full Response**

The first sentence of the proposed policy sets out that:

*“Development proposals which adversely affect or work to erode the distinctiveness special character including landscape character, visual amenity, natural, historic or cultural heritage of the Sperrin AONB, or its views or setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted”.*

Development in such locations is required to have regard to the distinctive character of the area, including the quality of the landscape. This would suggest that a detailed and up to date assessment of the existing



landscape quality should be available. As part of the evidence provided by the Council in support of the dPS, the following papers considering landscape quality were published:

- Landscape Wind Energy Capacity Study for Fermanagh and Omagh (Ironside Farrar, January 2018) (LWECS);
- Landscape Character Review for Fermanagh and Omagh (Ironside Farrar, September 2018) (LCR); and
- Landscape Designation Review for Fermanagh and Omagh (Ironside Farrar, September 2018) (LDR).

Based on external reviews, we believe there to be a number of flaws within the methodology applied by Ironside Farrar and the findings of the assessments. These key flaws are summarised as follows:

- There are disparities in the baseline data used. The LWECS, and the Wind Strategy are based on the Northern Ireland Landscape Character Assessment 2000 (NICLA) and not the LCR prepared by Ironside Farrar. It is our view that the strategy for wind development within the district should be based upon 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 have been considered.
- At present the LCR fails to consider the impact of historic development on the character of the AONB. It fails to account for the growth in the number of dwellings in the countryside and other forms of development which have occurred since the designation of the AONB.
- 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 then restricted 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.

Given the flaws that have been identified in the Council's landscape papers, we believe that Draft Policy L01 fails to meet soundness test **CE2**. Without a suitably robust baseline statement against which to assess development proposals it is also considered that the policy fails to meet soundness test **CE3**.

### **Recommendation**

We recommend that the wording of Draft Policy L01 is updated to state:

*“Development proposals that would have an unacceptable 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.”*

Furthermore, the policy clarification text should refer to the need to protect the landscape character of the area, as provided for in an up to date assessment.

Given these identified flaws we recommend further robust analysis of the landscape character of the AONB. This will provide a robust baseline against which development proposals can be assessed and will enable the Council to monitor the impact of future development on the character of the AONB.

## Draft Policy LO2 – Special Countryside Areas

### Key points

We consider that the extent of the SCAs proposed under Draft Policy LO2 are founded on flawed evidence provided by the Council. For this reason we believe that the policy fails to meet soundness test CE2.

We recommend that further work is undertaken by the Council to review their evidence base and revise the SCA proposals accordingly.

### Full Response

The Council proposes to introduce a 'Special Countryside Area' (SCA) across part of the AONB. According to Draft Policy LO2, permission in these locations will only be granted where 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;*
- *Minor works or improvements to infrastructure such as walking and cycle-ways, fishing and canoe stands;*
- *Providing tourism accommodation or facilities through the re-use of existing vernacular buildings whilst being sympathetic to the landscape and nature conservation interests.”*

The supporting text provided at paragraph 5.54 of Part 2 of the dPS states that the proposed SCA relates to the 'exceptional' landscapes within the Council. The Council considers that the upper summits of the Sperrins fall in to the 'exceptional' character areas. No details of the exceptional character of the proposed SCA are provided within the dPS, however some details are provided at Appendix 6 of the Countryside Assessment (dated October 2018).

The SPPS sets out that some areas of the countryside exhibit exceptional landscape wherein the quality of the landscape and unique amenity value is such that development should only be permitted in exceptional circumstances. Where appropriate these areas should be designated as SCAs in LDPs. According to the SPPS such areas should be protected from unnecessary and inappropriate development. SPPS also sets out that the evidence base for proposing countryside policies should include an assessment of environmental assessments and the landscape character.

It is unclear from Appendix 6 of the Countryside Assessment how the Council's LCR has informed the proposed SCA. The methodology for the selection of the proposed SCAs sets out that the broad location has been derived from a desktop assessment, which included a review of the NILCA 2000. No reference is made to the LCR prepared by Ironside Farrar. We believe that relying on out of date character assessment is flawed as no account will have been taken of how the character of the area has evolved since 1999 when the NICLA assessments were undertaken. It is therefore considered that the draft policies fails soundness test CE2.

