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**Independent Examination Report of  
Fermanagh & Omagh District Council's  
Local Development Plan: Plan Strategy**

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**Report by**

**Commissioner Diane O'Neill**

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## **Main abbreviations used in the report**

ACMD	Areas of Constraint on Mineral Development
AMR	Annual Monitoring Report
AoHSV	Area of High Scenic Value
AONB	Area of Outstanding Natural Beauty
ASAI	Area of Significant Archaeological Interest
ASSI	Area of Special Scientific Interest
ATC	Area of Townscape Character
CA	Conservation Area
DA	Drainage Assessment
DAERA	Department of Agriculture, Environment and Rural Affairs
DfI	Department for Infrastructure
DPD	Development Plan Document
DPPN	Development Plan Practice Note
dPS	Draft Plan Strategy
EqIA	Equality Impact Assessment
FAP	Fermanagh Area Plan 2007
FODC	Fermanagh and Omagh District Council
FRA	Flood Risk Assessment
HED	Historic Environment Division
HGI	Housing Growth Indicator
HNA	Housing Needs Assessment
HPA	Housing Policy Areas
HRA	Habitats Regulation Assessment
IE	Independent Examination
J&A	Justification and Amplification
KSR	Key Site Requirements
LB	Listed Building
LCA	Landscape Character Assessment

LCR	Landscape Character Review for Fermanagh and Omagh
LDP	Local Development Plan
LDR	Landscape Designation Review for Fermanagh and Omagh
LLPA	Local Landscape Policy Area
LPP	Local Policies Plan
LVIA	Landscape and Visual Impact Assessment
LWECS	Landscape Wind Capacity Study for Fermanagh and Omagh
MI	Monitoring Indicator
MSA	Mineral Safeguarding Area
NI	Northern Ireland
NIEA	Northern Ireland Environment Agency
OAP	Omagh Area Plan 2002
PAC	Planning Appeals Commission
POP	Preferred Options Paper
PPS	Planning Policy Statement
PRC	Primary Retail Core
RDS	Regional Development Strategy 2035: Building a Better Future
RNIA	Rural Needs Impact Assessment
RSTNTP	Regional Strategic Transport Network Transport Plan
RTS	Regional Transportation Strategy
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SCA	Special Countryside Area
SEA	Strategic Environment Assessment
SLNCI	Site of Local Nature Conservation Importance
SPA	Special Protection Area
SPG	Supplementary Planning Guidance
SPPS	Strategic Planning Policy Statement for Northern Ireland: Planning for Sustainable Development

SuDS	Sustainable Drainage Systems
SRTP	Sub Regional Transport Plan
TA	Transport Assessment
TP	Travel Plan
TS	Technical Supplement
UCS	Urban Capacity Study
UNESCO	United Nations Educational, Scientific and Cultural Organization
WMP	Waste Management Plan
WMS	Waste Management Strategy
WWTWs	Waste Water Treatment Works

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## **Appendices**

- Appendix 1 Tests for soundness-Development Plan Practice Note 6: Soundness
- Appendix 2 Schedule of Matters Arising documents from public hearing sessions of the Independent Examination
- Appendix 3 Schedule of FODC Draft Plan Strategy Submitted Documents
- Appendix 4 Schedule of Recommended Amendments<sup>1</sup>

<sup>1</sup> Document should be read alongside the main report

## **1.0 INTRODUCTION**

- 1.1 Section 10(6) of the Planning Act (Northern Ireland) 2011 (the Act) as amended states that the purpose of an independent examination (IE) of a development plan document is to determine (a) whether it satisfies the requirements of Sections 7 and 8 and any regulations under Section 22 relating to the preparation of development plan documents; (b) whether it is sound. The tests of soundness are set out in the Department for Infrastructure (DfI) Development Plan Practice Note 6 Soundness (DPPN 6).
- 1.2 Section 6(2) of the Act states that the development plan documents consist of (a) the plan strategy (PS); (b) the local policies plan (LPP). The plan strategy is the first of the two documents produced in the two stage LDP process. As stated within Section 8, the plan strategy must set out the council's objectives in relation to the development and use of land in its district and its strategic policies for the implementation of those objectives and such other matters as may be prescribed.
- 1.3 Section 10 (2) of the Act states that the Council must not submit a development plan document to the Department for independent examination unless it has complied with any relevant requirements contained in the regulations and it thinks the document is ready for independent examination. Accordingly, the starting point in this Independent Examination (IE) is to assume that the Council has submitted what it considers to be a sound plan. The plan was submitted to DfI for IE on 18<sup>th</sup> December 2020. On 12<sup>th</sup> March 2021 DfI appointed the Planning Appeals Commission (PAC) to cause an IE. The document submitted was the same document that was published for consultation in October 2018. In October 2020, following consideration of the representations received, Fermanagh and Omagh District Council (the Council) proposed a number of changes to the Draft Plan Strategy (dPS) document. An 8-week consultation period was held on the proposed changes commencing on 8<sup>th</sup> October 2020 and ending on 3<sup>rd</sup> December 2020. If appropriate, the proposed changes were raised for discussion at the public hearing sessions.
- 1.4 Having carried out an initial assessment of the submitted evidence, the Commission wrote to the Council on 4<sup>th</sup> October 2021 seeking further information in relation to a number of matters which, individually and cumulatively, may have implications for the plan's soundness. On 19<sup>th</sup> October 2021 the Council responded in writing and this was posted on the Commission's website and forms part of the evidence base of the IE. Arising from discussions at the IE, on my request, a number of submissions were made by the Council and these 'matters arising' were regularly posted on the Examination Library page of the Commission's website; a schedule of matters arising documents is contained within Appendix 2. The evidence base for the IE comprises of all the written and oral submissions received throughout the entire IE process.

- 1.5 The purpose of the IE and this report is focused on the soundness of the plan and not on individual representations or site-specific matters. It does not respond to every issue raised nor does it refer to every policy in the dPS. The report generally reflects the structure of the dPS. A number of representations contained suggestions as to how to make the plan better or 'more sound' however this is not the purpose of the IE. In accordance with Section 10(8) of the Act, this report set out my recommendations as well as my reasoning for the recommendations; a schedule of my recommended amendments (RA) is contained within Appendix 4. This schedule should be read alongside this report. Changes to the plan are only recommended where I have found that these are necessary for soundness.

### **Assessment of legal and procedural compliance**

#### *Timetable*

- 1.6 The plan strategy sets out the council's objectives in relation to the development and use of land in its district and its strategic policies for the implementation of those objectives. The council prepared and has kept under review a timetable for the preparation and adoption their LDP. It has been revised as necessary to respond to changing circumstances. The PAC and the Department were kept informed of progress with the preparation of the Plan Strategy and the various revisions to the timetable. In accordance with Regulation 6, the timetable provided indicative dates for each stage of the preparation of the local development plan. The timetable was agreed by the council and the Department as per Regulation 7 of the Planning (Local Development Plan) Regulations (NI) 2015 (the Regulations). The various iterations of the timetable were published on the council's website, a notice was placed in the local press, they were available for inspection in the council's offices and copies were available to be posted or emailed to interested parties. The requirements of Section 8(4)(a) of the Act have therefore been met.

#### *Statement of Community Involvement*

- 1.7 The plan strategy has been prepared in accordance with the council's statement of community involvement (published May 2016 and revised June 2020) thus meeting the requirements of Section 8(4)(b) of the Act and the Planning (Statement of Community Involvement) Regulations (NI) 2015. As the plan has been prepared in accordance with the Council's timetable and the Statement of Community Involvement, it also meets procedural soundness test P1.

