

FODC draft Plan Strategy Focused Changes - ABO Wind NI

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To: Development Plan <developmentplan@fermanaghomagh.com>

📎 1 attachments (424 KB)

FODC Comments on Proposed Changes - ABO Wind.pdf;

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Dear Sir/Madam

On behalf of our client, ABO Wind NI Ltd, please find attached representations in relation to the consultation on the proposed changes to the draft Plan Strategy.

We would be grateful if you could acknowledge receipt by return of email.

Kind regards

Emma

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Fermanagh & Omagh District Council – Draft Plan Strategy

Comments on the Proposed Changes on Behalf of ABO Wind NI

September 2020

1. Introduction

1. These comments are submitted on behalf of ABO Wind NI in response to the Council’s consultation on the Proposed Changes of the draft Plan Strategy (dPS).

2. Comments

2. This section outlines our comments to the Proposed Changes of the draft Plan Strategy. This response should be read alongside the Cover Letter supporting the submission.

Policy	Proposed Change Ref	Proposed Change	Comment to Proposed Change
SP01 Furthering Sustainable Development	5	Amend policy wording to comply with the demonstrable harms test in the SPPS. ‘The Council will permit development proposals which further sustainable development and promote measures to mitigate and adapt to climate change, and which <i>have regard to</i> the Local Development Plan and other material considerations, <i>unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases, planning permission should be refused.</i>	It is unclear from the proposed wording what an interest of acknowledged importance is as it is not defined within the proposed policy or supporting text. Unless the interest is defined applicants will be unable to demonstrate that no demonstrable harm will be caused. This lack of clarity is in conflict with soundness test CE1. It is our view that any such interest would fall within the definition of a ‘material consideration’ and therefore would be adequately covered by the original proposed wording which was sound in its own right. No evidence has been provided by the Council to suggest that this additional wording is needed to make the policy sound. The proposed additional wording is not necessary to make the policy sound and therefore fails against soundness test CE1 & CE2.
DE01 Amenity	14	Amendment to re-word the opening sentence in relation to amenity, public safety and the public interest: ‘The Council will not support development proposals where they would unacceptably affect: (1) the amenities of the area or the residential amenity of nearby <i>properties or sensitive receptors; and (2) the existing use of land and buildings, public safety (including road safety) and visual amenity ought to be protected in the public interest. These include:</i> (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.’	We note that the policy is to be amended to refer to sensitive receptors, however neither the policy nor supporting text for draft Policy DE01 gives a definition for a sensitive receptor. In order for the potential effects of development to be assessed such receptors should be identified. It is noted that the supporting text to draft Policy RE01 includes a definition for sensitive receptors relating to the development of wind energy proposals. It is unclear if this is the same definition and therefore the policies would be incoherent. Without further definition the draft policy fails against soundness test CE1. The Council is proposing to introduce a test on the impact of development on the existing use of land and buildings. This wording is unclear as it does not take account of buildings or lands where the use has been abandoned. As such the policy is fails against soundness test CE1.