We note that after review of the evidence papers the following key issues:

- The LCR introduced new character areas which are inconsistent with the areas assessed within NICKLA 2000 and conflict with the character areas assessed within the LWECS;
- In preparing the LCR the council has acknowledged that an update of the landscape character assessment of the Council is required, however the extent of the SCA appears to have been informed by the NICKLA 2000. The use of out of date information to inform a proposed policy is not appropriate.

We do not believe that evidence used to inform the proposed SCA is robust and therefore the policy fails against soundness test CE2. There are further indications that the policy does not reflect the council's evidence base in 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.

The Council's assessment of the proposed SCA set out in Appendix 6 of the Countryside Assessment suggests that NIEA indicated that the use of SCAs to protect sensitive landscapes would be favoured. However we note that no consultation was undertaken with NIEA in relation to the location and extent of the proposed designations. It also appears from the same paper that the location and extent of SCAs has been supported largely by desktop work, with field work having only taken place from Summer 2018 to determine the exact boundaries of the proposed SCAs. According to the Council's paper the fieldwork comprised a 'visual inspection' of the proposed SCAs using various viewpoints. No detail is provided on the methodology employed to determine the viewpoints or inform the visual inspection and therefore we are unsure about the robustness of the assessment.

The same report suggests that the boundary proposed for the Sperrins and Mullaghcarn Proposed SCA was derived largely using the 200m contour line. In this case, land above 200m was proposed within the designation. There is no justification provided within the council's evidence for such a threshold approach. It has been assumed that all land above 200m is of exceptional value. Again, the lack of information and weakness in the assessment demonstrates that the evidence used to inform draft policy LO2 is not robust. As such the policy fails to meet soundness test CE2.

The approach proposed by the Council conflicts with the provisions of the SPPS which states as follows:

*"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...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."*

This does not preclude such development within an AONB and where it can be demonstrated that development can be accommodated without detriment to the assets of the designation development would be permitted. Furthermore the Department publication, Wind Energy Development in Northern Ireland's Landscapes; Supplementary Planning Guidance (2010), states that (at Section 1.1):

*"It is important to note the purpose and scope of guidance...It is intended to provide broad, strategic guidance in relation to the landscape and visual impacts of wind energy development. Every development proposals is unique, and there remains a need for detailed consideration of the landscape and visual impacts of individual applications on a*

*case by case basis, as well as for consideration of other issued referred to in PPS18 and other regional policy."*

It is considered that the Council's draft policy fails to meet soundness test C3 as it is in conflict with other policies and guidance published by the Department. It is also worth noting that the approach proposed by the Council conflicts with the approach endorsed by the Planning Appeals Commission in considering the appeal for Mullaghturk Wind Farm (decision date: October 2016). In considering the proposal the commissioner stated that:

*"it is important to recognise that there is no embargo on wind energy development within AONBs."*

### **Recommendation**

It is recommended that the proposal for the introduction of an SCA at the Sperrins is reconsidered by the Council. The evidence provided in support of the Council's draft policy and the extension of the proposed designation has been found to be flawed.

A full and detailed review of the methodology for designating SCAs should be undertaken by the Council and a robust assessment of landscape character carried out to inform the baseline for any such designations. In considering the character of the area, the Council should avail of all information available to them, including detailed Landscape and Visual Impact Assessments (LVIAs) which have been provided in support of planning applications.

## Infrastructure

### Draft Policy RE01 – Renewable and Low Carbon Energy Generation

#### Key points

We are concerned that Policy RE01 is tantamount to a moratorium on wind energy development within the AONB when considered alongside the supporting Wind Energy Strategy, and this is contrary to the approach as a set out and tested by PPS 18 Policy RE1 and the SPPS.

Furthermore, the Council's evidence is flawed in its methodology and does not align with the draft policy. The Council has failed to consider the operational implications of the proposed policy and how it reads alongside other proposed policies within the dPS.