#### *Preferred Options Paper*

- 1.8 Prior to preparing their Preferred Options Paper (POP), the council engaged with consultation bodies to provide relevant information to inform the development of alternative strategies and options. The council took account of all representations received as a result of the engagement. The public and consultation bodies were consulted on the POP on 3<sup>rd</sup> October 2016. The publish date of the POP was



advertised in the local newspapers, posted on the council's website and it was available for inspection in the principal council offices in Omagh and Enniskillen. Workshops were held with member of the public and with equality groups identified in Section 75 of the Northern Ireland Act 1998. Although some representations in relation to the PS stated that it was not sound as it had failed to reflect their representations to the POP, the test contained within Regulation 11(4) is whether the council has taken account of representations on the POP. All representations made were taken into account and considered in the Public Consultation Report (Document FODC 109, February 2017) and in the Consideration of Representations Report to the Preferred Options Paper (POP). Regulations 9-11 have therefore been met. As the Council prepared its POP and took account of any representations made, it has also met procedural soundness test P2.

*Form and content of the development plan document, proposals maps and additional matters to be taken into account*

- 1.9 The form and content of the dPS meets what is required by Regulation 12 of the Regulations. It also contains proposals maps which satisfy Regulation 13. In terms of Regulation 14, the Council's vision and Plan Strategy Objective 6 take into account the need to prevent major accidents and to limit the consequences of such accidents. The Council stated that they have currently one COMAH site within the District and, given that this is a two-stage process, the Council intends to consider these matters further when preparing the LPP and particularly when zoning land for a specific use.

*Availability and public consultation on a development plan document*

- 1.10 In terms of the availability of the development plan document, it was advertised as required by Regulation 15 in the Belfast Gazette and local newspapers. It stated that the dPS, the Sustainability Appraisal report and its supporting documents were available for inspection and consideration for a period of 8 weeks at the principal council offices. The address to which submission of representation of representations was to be sent was also provided. These details were all placed on the Council's website at the same time as the local newspaper advertisements. The Council notified consultation bodies on 25<sup>th</sup> October 2018, providing details of the 8-week consultation period, the availability of all documents and how to make a submission. I am satisfied that Regulations 15 and 16 of the Regulations are met.

*Availability and public consultation on representations*

- 1.11 A copy of the representations received in relation to the dPS were made available on the council website and advertised in the press as required by Regulation 17. The public notices indicated the 8-week period during which the representations would be available for inspection at the principal council offices at the specified times. The advertisement specified the address to which comments could be sent. As an

administrative error was discovered, the advertisement process was re-run. These details were all placed on the Council's website at the same time as the local newspaper advertisements. Due to the administrative error the consultation bodies and those who made representations were notified on two occasions of the details of the 8-week consultation period and the availability of representations. A copy of all counter-representations was made available for inspection during normal office hours at the principal council offices and they were also posted on the council's website at this same time. The requirements of Regulations 17-19 inclusive have therefore been met.

*Submission and availability of documents for independent examination*

- 1.12 Prior to submitting its documents for Independent Examination, the Council considered all representations and counter-representations. The duration of the consultation period accords with that specified in the Planning (Local Development Plan) Regulations (NI) 2015 which also specifies the nature of site-specific policy representations. All the specified documents were submitted for Independent Examination and made available in accordance with Regulations 20 and 21.

*Sustainability Appraisal/Strategic Environmental Assessment*

- 1.13 Section 8(6) of the Act requires that the council carry out an appraisal of the sustainability of the plan strategy (SA) and prepare a report of its findings. The Council published its SA Scoping Report (Document FODC 702), incorporating the requirements of the Strategic Environmental Assessment (SEA), which assessed local challenges for the emerging plan based on the current position and determined the likely issues that may arise. The Scoping Report was sent to the Northern Ireland Environment Agency (NIEA) for comment as part of a 5-week consultation. In September 2016, the SA Interim Report incorporating the SEA (Document FODC 704) was published in order to set out sufficient information on the social, environmental and economic effects of the LDP POP and enable stakeholders to form a view on the anticipated effects and any proposed mitigation. Representations were invited from interested parties.
- 1.14 Following the LDP POP consultation period, the Council considered all comments received and placed a consultation statement on their website and at their principal council offices setting out a summary of the representations and how the Council was using the responses to help to develop the LDP (Document FODC 705). Following consultation on the POP, detailed policies were developed. As this happened, the SA framework identified any impacts and developed new options. These were also assessed and compared to assist in selecting options for policies. This SA of the dPS, incorporating the SEA (Document FODC 103), was available for inspection and issued for consultation for an 8-week period alongside the dPS in October 2018. Regulation 15(a) (ii) of the Regulations is therefore met.

1.15 Following consideration of representations received to the dPS, the Council recommended several proposed changes to the dPS. As a result, in October 2020 an Addendum to the SA Report, incorporating the SEA, was published (Document FODC 112) alongside the Schedule of Proposed Changes. The Addendum highlighted the effects that the proposed changes would have in relation to the SA of the dPS. Following consideration of the updated appraisal, no implications on the overall SA of the dPS were identified. Discussions also occurred at a hearing session of the IE clarifying specific matters in relation to the SA.

1.16 Having considered all the evidence before me, I am satisfied that the Council's approach meets the legislative requirements in relation to sustainability appraisal and strategic environmental assessment. The dPS also met procedural soundness test P3 which requires that the plan has been subject to a sustainability appraisal including a Strategic Environmental Assessment.

*Habitats Regulation Assessment*

1.17 Regulation 43 of the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended) (HRA) requires an appropriate assessment to be undertaken of plans and projects which are likely to have a significant effect on an international site in Northern Ireland, either alone or in combination with other plans or projects. 70 sites, noted to have the potential to be connected to the plan area, were reviewed. Sites beyond the council area but with an ecological connection were included. As a precaution, all sites within 15kms of the plan area were considered. The draft HRA (Document FODC 104) concluded that the dPS vision, objectives and strategic and development management policies are general policy statements, not likely to have a significant effect. The presence of several cross-cutting policies, together with regional policy and regulations, would also mean that projects cannot be brought forward under the PS that would have an adverse effect on the integrity of international sites. The draft HRA included several recommendations to support the implementation of the PS and reinforce the importance of considering and addressing potential impacts on international sites. The draft HRA of the dPS proposals was issued for consultation alongside the dPS for an 8-week period.

1.18 Following the consideration of all the representations received during the public consultation exercise, the Council recommended a number of 'proposed changes' to the dPS. Some of the changes were specifically to address the recommendations of the draft HRA. The Council published an Addendum to the HRA Report (October 2020, Document FODC 113) to assess the changes through the HRA process. The HRA will be added to and finalised following public consultation and the IE of the dPS. It will then be published alongside the adopted PS. In the interim, I am content that the relevant legal requirements have been adhered to date.

*Interim conclusion on Legal and Procedural compliance*

1.19 I am satisfied that:

- the dPS has been prepared in accordance with the Council's timetable and SCI. Therefore, Section 7 of the Act has been complied with and procedural soundness test P1 has been met.
- the Council has prepared its POP and has taken into account any representations made thereby satisfying soundness test P2.
- the dPS has been subject to a SA and SEA in accordance with Section 8(6) of the Act and has met soundness test P3.
- the Council has complied with the Regulations on the form and content of its dPS and on the procedure for preparing the plan, therefore complying with procedural soundness test P4.

*Equality Impact Assessment*

1.20 Section 75 of the Northern Ireland Act 1998 places a statutory obligation on public authorities to carry out its functions with due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation; men and women generally; persons with a disability and persons without; and persons with dependants and persons without. Public authorities must also have regard to the desirability of promoting good relations between persons of different religious belief, political opinion, or racial group. The Council carried out an equality screening exercise on the dPS to identify any planning issues relating to the dPS that are likely to have an impact on equality of opportunity and/or good relations (Document FODC 102, October 2018). The Equality Screening Report was issued for consultation alongside the dPS of an 8-week period. The screening concluded that it is anticipated that the dPS will have no adverse impact with regards to equality and is likely to have a positive impact on all Section 75 groups, both directly and indirectly, by helping to address economic and social needs. It was considered that some areas of development may have a differential impact on a number of Section 75 groups in a positive manner by addressing specific or recognised needs, for example, policies to improve accessibility to housing, employment, transport and services for disabled people, older people and people with dependants. It was therefore concluded that the dPS has been screened out and does not require an Equality Impact Assessment. An Addendum to the Equality Screening Report was issued in October 2020 which assessed the Council's proposed changes to the published dPS following its consideration of all the representations received in relation to the dPS (Document FODC 111). Following consideration of the updated screening, no equality screening implications were identified. An Equality Assessment will however be undertaken at each stage of the LDP process.