<p>TOU1 Protection of Tourism Assets and Tourism Developments</p>	<p>51</p>	<p>The overall quality or value of number of smaller parts of a tourism asset is more valuable than the sum parts. Policy re-worded to reaffirm the policy intent of protecting tourism assets and strengthening the test of justifying the loss of a tourism amenity.</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, <u>or part thereof.</u></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 <u>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.</u></p>	<p>The Council is seeking to tighten the draft Policy to include any part of a tourism asset. It is our view that this approach is unsound as it is only possible to assess the impact of development on a particular tourism asset which has been defined. The SPPS defines a tourism asset as “any feature associated with the built or natural environment which is of intrinsic to tourists.” The SPPS goes on to say:</p> <p>“There are many diverse features of the built and natural heritage of Northern Ireland that can be regarded as tourism assets, in that they are important in attracting tourists and sustaining the tourism industry. Examples include historical and archaeological sites, certain beached, conservation areas and Areas of Outstanding Natural Beauty. The safeguarding of tourism assets from unnecessary, inappropriate or excessive development is a vital element in the 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. Accordingly, 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.” (Paragraph 6.262)</p> <p>The SPPS is clear that the tourism asset should be considered as whole. It does not refer to part of a tourism asset being assessed when considering the impact on tourism. As such the proposed tightening of the policy is in conflict with soundness test C3</p> <p>Furthermore, no justification is provided for the tightening of the policy wording and therefore it also fails against soundness test CE2.</p>
<p>L01 Development within the Sperrin AONB</p>	<p>96</p>	<p>Amendments to policy to more closely reflect the requirements of the SPPS and to provide detail of what is considered to be the distinctiveness of the AONB and specifying the requirement for a LVIA.</p> <p>‘Development proposals <u>which adversely affect</u> or work to erode the distinctive <u>special character including landscape character, visual amenity, natural, historic or cultural heritage</u> of the Sperrin AONB, its <u>views or setting</u>, when considered individually or cumulatively alongside existing or approved development, will not be permitted.</p> <p><u>Account must be taken of the Landscape Character Assessments and any other relevant guidance including an AONB Management Plan and local design guides.</u></p> <p><u>Development proposals must be accompanied by a Landscape Visual Impact Assessment.</u></p>	<p>It is unclear from the revised draft policy wording or supporting text what is meant by ‘its views’ in reference to the adverse effects of development. Does this refer to viewpoints within the AONB, views within the AONB or views of the AONB. This lack of clarity means that it is unclear how the policy will be implemented.</p> <p>In relation to the requirement to take account of the Landscape Character Assessments and other relevant guidance including an AONB Management Plan, these documents should be up to date.</p> <p>As such the draft policy fails against soundness test CE1 and CE3.</p>
<p>L02 Special Countryside Area</p>	<p>101</p>	<p>Amendments to policy to more closely reflect the requirements of the SPPS and to provide details of what is considered to be the distinctiveness of the AONB and specifying the requirement for a LVIA.</p> <p><u>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:</u></p> <ul style="list-style-type: none"> • <u>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</u> • 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 • <u>Minor works or improvements to infrastructure such as walking and cycle-ways, fishing and canoe stands; or</u> • <u>Providing tourism accommodation or facilities through the re-use of existing vernacular buildings whilst being sympathetic to the landscape and nature conservation interests.</u> 	<p>The revised draft policy wording is incoherent. The first part of the policy states that some development may be permitted where it does not threaten the landscape character of the SCA. The first bullet then reads that development can occur where detrimental impact on unique qualities is outweighed by regional or national importance. It is not possible to meet both these requirements of the draft policy as a whole.</p> <p>As such the draft policy fails against soundness test CE1 and CE2.</p> <p>We would propose that the additional wording to the beginning of the policy be removed.</p>

RE01	116	<p>Amendments to more closely reflect the regional strategic policy within the SPSS with additional criteria relating to decommissioning and restoration and fall distance from public road and to remove reference to large scale solar installations.</p> <p><i>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:</i></p> <ul style="list-style-type: none"><i>a) public safety, human health, or residential amenity;</i><i>b) visual amenity and landscape character;</i><i>c) biodiversity, nature conservation or built heritage interests <u>historic environment and their settings</u>;</i><i>d) local natural resources, such as air quality or water quality and quantity;</i><i>e) the safety of public footpaths, highways;</i><i>f) aviation interests, broadcasting installations and all other telecommunications.</i><i>g) public access to the countryside and/or recreational/tourist use of the area;</i><i>h) flood risk;</i><i>i) <u>any renewable energy development on active peatland will not be permitted unless there are imperative reasons of overriding public interest</u> active peatland; And</i><i>j) they do not create unacceptable cumulative impacts when viewed in conjunction with other operational and approved, <u>and those which are currently the subject of valid but undetermined applications for renewable and low carbon energy generation developments.</u></i> <p>Wind Energy Proposals</p> <p><i>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 Landscape Wind Energy Strategy (Appendix 7) and demonstrate that:</i></p> <ul style="list-style-type: none"><i>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;</i><i>l) the development will not create a significant risk of landslide or bog burst;</i><i>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;</i><i>n) a separation distance of 10 times rotor diameter to an occupied, temporarily unoccupied or approved dwelling property <u>dwelling property</u> can be achieved, with a <u>A</u> minimum distance not less than 500m will generally apply to wind farms with single turbine proposals assessed on a case by case basis; and</i><i>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 <u>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:</u></i> <ul style="list-style-type: none">• <i>timescales for completion of individual phases of restoration where a progressive</i>	<p>Since the original consultation on the draft Plan Strategy which ended in January 2020 the preparation the new Energy Strategy for Northern Ireland has progressed.</p> <p>The new Energy Strategy will set the target for renewable energy for the next ten years, up to 2030. In order to set a target for that period studies have been commissioned to review the future energy demand in Northern Ireland and to model scenarios for renewable energy targets. In their July 2020 Energy Strategy E-Bulletin DfE confirms that scenarios of 70%, 55% and 40% renewable energy have been modelled. Whilst the final figure is not yet published, it is worth noting the announcement by the Minister for the Economy, Diane Dodds, in September 2020. In her announcement the Minister set out that:</p> <p><i>“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.”</i></p> <p>This gives a clear view of the ambition that the Energy Strategy will seek to achieve.</p> <p>Since the closure of the Call for Evidence period, the DfE has published a series of documents and bulletins summarising the findings from the consultation.</p> <p>Alongside the July Bulletin the DfE also published a report by Cornwall Insight titled ‘Future of Renewables in Northern Ireland’. This report considers the three renewable energy target scenarios referred to above. This report suggests that existing renewable energy assets will start to come to the end of their life in approximately 2030, reducing the capacity of renewable energy in Northern Ireland to approximately 40%. It goes on to say that:</p> <p><i>“This figure indicates that without significant investment, NI stands to lose a significant amount of renewable assets, which represents a considerable proportion of its generation assets overall. This could represent a serious security of supply issue, especially if the North South Interconnector is not built by 2030. Even with the interconnector, NI would be extremely dependent on interconnection in a way that may not be sustainable. Issues with security of supply could lead to emergency interventions on the part of the government such as commissioning new thermal plan which could lead to significant costs to consumers as well as moving in the opposite direction from UK carbon emissions policy.”</i></p> <p>In considering the planning context the same report set out that:</p> <p><i>“If onshore wind is to be deployed at the lowest possible cost and play a significant role in meeting 2030 emissions targets then planning and energy policies will need careful alignment to best meet the requirements of stakeholders. There is a significant risk that planning policy currently being develop may not facilitate the required renewable roll-out to 2030 in general in NI, and may significant constrain onshore wind in particular.”¹</i></p> <p>It goes on to say that:</p> <p><i>“In all scenarios onshore wind continues to be a dominant form of renewable energy in NI to 2030.”²</i></p> <p>In September 2020 the DfE published a document titled ‘Renewable Energy Pipeline for Northern Ireland’ which shows that around 60% of Northern Ireland’s generation comes from fossil fuelled power stations. It is evident that we have a long way to go to achieve a 70% target and the wind energy has a significant role to play in securing that.</p> <p>The timeline for the publication of the Energy Strategy indicates that the Final Strategy will be in place</p>
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¹ Page 60