For these reasons it is considered that Draft Policy RE1 fails soundness tests CE3, CE1, C3, CE4 & CE2

#### Full Response

We welcome acknowledgement by the Council that the wind energy sector is popular within FODC owing to the topography and the wind speeds that can be reached. These are two important locational factors for wind energy development and are crucially important to ensuring that the most appropriate sites are selected for the generation of renewable energy. We would also highlight that whilst FODC is the largest generator of renewable energy from wind, this should not preclude future development of similar proposals. Draft Policy RE01 of the dPS proposes a criteria based approach to the assessment of proposal for renewable energy development. In addition a range of requirements are proposed for wind energy development. Draft Policy RE1 states:

*"in addition to criterion a –I 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 and demonstrate that:*

- 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;
- The development will not create a significant risk of landslide or bog burst;
- 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;
- 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
- 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. "

In response to the requirement for a separation distance of 10 times rotor diameter we recognise that this is the approach put forward within paragraph 6.227 of the SPPS, however we would question why the wording has not mirrored the overarching policy:

SPPS (Para 6.227) / PPS 18 RE1 wording

*'For wind farm development a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply (emphasis added)*

*FODC Policy RE01 wording*

*(n) 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; and*

The council should recognise that both PPS 18 and the SPPS were the product of extensive public and industry consultation in shaping and refining the policy contained within. There is no justification for the removal of 'will generally apply' from the first sentence which would hinder the future development of renewable energy in a sustainable way across the FODC area. The Council should be aware that there is no statutory separation distance stipulated in legislation with regards to the siting of wind farms. References to the separation distance in policy and guidance influence and inform planning decisions, but the policy and guidance do not impose any statutory obligation on the developer or the Council. This is supported by a number of Planning Appeals Commission decisions (PAC) including references 2013/A0219 and 2012/AO186.

Furthermore since the production of both PPS18 and the SPPS turbine technology has moved on significantly and we would question the appropriateness of this separation distance. We would encourage FODC to look at the Planning Guidance which is currently being drafted in the Republic of Ireland (and which apply to the neighbouring wind farms in Counties Donegal, Cavan and Monaghan) which recommends that; *"a visual amenity setback of 4 times the turbine height between a wind turbine and the nearest residential property, subject to a mandatory minimum distance of 500 metres"*. It is understood from the draft LDP that joint working with the various 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 (as endorsed in section 3.7 of the draft LDP), we would question the soundness of whether or not this approach has been considered in the criteria outlined in RE01 of the draft LDP. Further, within Wales there is only a 500m minimum restriction and in Scotland there is no guidance relating to specific separation distances between properties and wind turbines.

We would also like to highlight that there are operational wind energy developments within the FODC area which would not be able to meet this policy requirement, however they have been considered acceptable.

### **Recommendation**

The council should recognise that the application of this policy requirement for future applications to repower wind farms may have a significant impact on the feasibility of wind farms. As we understand it, this policy criterion is intended to protect residential safety and amenity and as such we would propose a more flexible approach should be applied. 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. This case by case approach is also endorsed at paragraph 2.228 and 2.229 of the SPPS.

Given the implications that this requirement would have on the future operation of existing wind energy development we consider that it would fail against soundness test CE3 and CE4.

Policy RE01 (n) refers to a separation distance of 10 times rotor diameter to an occupied, **temporarily unoccupied (emphasis added)** or approved property can be achieved.

**We recommend** that should the council retain the 10 times rotor diameter policy rather than the suggested alternative above, the text must be consistent with the SPPS and therefore should be replaced with the wording from SPPS (Para 6.227) / PPS 18 RE1:

*'For wind farm development a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply' (emphasis added)*

It is clear from the supporting policies clarification text that Draft Policy RE01 is based on the Council's Wind Energy Strategy and supporting documentation. This includes the Landscape Wind Energy Capacity Study (LWECS). We note that the Wind Energy Strategy concludes that nationally designated Sperrins AONB has no capacity for wind energy development. We note the below points in regard to this strategy:

- The LWECS concludes that there is no capacity for wind energy development within the AONB. However this is not supported by the Wind Energy Strategy Map or Figures A and 6.4 of the LWECS, which show 'areas of limited underlying capacity'. The conclusion of the Wind Energy Strategy is therefore unsupported by the evidence.
- The Council's assessment of the LCAs within the AONB in the District concludes that there is underlying capacity within the landscape character for development. It appears that the AONB designation outweighs this capacity. It is clear that it is the theoretical high value of the AONB that restricts the capacity for development.
- The LWECS fails to assess the value of the AONB landscape, but applies a blanket 'high' value across the AONB. This is not consistent with best practice and conflicts with the Council's own view that areas of the AONB deserve a further designation as an SCA.
- The identification of the South Sperrin LCA as having no capacity for development is based solely on the high value attributed to the AONB landscape, however no detail assessment of landscape quality across the AONB has been provided.

Based on the flaws within the Council's evidence base we consider that Draft Policy RE01 also fails to meet soundness text CE2.

### **Recommendation**

It is considered that the approach proposed by the Council in is tantamount to a moratorium on wind energy development within the AONB when considered alongside the supporting Wind Energy Strategy and should be withdrawn. This approach is fundamentally in conflict with the SPPS. Furthermore, the Council's conclusion that there is no capacity for development within the AONB is unsound as the evidence is flawed for the following reasons:

- According to best practice guidance, the LCAs that lie within the AONB should not automatically be accorded a high value based purely on the AONB designation as this is considered to be an oversimplification of complex issues. If a high value is to be accorded, this should be based on clear and transparent arguments and well-constructed professional judgements that describe the reasons why value is attached to the landscape; and
- The value of the LCA, as attributed in LWECS has been weighted so as to over-ride the landscape sensitivity, and it appears that landscape sensitivity had not been given any weight in the final capacity rating. This of particular relevance in LCA 24 (South Sperrin) where LWECS and the Wind Energy Strategy acknowledge that the landscape is inherently suitable for large-scale wind

energy development but precludes development of turbines over 80m high in this LCA on the basis of the theoretical value of the landscape due to its AONB designation.

Furthermore, design criteria relating to the siting and location turbines should be reconsidered to take account of existing and operating wind energy developments so as to avoid unduly restricting existing operations.

### **Draft Policy PU02 – Overhead Electricity Lines**

#### **Key points**

We consider that the proposed policy does not provide sufficient flexibility to assess proposals for overhead powerlines associated within energy developments which are often time limited and subject to restoration requirements.

It is considered that the policy fails soundness test CE3 and CE4.

#### **Full Response**

The Council proposes a policy relating to development proposals for overhead electricity cables. Powerlines will only be permitted where:

- “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 with the 1991 International Commission on Non-ionising Radiation Protection (ICNIRP) guidelines.”

The policy clarification indicates that the Council view is that powerlines are obtrusive within the landscape. There is no evidence provided to support this statement. We do however welcome the following statement within paragraph 6.58 of Part 2 of the dPS:

*“Every effort should be made to reduce their impact and where sensitive locations and landscapes cannot be avoided visual impact could be alleviated through the use of natural features such as existing vegetation and tree cover.”*

We welcome the above recognition that there may be occasions where sensitive locations cannot be avoided. The proposed wording is, however, vague in what will be assessed and therefore it is difficult to understand how the policy would be implemented. As such the policies would fail against soundness test CE3.

It is notable that this policy does not consider proposals where the provision of overhead powerlines may be time limited. For example, when provided as part of a wind energy or mineral extraction development the provision of such infrastructure is often time limited. As currently drafted the same policy consideration would apply to a permanent development and a temporary proposal. It is our view that this would be unduly onerous on a temporary where restoration of the landscape would be conditioned upon removal and the timeframe for the development would be limited. In its current form we consider that the policy fails against soundness test CE4.



## Recommendation

It is recommended that the wording of criterion one and two is revised to say:

- *Where possible*, they avoid Sensitive Locations and Features.
- They have *no significant adverse impacts* on residential amenity or other sensitive receptors.

We would also recommend that the policy is revised to take account of temporary or time restricted development proposals.