### *Rural Needs Impact Assessment*

- 1.21 The Rural Needs Act (NI) 2016 requires district councils and other public authorities to have due regard to rural needs when developing, adopting, implementing or revising policies, strategies and plans, and when designing and delivering public services. In October 2018 the Council published its Draft Rural Needs Impact Assessment (RNIA) (Document FODC 105) for consultation at the same time as the dPS. The RNIA demonstrated how the development of the dPS considered the needs of the people in the rural area that were identified through the analysis undertaken in the topic papers and consultation exercises. On publication of the Council's proposed changes to the dPS, the Council published an Addendum to the Draft RNIA (Document FODC 114) in which it highlights the effects that the proposed changes to the dPS have in regard to the RNIA. No implications on the overall RNIA of the dPS were however identified.

### **Approach to the consideration of soundness**

- 1.22 Section 8(5) of the Act and consistency tests C1-C3 within DfI's Development Plan Practice Note 6: Soundness (DPPN 6) requires that 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; and 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. Given that there is no legal definition for 'take account of', I agree with the Council's position that the requirement does not mean that every provision of regional planning policy must be included within the PS in order to comply with Section 8(5) of the Act. The Council's evidence demonstrates that throughout the plan preparation process, it has made every effort to ensure that it has taken account of the RDS and the SPPS. Numerous representations considered that the dPS was unsound as various policies did not replicate provisions and the exact wording of policy or advice published by the Department. However, as stated in paragraph 5.23 of the SPPS, the overarching purpose of the plan strategy is to provide the strategic policy framework for the plan area as a whole and to bring forward a local growth strategy. As well as ensuring that an appropriate policy framework remains in place when the PPSs and relevant provisions of the PSRNI cease to have effect, paragraph 5.23 acknowledges that depending upon a council's objectives and local circumstances, it may also be appropriate to include additional strategic policies and proposals, zonings and designations specific to issues pertaining to the plan area, provided they are of a strategic nature.
- 1.23 Paragraph 6.3 of DPPN 7 also states that whilst a council must consider the various topic areas, it may only decide to include strategic policies and proposals to supplement the requirements of the RDS and SPPS on those topic areas which it

considers to be relevant and help to achieve its objectives for the local area. No policy omissions were identified with regard to regional planning policy and consultation was carried out with key consultees including DfI on the emerging regional policies with many policies in the dPS amended as a result. Where policies slightly deviate from the SPPS, this is set out in the dPS, accompanying background papers and in the Council's commissioned studies. Concern was raised that some policies did not contain all the relevant material considerations. However, as stated within paragraph 1.5 within Part One of the dPS, the dPS must be read holistically and the entirety of its provisions taken into account when considering development proposals. There is no need to replicate all material considerations within each policy. Such cross-referencing and unnecessary repetition of policy would make the plan cumbersome and lacking in clarity.

- 1.24 Alternatives for the approaches selected in the dPS have been considered at all stages throughout its preparation including in the SA Report which provides such justification. Appendix 4 within the SA Report (Document FODC 103), for instance, contains discussion tables and matrices assessing the various draft policies against the SA objectives and examines the possibility of reasonable alternatives. The POP also set out the main issues which derived from the topic papers and provided a set of alternative options on how policies could be developed to address these. Comments were invited on the options during the consultation exercise which provided an opportunity for alternative options to be raised. Alternative policy options were also considered by the LDP Members' Steering Group and by Councillors in the Councillor Workshops. I am therefore satisfied that this element of soundness test CE 2 has been met.
- 1.25 The dPS sets out in Table 1 within Part One of the Strategy the link between the dPS strategic objectives and those of the Community Plan. The Council's LDP Steering Group, which oversaw the formulation of the dPS policies, includes the Head of Community Planning therefore ensuring a close relationship between the Community Plan and the LDP. The public consultation on the POP was also conducted jointly with the consultation on the Draft Community Plan.
- 1.26 In addition to the Community Plan, Part One of the dPS provides details in relation to the Council's Corporate Plan and other plans and strategies which it has taken account of such as the Tourism Development Strategy 2016-2019. Extant and, if timescales in the publication permitted, emerging plans that cover adjoining districts were also considered. The SA Report details all the relevant plans, policies and strategies across the various levels and how these should influence the LDP policies. The Council also engaged in consultation exercises on plan documents from local authorities in Northern Ireland as well as the Republic of Ireland. A cross border planning meeting was held with four councils in the Republic (Donegal, Cavan,

Leitrim and Monaghan) which identified common issues of concern. Data has been shared in relation to wind energy development within 15km of the Council area's boundary in order to inform the Landscape Wind Capacity Study and, as part of the HRA, an assessment of the implications for international sites in adjoining jurisdictions where there is the potential for a transboundary effect was also undertaken. The Council is also represented in two forums which focus on issues relating to the Sperrin AONB and cross boundary/cross border issues. Although neighbouring councils are at different stages in the plan making process, there appears to be a clear understanding and a lack of conflict between the Council and the adjoining councils on the policy approaches being used to address these issues. I am therefore satisfied that this dPS has had regard to other relevant plans, policies and strategies relating to the council's district and to adjoining council districts.

## **2.0 VISION AND STRATEGIC OBJECTIVES**

- 2.1 A number of representations were received in relation to the strategic objectives contained within Table 1 Part One of the dPS. Strategic Objective 4, relating to the provision of new homes, and its accompanying footnote, as proposed to be amended by Recommended Amendment RA01 (RA01), appropriately reflects the revised HGI figure (September 2019) for the district. This amendment is therefore necessary to ensure that the policies logically flow. As will be discussed in greater detail in the report, this figure is linked to the Draft Policy SP03 Strategic Allocation and Management of Housing Supply.
- 2.2 Concern was raised that Strategic Objective 7, which relates to the promotion of economic development and growth, was not reasonably flexible to enable it to deal with changing circumstances and was not based on robust evidence. However, having examined three models, the Council's background paper on Employment, Industry and Business (Document FODC 209, June 2020) utilises Model 3 (based on applying the average number of jobs created between 2001 and 2013) which applies an average of 325 jobs per annum, thus resulting in 4,875 jobs over the plan period 2015-30. This was much higher than Model 2, which was based on population growth and employment, which calculated 1,856 new jobs which largely reflects the slow rate of growth predicted over the period. The selected Model 3 does not differentiate between full and part-time jobs in order to provide a generous choice of land for economic development. Utilising research by Colliers CRE, Touche Ross for Craigavon Economic Revitalisation Strategy 1994-2000 and surveys of industrial estates carried out by the former Department of the Environment Planning Service, a density of 50 new jobs per hectare was estimated therefore resulting in a need for 34 hectares (ha) of industry and business land under Model 2 compared to 90ha using Model 3. Model 1 was based on the amount of land developed to date and calculated a need for 50ha. The Council chose Model 3 to build in as much flexibility and choice as possible over the plan period and to be able to adjust to changing economic circumstances. The majority (80%) of the new jobs are also expected to be provided within the service sector which is mostly found in the town centres and other locations better suited for shops, restaurants, offices and public and community services. Having examined the evidence base, I am satisfied it is robust taking account of the circumstances in the district and therefore I accept the Council's approach to be sound.
- 2.3 Strategic Objective 15 seeks to sustainably manage and safeguard where appropriate the Council's natural resources, protecting the environment and providing sustainable services to meet its population's needs. Given that improving health and well-being is identified as a core planning principle within the SPPS, the inclusion of public health as part of Objective 15 is necessary in order to take account of the SPPS and meet soundness test C3 (Recommended Amendment RA02).