² Page 60

scheme is proposed;

- aftercare arrangements once restoration is complete.

p) 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.

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).

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;

g) they do not result in unacceptable impacts on nearby residential properties and/or any sensitive receptors.

r) 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.

for the end of 2021. As such there is a high likelihood that the Energy Strategy will be finalised before the adoption of the Council's Plan Strategy and would therefore need to be a consideration in the soundness of energy related policies.

Regardless of the status of the Plan Strategy at the time of the Final Energy Strategy it is important that the policies contained within Local Plan do not prohibit the delivery of the targets set out in the Energy Strategy. If the plan is unduly restrictive of renewable energy development it could be in conflict with the Energy Strategy and could therefore be unsound.

As such the Council should satisfy themselves that the policies contained within the DPS are suitable to address the ambitions of the emerging energy strategy as those policies will be in place for the lifespan of the Strategy. Policies should also be flexible to changes in the future renewable targets as we move towards the target of net zero by 2050.

Criterion (j) of the draft policy will require that cumulative assessments should include valid planning applications. We recognise that this is consistent with the approach set out in the Wind Energy Development in Northern Ireland's Landscape however it does not entirely reflect the guidance. The Wind Energy Development in Northern Ireland's Landscapes also recognises that the weight to be given to live application is limited as there is no assurance that they will be delivered. This position has also been reinforced by the Planning Appeals Commission in recent decisions. We would propose that the following wording is included within the policy or justification text so that it is entirely consistent with the Wind Energy Development in Northern Ireland's Landscapes document:

Cumulative impacts with any other operational, consented or application stage sites should also be assessed (recognising that there are varying degrees of certainty associated with these different types of site).

We also note that criterion n) of the draft Policy has been revised to reference 'property' rather than 'dwelling'. The draft policy clearly sets out that approved, unoccupied and occupied properties will be considered. This approach is unsound as it conflicts with Paragraph 6.227 which requires that only occupied properties are considered. We would also express concern that 'property' has a wide definition and includes properties beyond dwellings and residential properties, which have previously been considered under PPS18. This would appear to be a tightening of restrictions on renewable energy and in the context of the emerging energy targets the Council should ensure that policies do not prohibit the ability to deliver renewable energy targets.

As such the policy fails against soundness test C3.

Contact

1 December 2020

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