- 2.4 As the SPPS aims to further sustainable development, the title of Draft Strategic Policy SP01 Furthering Sustainable Development is appropriate. In order to take account of paragraph 5.72 of the SPPS, it is necessary for soundness test C3 for Recommended Amendment RA03 to Draft Strategic Policy SP01 to reflect the demonstrable harm test in the SPPS. To take account of Draft Policy SP01, it is necessary to amend paragraph 1.3 within Part Two of the dPS to include text referring to the precautionary principle (Recommended Amendment RA09). As a central challenge in furthering sustainable development is mitigating and adapting to climate change, as outlined in paragraph 3.10-3.13 of the SPPS, it is appropriate that this is dealt within the dPS.
- 2.5 Subject to the recommended amendments identified (RA01-03), the Vision and Strategic Objectives of the dPS is sound.

### **3.0 SPATIAL GROWTH STRATEGY**

- 3.1 Draft Strategic Policy SP02 Settlement proposes a settlement hierarchy for the district consisting of main and local towns, villages, and small settlements. Representations were received seeking Killyclogher, which is included within Omagh within the Omagh Area Plan (OAP), to be identified as a village/suburban village. Killyclogher has facilities such as a Church, Parish Hall, Primary School, and a number of retail commercial units which provide important services to the local community. However, there is a continuous built form from Omagh, Killycogher is indistinguishable from it, and it lacks a sense of being a separate entity. Any future growth in this area would arise due to its inclusion within the development limit of Omagh. I am not persuaded that the sense of identity experienced by its inhabitants would not be similar to communities living in other areas of the main town and substantive evidence was not provided to support the claims as to why people chose to reside here. Therefore, its inclusion within the settlement hierarchy is not justified nor is it warranted for soundness.
- 3.2 A number of representations were received requesting that changes be made to the status of various settlements in the settlement hierarchy. The small settlements are at the lower level of the settlement hierarchy and are expected to provide only limited opportunities for new development. Clanabogan is a small settlement which has six separate nodes or clusters. Over the years many of the nodes have experienced significant housing growth. It is acknowledged that Camphill Community Clanabogan makes a significant contribution to the community in providing domiciliary care, day and work opportunities for adults with learning disabilities and complex needs as well as making a considerable financial contribution to the local economy. Arguments were however presented at the relevant hearing session which went beyond the previous written submission by Camphill Community Clanabogan. That said, given that the focus of growth should be directed towards the towns rather than enlarging a small settlement with existing capacity, the evidence presented does not persuade me that it would be appropriate to include their facility as part of Clanabogan small settlement at this stage. Given that its location outside a settlement has not hindered its development, I am not persuaded by the arguments that its exclusion from Clanabogan would prevent its evolution and ability to adapt to the various challenges that may arise. The Council has provided an extensive evidence base, including the Omagh Area Plan (OAP), Position Paper 12 Strategic Settlement Evaluation (2015) and Countryside Assessment (2018), to support their consistent approach to the identification of the settlement hierarchy and therefore it meets soundness test CE2.
- 3.3 Aghadrumsee consists of two nodes, and it was requested that it be classified as a small settlement. The Council indicated in its Consultation Report (Document FODC 109) that it was not averse to including the easterly node as a small settlement.

However, the Council concluded that it would exclude the western area and any settlement limit would be drawn around the built development with no additional land included. Any allocation of housing to the new settlement would be limited to one or two dwellings. Given this and that its designation as a small settlement would result in the remaining area of Aghadrumsee not being recognised as a Rural Community Area (RCA) due to its proximity to the new settlement, the Council concluded that it would not be logical or advantageous to its residents to designate part of Aghadrumsee as a small settlement. The failure to designate Aghadrumsee as a small settlement does not give rise to a concern in relation to soundness.

- 3.4 Based on the evidence of its limited size, modest scale of development and absence of WWTW facilities, the evidence base does not justify Clough being identified as a small settlement.
- 3.5 Representations sought that the 11 existing Dispersed Rural Communities (DRCs), identified in the Fermanagh Area Plan (FAP), should be included within the settlement hierarchy and that those with sufficient facilities and infrastructure should be upgraded to small settlement status. However, as set out in the Countryside Assessment, the extent of the DRCs and the dispersed rural nature of their development does not meet the dPS's definition of a small settlement. In order to adopt a consistent approach to development in the countryside across the district, given the dispersed rural settlement pattern within the DRCs with minimal consolidation or clustering of existing focal points and the lack of evidence to support their continued designation, which is not provided for in the SPPS, the Council's decision to not include them in the settlement hierarchy, which they were never apart of, is robust and logical. As will be addressed later within the report, it is however the Council's intention that these DRCs will be considered as Rural Community Areas (RCAs) within the dPS. Given the current presence of DRCs; representations made in response to the POP; that this is the largest and most peripheral rural council area in Northern Ireland with areas remote from facilities in settlements; that it has the lowest population density; has been found to have still the capacity to absorb further sustainable development; and given the robust evidence base presented by the Council, I consider this approach to be coherent and logical.
- 3.6 Draft Strategic Policy SP03 Strategic Allocation and Management of Housing Supply makes provision for new homes in the settlements. Housing Growth Indicators (HGIs) are issued by DfI based on a sound evidence base prepared by NISRA and provide an estimate of future housing need within Northern Ireland's 11 local council areas. The time period for the indicators is also calculated as part of the HGIs. In light of the revision of the HGIs in September 2019, the Council stated that there is now a housing need balance within the settlements of 2,608 for the period from April 2019 to March 2030. This is reflected in proposed Recommended Amendment RA04

discussed at the IE sessions and is contained within the Updated Housing Paper (Document FODC 309, 2019, page 4). In addition, the updated Table 4 contained within Recommended Amendment RA05 provides the housing need for the main and local towns, together with an overall figure for villages and small settlements. These recommended amendments (RA04 and RA05) are necessary to ensure that the dPS sets out a coherent strategy from which its policies and allocations logically flow. An indication of the breakdown for all settlements is contained within Table 2.2 of Appendix 2 of the Updated Paper (pages 17 and 18). It is however accepted that it would not be appropriate for this full breakdown to be contained within the dPS as more detailed analysis will take place at the LPP stage. At that stage, for instance, short-term infrastructure capacity limitations, current growth rates and housing commitments can be taken into account and adjustments made. This is reflected in Recommended Amendment RA06 meeting soundness tests CE2 and CE4. The Council do not however anticipate any significant adjustments having to be made at the LPP stage as it has already undertaken strategic infrastructure considerations when identifying settlements and their anticipated growth. It does however allow for any changes to be considered in the intervening period between the adoption of the Plan Strategy and the LPP.

- 3.7 The 2019 Updated Housing Paper (page 31) states that there are 4,511 'hard commitments' and 8,892 'soft commitments' within the council area's settlements with the December 2020 Annual Housing Monitor indicating that the remaining housing potential in all the settlements is 15,800. These figures do not take account of the countryside where there is an average rural approval rate of 66 dwellings per year (Paragraphs 6.1 and 6.6, Updated Housing Paper, 2019). It would also appear that an allowance for windfall sites is to be applied at the LPP stage (Draft Plan Strategy Consultation Report, Document FODC 109, page 17) and the Updated Housing Paper states that this could equate to approximately 441 housing units (page 43). In apportioning significantly fewer units to the main and local towns within Draft Strategic Policy SP03, concern was therefore raised that the growth strategy does not appear to account for, or reflect, the true extent of the housing growth commitments.
- 3.8 The Fermanagh Area Plan (FAP) and OAP have very limited mechanisms to control the location of residential development within their generous adopted settlement limits, with a general presumption in favour of development on whiteland as well as on zoned housing sites. Having taking account of paragraph 6.139 of the SPPS, which was reflected in their Updated Housing Paper and Sustainability Appraisal, the Council sought to address the existing oversupply of housing at present to promote future sustainable patterns of growth.
- 3.9 In order to establish a robust evidence base for their housing requirement figure, they took account of the HGIs as well as other factors including housing

commitments and historic annual completion rates in the district. They found that the annual completions rate between the period 2012-2109 was broadly in line with the HGI figure thus supporting their evidence-based position that the HGI figure for the plan area is closer to the actual housing need than the number of commitments which they consider to be inflated for various reasons including: the historically permissive policies in the older area plans; speculative planning applications; and applications received following the publication of the dPS. Given that the Council's robust evidence demonstrates that HGI figure can meet future housing needs, there is no basis to rely on the suggested build rates for 1998-2013.

- 3.10 So as to address the legacy of commitments within the district, the oversupply of housing, the potential for this to continue and in order to set out a coherent strategy from which its policies logically flow, Draft Strategic Policy SP03 (as amended by Recommended Amendments RA07 and RA08), states that housing land within the main and local towns is to be released in 2 phases which will be identified within the LPP. As stated in Recommended Amendment RA08, having taken account of committed housing sites with extant planning permissions or sites which are being developed, Phase 1 sites will be identified to meet any remaining need over the plan period; the addition of the word 'once' would clarify the intention of this policy.
- 3.11 A criteria-based approach to selecting sites for each phase is to be undertaken at the LPP stage and is to include the prioritisation of brownfield land within the urban footprint. An Urban Capacity Study (UCS) and windfall assessment has been conducted since the publication of the dPS with the findings contained within the Updated Housing Paper (2019). It is estimated that approximately 441 dwellings units are likely to be delivered on windfall sites. Concern was raised that there was no allowance for windfall at the village and small settlements tiers. An UCS is only required for settlements of over 5,000 population, such as Omagh and Enniskillen. However, the Council has also included the five local towns in their assessment as they contain land zoned for housing. Phase 2 sites are to be identified for allocation beyond the plan period i.e. after 2030 and are only to be released at an earlier time where it is evident that these housing sites will be required to meet housing need within the plan period. Together with Policy HOU01 Housing in Settlements, as amended by Recommended Amendment RA18, which only allows housing on unzoned greenfield land within the settlement limits where it meets the identified exceptions, this should ensure that if any additional housing land is required once account is taken of committed sites and those being developed, it will be managed in a sustainable manner. This ensures that it takes account of Paragraph 6.140 of the SPPS which states that a 'plan, monitor and manage' approach is necessary to ensure that, as a minimum, a 5-year supply of land for housing is maintained.
- 3.12 In terms of concern that the policy is too restrictive and inflexible, there is a significant over-supply of land for housing within the settlements and there is a need

to manage it in a suitable manner by phasing its release or identifying Housing Policy Areas. Policy HOU01, as amended by RA18, also allows for housing on unzoned greenfield land within the settlement limits of a main or local town where it meets the identified exceptions. Requests to include land within specific settlement limits are matters to be considered at the LPP stage.

- 3.13 In terms of the allocation of growth to each settlement, as stated within the Updated Housing Paper (2019), the Council has based this on its share of households at the time of the 2011 census which appears to be a logical approach. The allocation identified in the dPS is said to be an indicative figure only, subject to further refinement at the LPP stage when various factors are considered such as its facilities, accessibility, and infrastructure capacity. The Council's evidence base included a strategic evaluation of settlements (Document FODC 226, 2015). In terms of accessibility, the strategic evaluation resulted in the reclassification of a number of villages as small settlements in recognition of their size and limited services. The adequacy of the infrastructure required to deliver the growth in the settlements was however identified as an issue of concern by several parties. In addition to the strategic evaluation of settlements, the Council sought to update the information on wastewater treatment capacity on a number of occasions however this evidence was not forthcoming until after the publication of the dPS. The Council has since published a Public Utilities paper (Document FODC 233, 2020) which analyses the capacity of the various settlements and this contains details provided by NI Water (NIW), who is responsible for the provision of waste treatment facilities, of the available capacities (current capacity and estimation of growth-based capacity) of existing wastewater treatment works (WWTW) and network capacity within the council area. Nine villages and small settlements were indicated as having no remaining capacity with all, except the small settlement of Garvaghey where 2 housing units are said to allocated, to have an upgrade to their works carried forward as part of a programme of works planned for 2021-2027 which is to be reviewed and is subject to funding. From analysing the Updated Housing Paper (Document FODC 309, November 2019) the 9 settlements would account for approximately 80 units of the overall housing requirement for the plan area. Only three settlements (Drumquin, Mountfield and Garvaghey) however have not approved hard commitments in excess of their indicative housing requirement and, taking account of their hard commitments, these account for a modest 32 units.
- 3.14 The NIW report also indicated that the Enniskillen Drainage Area Plan (DAP) and Omagh DAP have identified significant deficiencies within the existing sewerage network, with part of it operating significantly above design capacity. However, the Council has indicated in their response to the Commission dated 4<sup>th</sup> October 2021 that the plan process for both drainage plans will identify solutions to address the issues and that they will be prioritised in the NIW PC21 Business Plan. It is also noted that in this plan area a material contribution to its housing need is likely to come

from existing commitments which may already have been taken into account in the assessment of capacity constraints. The Council intend to take account of the wastewater system capacity when allocating and managing the provision of housing in consultation with NI Water during the preparation of the LPP to ensure that development land is zoned in areas where the headroom capacity of existing WWTWs is such that development can be supported by sewerage infrastructure. I am therefore satisfied that the Council has taken account of the existing sewerage network constraints in their strategic assessment of settlements and in their overall formulation of the dPS.

- 3.15 Concern was raised that the allocation of housing to the main towns under Draft Strategic Policy SP03 and the addition of a number of draft policies potentially providing additional development opportunities in the countryside was inconsistent with the Spatial Growth Strategy objective to strengthen the role of the hubs. The Council however presented evidence that approximately 46% of population live in the open countryside and therefore they considered that the policy approach for new houses in the countryside should respond to the needs of both farming and non-farming community. In 2011 it was estimated by the Council that at least one third of all households in the countryside were farm dwellings. Between 2012-19 85% of planning approvals in the countryside were for farm dwellings, approximately 11% were for infill opportunities with the remaining sites being approved within existing clusters, conversions and due to personal circumstances. Therefore, only a small proportion of planning approvals were for non-farming rural dwellers and the practice of selling off sites to non-farming dwellings was considered to be in decline. To address this issue by sustaining strong and vibrant rural community, the Council therefore identified the need to bring forward policies which can provide additional opportunities for non-farming rural dwellers whilst taking account of the SPPS's approach of re-using, clustering and consolidating development in the countryside. Additional opportunities within Draft Policies HOU10, HOU11, HOU13 and HOU14 were identified, each of which will be considered later in the report under Housing in the Countryside. However, strategically, paragraph 6.68 of the SPPS states that in preparing LDPs councils shall bring forward a strategy for sustainable development in the countryside, together with appropriate policies and proposals that must reflect the aims, objectives and policy approach of the SPPS, tailored to the specific circumstances of the plan area. The Council's coherent and robust evidence base demonstrates that it has assessed the specific circumstances of the plan area including the capacity of some of the landscape to absorb new development without detriment to its rural character, reduced levels of growth, population density, geographical mass, the effectiveness of current planning policies in sustaining rural communities, the lack of policy provision for non-farming rural dwellers and the high number of farms in the district. In doing so, the dPS successfully seeks to achieve

sustainable forms of development within the countryside that is tailored to the area's specific circumstances.

- 3.16 Account has been taken of the RDS (namely SFG12 and 13 and paragraph 3.21), the SPPS (paragraphs 6.64 and 6.136) and the POP. Given this and the high percentage of the population currently residing in the countryside, I therefore accept that the allocation of 23% of the growth to the countryside and 77% of growth to the settlements is appropriate. This is in keeping with the average rate of rural planning approvals since 2012, with 47% of the growth going to the two main town. This represents a fair and balanced response to strengthen the two hubs at the same time as sustaining the Council's rural community thus responding to their local circumstances.
- 3.17 The Council are of the opinion that rural completions which pre-date the current policy context should not count towards the overall HGI allocation to the countryside for numerous reasons including that they are a legacy of a time when policies were more relaxed under PSRNI. The latest 2019 version of the HGIs use 2016 based household projections and have been calculated for the time period 2016-2030 to align with the framework for the majority of the LDPs; it is these that I am considering. As stated within paragraph 2.1 of the DfI Housing Growth Indicators 2016-based document (September 2019), the HGIs were produced in the RDS primarily to provide guidance for those preparing development plans by giving an indication of where development is mostly likely to be needed given the current understanding of population, current data on the household infrastructure and expected population growth. The estimates of the new dwelling requirements for each of the council areas, which were purely for guidance, were stated not to be considered as a cap or a target on development and, as such, were to represent a robust starting point which can be considered while also taking account of the full range of factors that may influence housing requirements over the plan period in terms of how many houses are needed. Therefore, whether or not the rural completions which were approved under a different policy context are included within the Council's HGI allocation is a matter for the Council. In terms of the current IE process, I am satisfied that the Council has taken account of the RDS and the SPPS in strategically allocating and managing the supply of housing, they have availed of the most robust, up-to-date information and there are clear mechanisms for monitoring the rural completions (Indicator 1 within the Indicative Monitoring Framework) thus meeting soundness tests C3 and CE3.
- 3.18 Draft Strategic Policy SP04 Strategic Allocation of Land for Industry and Business outlines that the dPS will make an allocation of circa 90 hectares of industry and business land within the council area, which will include new and carried forward undeveloped zoned industry and business land. The Council stated that an assessment of all existing undeveloped zoned industrial land is going to be



undertaken at the LPP stage utilising the RDS's Employment Land Evaluation Framework and taking account of paragraph 6.92 of the SPPS which includes a range of factors, not just physical constraints as suggested by a representation. Rather than simply transposing previously zoned land, this will allow the best employment sites to be retained and protected whilst identifying other land that should be released for other uses. I consider this to be a coherent approach. Matters in relation to the rezoning of specific lands are considerations for the LPP stage.

- 3.19 Concern was raised that the dPS should be consistent with the objectives and measure contained within DfI's Local Transport Strategy (LTS). A suggestion was also made that there should be a strategic transportation policy. DfI have however decided not to publish an LTS. The wording of the transportation section contained within paragraphs 6.29-6.33 of the dPS has been agreed with the relevant transportation authority. Numerous strategic objectives of the dPS address the issue of transportation including Strategic Objective 10 which seeks to support the provision of an accessible, integrated, safe, and sustainable transport network and locate development to improve accessibility by public transport, cycling and walking, help reduce car dependency and the impact of traffic. This combined with the provisions contained within Draft Policies TR01-06 is sufficient to ensure that transportation is a material consideration in the planning process.
- 3.20 Having taken account of the provisions within the SPPS and the RDS, the Council have set out coherent and robust evidence for their fair and balanced approach which seeks to strengthen the two hubs whilst sustaining the strong and vibrant rural community. They have utilised the information at their disposal and tailored their approach to the specific circumstances of the plan area. I considered the Spatial Growth Strategy, subject to the recommended amendments RA04-09, to be sound.

## **4.0 DEVELOPMENT AND DESIGN**

- 4.1 Draft Policy DE01 General Amenity Requirements sets out how the Council will not support development proposals where they would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Having taken account of paragraphs 2.3, 4.11, 6.42, 6.52, 6.56, 6.57, 6.212-6.214 of the SPPS and Policy MIN6 Safety and Amenity of A Planning Strategy for Rural Northern Ireland, the Recommended Amendments RA10 and RA11 are necessary in order to meet soundness test C3. The word ‘amenities’ is referred to within paragraph 2.3 of the SPPS and is sufficiently clarified within paragraph 2.4 of Draft Policy DE01.
- 4.2 As the submission of a design and access statement is a statutory requirement under the Planning (General Development Procedure) Order (NI) 2015 and the Planning Listed Building Regulations (NI) 2015, the Council’s proposed amendment 14 is not required to make the plan sound and is a matter for the Council.
- 4.3 Draft Policy DE02 Design Quality sets out a number of transportation considerations which should help to promote more effective integration between land use planning and transport. The integration of sustainable modes of transport within criterion (b) refers to walking and cycling as examples. Recommended Amendment RA12 to paragraph 2.11 provides a coherent definition of the connectivity by different travel modes and is necessary to meet soundness test CE1 as it would logically connect with Draft Policy TR01 Land Use, Transport and Accessibility. It is unnecessary for Draft Policy DE02 to make specific reference to the supplementary guidance Creating Places: Achieving Quality in Residential Environments as paragraph 2.15 within Part One of the dPS states that Creating Places supports the wider regional policies relevant to the council area. DfI have also indicated that this guidance will be retained after the expiry of the transitional period unless and until it is replaced by a subsequent document.
- 4.4 In formulating Draft Policy DE03 Sustaining Rural Communities the Council has taken account of Policy CTY 1 Development in the Countryside within PPS 21 Sustainable Development in the Countryside which does not consider the accessibility of locations. The suggestion was made that Draft Policy DE03 should state that it applies to draft policies HOU05-07. Draft Policy HOU05 Shaping Our Houses and Homes is already referenced within Draft Policy DE03 and Draft Policy HOU06 Public Open Space in New Residential Developments and Draft Policy HOU07 Conversion and Change of Use of Existing Building to Self-Contained Flats are not applicable within a countryside location. In order for the dPS to be coherent and logically flow to meet soundness test CE1, it is necessary that Draft Policy DE03 be amended as per Recommended Amendment RA13 to add the reference to Draft Policy TR03 Provision of Park and Ride and Park and Share car parks as these could be in a countryside location.

- 4.5 Concern was raised that Draft Policy DE04 Integration and Design of Development in the Countryside would further restrict development in the rural area. However, the Council has taken account of paragraphs 4.30, 6.69 and 6.70 of the SPPS and Policy CTY 13 Integration and Design of Buildings in the Countryside of PPS 21. It therefore meets soundness test C3. Draft Policy HOU 12 Dwelling on a Farm Business permits a dwelling on a farm business which meets the relevant policy tests.
- 4.6 A representation was submitted stating that Draft Policy DE06 The Setting of Settlements was too rigid in nature as it would restrict the future growth of settlements and highlighted that there was a lack of available and affordable land within settlement limits. The draft policy however takes account of paragraph 6.71 of the SPPS and Policy CTY 15 of PPS 21 and therefore meets soundness test C3. The availability of housing opportunities and affordable housing are dealt with later within this report.
- 4.7 Draft Policy DE07 Advertisements takes account of paragraph 6.60 of the SPPS and paragraph 4.2 of Policy AD1 of PPS 17 Control of Outdoor Advertisements which state that particular care is necessary to ensure that advertisements do not detract from the unique qualities and amenity of the countryside. Criterion (b) of Draft Policy DE07 replicates criterion (ii) of Policy AD1 of PPS 17. Given the legislative requirements under Regulation 3 of the Planning (Control of Advertisements) Regulations (NI) 2015 and the provisions within paragraph 6.54 of the SPPS and PPS 17 which state that public safety includes road safety, Recommended Amendment RA14 is necessary in order to meet soundness tests C3 and CE1.
- 4.8 Paragraphs 6.14, 6.20 and 6.23 of the SPPS, Policies BH 9 and BH 13 of PPS 6 and Policy ATC 3 of the Addendum to PPS 6 set out separate policies on the control of advertisements on a Listed Building, within a Conservation Area and Area of Townscape Character (ATC). The dPS however contains a single policy to deal with the matter, Draft Policy DE08 Advertisements and the Historic Environment, as the Council consider that this provides a clearer, more user-friendly and avoids duplication. Listed Buildings, Conservation Areas and ATCs however require different considerations that reflect and respect their tier within the historic hierarchy and their statutory protection. Whilst reference is made to Listed Buildings and Conservation Areas, ATCs are not specifically referred to within Draft Policy DE08. Paragraph 2.29 of Draft Policy DE08 highlights that additional guidance on the display of advertisements is available within the relevant Conservation Area booklets/design guides and Appendix 1 of the dPS provides general guidance for different categories of outdoor advertisements, however this does not provide specific policy considerations for such proposals within the various elements of the historic environment. As a result, in order to meet soundness test C3 and CE1, it is necessary that Draft Policy DE08 be amended (RA15). The clarification text within Paragraph 2.29 should also be amended to reflect these changes.

- 4.9 It is unnecessary to state that Historic Environment Division (HED), who are a statutory consultee, can be contacted in relation to providing guidance as to what is required during the development management process or in terms of the legislative requirement for listed building or scheduled monument consents. Ensuring that the advertisement would not be detrimental to public safety is covered elsewhere within the dPS including Draft Policy DE02, as discussed earlier in this report. Likewise, Recommended Amendment RA17 is necessary as its content is adequately addressed within HED guidance and HED welcome the omission.
- 4.10 In order to meet soundness test CE1 Recommended Amendment RA16 introduces necessary guidance on LED digital advertisement displays. Whilst it is appreciated that such displays on or within the setting of a Listed Building, Scheduled Monument, State Care Site, Conservation Area or ATC may detract from their essential character, appearance and setting, I am satisfied with the Council's position that there is not a robust evidence case to impose a presumption against such advertisements. Furthermore, it is also noted that paragraph 6.59 of the SPPS refers to adequately controlling signs involving illumination and to protect features such as Listed Buildings and Conservation Areas from the potential adverse effects of advertising. Draft Policy DE08 as amended above will offer the required level of protection.
- 4.11 The policies contained within the Development and Design section of the dPS logically flow and connect with other policy provisions within the Strategy. The Council has taken account of the Department's published policy and guidance. It is appreciated that the Council are aiming to produce a user-friendly, concise document however the proposed amendment to Draft Policy DE08 Advertisements and the Historic Environment is necessary in order to ensure that this is not at the expense of protecting the historic environment. Subject to the amendments discussed above (RA10-17), the Development and Design section of the dPS is however sound.

## **5.0 PEOPLE AND PLACES**

### **Housing in Settlements**

- 5.1 It is intended that over the plan period most of the housing need will be delivered through existing commitments which are on both greenfield and brownfield sites. The title of Draft Policy HOU01 Housing in Settlements and Windfall Sites Main and Local Towns should be amended in order to meet soundness test CE1 as per Recommended Amendment RA18. This is necessary in order to include the reference to windfall sites as this is what the policy applies to and to distinguish it from Draft Policy SP03 Strategic Allocation and Management of Housing Supply. Recommended Amendment RA18 is also required in order for the intention of the policy to be coherent and logically flow. Together with Policy SP03, it sets out a coherent, evidence-based strategy which addresses the significant over-supply of land for housing within the settlements including on greenfield sites and seeks to prevent the further unsustainable release of greenfield sites within settlements.
- 5.2 Draft Policy HOU01 does not presume that all housing sites are going to be on brownfield land. The clarification provided by Recommended Amendment RA19 is necessary to meet soundness test CE3 in order to explain how the policy will be applied in the interim stage after both the adoption of the Plan Strategy and the LPP. Given the level of commitments within the district and the proposed criteria outlining the exceptional circumstances, there is likely to be limited housing permitted on unzoned greenfield sites. It does however allow flexibility should there be a change in circumstances within the plan area. The Council have stated that it would be possible for land to be allocated for affordable housing at the LPP stage when a housing need has been identified.
- 5.3 Calls were made for the need for a Housing Needs Assessment (HNA) requirement within Draft Policy HOU03 Affordable Housing to be removed. However, as part of the process of allocating housing land, paragraph 6.139 of the SPPS states that the HNA/Housing Market Analysis (HMA) provides an evidence base that must be taken into consideration in the allocation, through the development plan, of land required to facilitate the right mix of housing tenures, including affordable housing. Paragraph 3.3 of the SPPS calls on planning authorities to deliver on all three pillars of sustainable development in formulating policies and plans including on the needs and aspirations of society in terms of facilitating sustainable housing growth in response to changing housing need which includes the delivery of social and affordable housing.
- 5.4 The Council took account of RG8 Managing housing growth to achieve sustainable patterns of residential development within the RDS; this acknowledges that the varied housing needs of the whole community need to be met and this includes ensuring the availability of affordable housing. The lack of affordable housing within

the district was also identified by representations in the POP. There is no need to identify who undertakes the HNA as paragraph 6.143 of the SPPS states that it will be the NIHE or the relevant housing authority. The findings of the NIHE Housing Needs Test should help to identify any need in rural areas. I am therefore satisfied that in relation to this matter the Council has followed the correct procedure of taking account of representations made in relation to the POP and has taken account of the Departmental policy and guidance provisions.

- 5.5 Objection was raised in relation to the use of triggers for affordable housing (AH) within Draft Policy HOU03. Paragraph 6.143 of the SPPS states that the development plan process will be the primary vehicle to facilitate any identified need by zoning land or by indicating, through key site requirements, where a proportion of a site may be required for social/affordable housing. However, the Council presented robust evidence that there is a significant over-supply of land for housing on land which has existing commitments that are unfettered with a requirement for AH and therefore an alternative approach to address the need had to be developed. The policy would only deliver AH on sites which obtain planning permission post adoption of the Plan Strategy. Given that the Council's analysis indicated that there would be a limited number of affected sites, a low threshold would be required to maximise the number of housing units that can be sought. The Council also presented evidence that over the last 10-year period sites which have included a social housing element had on average 10% of the houses as social housing units demonstrating its deliverability. Having liaised with NIHE, who I accept have extensive expertise on the matter, the Council's thresholds have therefore been set according to local need, the level of committed housing sites and their deliverability.
- 5.6 Given that the delivery of AH is unlikely to significantly exceed the overall requirement, it should not put unnecessary pressure on the viability or deliverability of housing. NIHE also confirmed to the Council that most AH housing will be financed through the Housing Association Grant. This would make the majority of the schemes financially viable. Following discussions at the hearing session, it is however appropriate to meet soundness test CE2 for Draft Policy HOU03 to state that where it is demonstrated that a development is not viable, a reduced or alternative provision of affordable housing may be acceptable (RA20). This is realistic and appropriate for the plan area. Recommended Amendment RA20 would also appropriately confirm that development viability would be a material consideration during the development management process. The Council have considered the relevant and reasonable alternatives to the trigger proposed. However, to reduce the trigger would challenge the dPS's ability to achieve a mix of units and to increase it would result in it applying to a reduced number of sites. The proportion is set as a minimum allowing for a higher figure to be delivered voluntarily or if a site is identified in the LPP for AH and there is sufficient justification.

- 5.7 Whether prematurity would arise in relation to planning applications submitted prior to the adoption of the LDP is a matter for the development management process. Calls were made for a new Planning Policy Statement to be issued in relation to AH however under the transitional arrangements contained within the SPPS, the existing suite of PPSs, together with the remaining provisions of A Planning Strategy for Rural Northern Ireland, will be cancelled when all eleven councils, including Fermanagh and Omagh District Council, have adopted a new Plan Strategy for the whole of their council area.
- 5.8 Paragraph 3.14 of Draft Policy HOU03, which should be amended by Recommended Amendment RA21 to meet soundness test CE3, allows for the delivery of AH by planning conditions or by legal planning agreement. The Council has presently no evidence to support the need for a developer to contribute to AH and this is not a requirement within regional policy. The suitability of AH for all age groups is addressed in Draft Policies DE02 Design Quality and HOU05 Shaping Our Houses and Homes therefore taking account of paragraph 6.137 of the SPPS. The financing and management of AH is to be governed by NIHE along with the registered providers. As the policy requires that residential schemes should be designed to integrate seamlessly, with no distinguishable design differences between the housing market and AH, it is unnecessary for it to state that where possible and practical the AH units should be dispersed throughout the development. No such policy is contained within the SPPS. Draft Policy HOU05 together with Draft Policy HOU03 will ensure that all housing is of a sufficient standard and quality; there is no requirement within the SPPS to meet DfC's Housing Association Guide standards and this could provide inflexibility and become outdated in time. For Draft Policy HOU03 to define the split between social housing and intermediate housing would result in the policy being inflexible thus failing to meet soundness test CE4. The mix of AH could be established during the development management process from assessing the HNA, which would be a material consideration, as well as from consulting with NIHE. In order to meet soundness test CE1, updating the dPS's glossary to provide a definition of 'intermediate housing' which reflects that used by the Department for Communities should address concern about how it is classified (Recommended Amendment RA131).
- 5.9 Draft Policy HOU04 Traveller Accommodation suitably takes account of the policy provisions within the SPPS and substantive evidence was not presented to support an alternative policy approach. This policy as worded is sound.
- 5.10 It was suggested that Draft Policy HOU05 Shaping Our Houses and Homes include additional criteria requiring that all new homes be designed to Lifestyle Homes Standards. However, I accept the Council's justification as to why, at this time, it would be impractical to introduce and enforce such a requirement, why it is likely to become obsolete and that there is no such requirement within the SPPS. However,

the Council has calculated that approximately 10% of the housing growth over the plan period would need wheelchair standard housing units, to meet soundness test CE1 Recommended Amendment RA22 is necessary so that it is coherent and logically flows. In terms of defining a specific separation distance from overhead lines, having taken account of paragraph 6.249 of the SPPS, it is reasonable for the Council to conclude that there is no definitive guidance on separation distance and I find that what is stated within the dPS in relation to this matter is sound.

- 5.11 Draft Policy HOU06 Public Open Spaces in New Residential Developments takes account of Policy OS 2 Public Open Space in New Residential Development of PPS 8 and paragraph 6.206 of the SPPS, the provisions of which the Council has found to be effective within the council area. Any shortcomings in the provision of equipped children's play area will be identified by the Council at the LPP stage and where appropriate the Council have indicated that this could be the subject of a key site requirement.
- 5.12 The dPS's policies in relation to Housing in Settlements, subject to the amendments discussed above (RA 18-22 and RA 131), have therefore been found to be sound.

#### **Housing in the Countryside**

- 5.13 Paragraph 6.73 of the SPPS and Policy CTY 3 Replacement Dwellings of PPS 21 provide for the replacement of dwellings in the countryside and neither include an abandonment test. Given that a proposal would be replacing an existing building which exhibits the essential characteristics of a dwelling, as a minimum has all external walls substantially intact, would be located within the original curtilage and not to have a visual impact significantly greater than the existing building, the statement within paragraph 3.35 of the dPS that it is an opportunity to upgrade housing stock whilst minimising landscape and visual impact is reasonable. The visual impact of a proposal to replace a rural dwelling is not comparable with other types of development such as that for wind energy. In more sensitive landscapes, the policy provisions of Draft Policies L01 and L02 would offer the necessary protection, with development only permitted in the identified exceptional circumstances in Special Countryside Areas.
- 5.14 Having taken account of paragraph 6.73 of the SPPS, it is appropriate for Draft Policy HOU09 Rural Replacement Dwellings to require that all external structural walls be substantially intact. To be coherent with Draft Policy HOU09 and to take account of the policy provisions of PPS 21, paragraph 3.37 of the policy clarification text should be amended as per Recommended Amendment RA23 in order to support the intent of the policy. Draft Policy HOU09 has taken account of Policy CTY 3 of PPS 21 in terms of when proposals involving the replacement of an unlisted vernacular dwelling will be permitted. However, in order to ensure the protection of unlisted vernacular dwellings and to be consistent with the approach adopted within Draft



Policy HOU10, which relates to the replacement of other rural buildings, and as well as with Draft Policy HE09, which relates to when a change of use, conversion or re-use of an unlisted locally important building or vernacular building is possible, to meet soundness test CE1, a criterion should be added to Draft Policy HOU09 stating that the existing building is not suitable for conversion under Draft Policy HE09 (RA24). There is no need to provide additional clarification text in relation to the evidence that would be required to demonstrate that a dwelling cannot be adapted due to structural instability.

- 5.15 Paragraph 6.68 of the SPPS states that in preparing LDPs councils shall bring forward a strategy for sustainable development in the countryside, together with appropriate policies and proposals that must reflect the aims, objectives and policy approach of the SPPS, tailored to the specific circumstances of the plan area. The Council's evidence base demonstrates that it has assessed the specific local circumstances of the plan area including the reduced levels of growth, population density, geographical mass, the effectiveness of current planning policies in sustaining rural communities and the lack of policy provision for non-farming rural dwellers. Having taken account of paragraph 6.68 of the SPPS, in formulating Draft Policy HOU10 Replacement of Other Rural Buildings, the Council has also taken account of the policy provisions of Policy CTY 3 of PPS 21 which states that favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling where it would bring significant environmental benefits and provided the building was not listed or otherwise make an important contribution to the heritage, appearance or character of the locality. In order for the plan to logically flow, Recommended Amendment RA25 is necessary to meet soundness test CE1 to ensure that a proposal meets all the identified criteria.
- 5.16 Vernacular buildings are built heritage assets as highlighted in paragraphs 6.1 and 6.24 of the SPPS. Concern was raised that there was the potential for conflict between Draft Policy HOU10 and Draft Policy HE09 which seeks to secure their upkeep and retention. Given that the SPPS and Policy CTY 3 of PPS 21 calls for a balanced judgement to be made regarding their contribution, I consider criterion (c) of Draft Policy HOU10 to be appropriate. The incorporation of exclusions into the draft policy would ensure that certain types of buildings would not be permitted for replacement such as a steel framed building designed for agricultural purposes. Although it is not possible to accurately quantify, the Council's assessment that opportunities for replacement under this policy are likely to be quite limited and this could be monitored as part of their 5-year review process.
- 5.17 In terms of Draft Policy HOU11 Redevelopment of a former site for dwelling, this allows the utilisation of existing landscaping and services where there is already a visual commitment in the landscape thus providing a sustainable approach to development whilst protecting rural amenity and landscape character. Given that

Draft Policy HOU11 relates to a specific type of proposal which would have to meet the required criteria, I am satisfied that it is not addressed in other policies in the dPS and confusion with these would not result. Given the criteria of Draft Policy HOU11 and when read with the other plan policies which relate to the historic environment, I am not persuaded that the policy would lead to the removal of historic farmsteads, and I note the Council's argument that without this policy the former dwellings would fall into further disrepair. The presence of mature boundaries is a requirement of criterion (b) and therefore it would not be in the interest of an applicant to remove them in advance of applying for planning permission. The existing services on site required under criterion (d) would have to be in relation to the existing building. Concern was raised that the policy could allow abandoned dwellings to be reused however it is noted that paragraph 6.73 of the SPPS and PPS 21 do not require that replacement dwellings are not abandoned.

- 5.18 To take account of paragraph 6.73 of the SPPS and given the lack of substantive evidence to support the suggested reduction in the time period required for the farm to be established, Draft Policy HOU12 Dwelling on a Farm Business is considered to be sound.
- 5.19 PPS 21's Policy CTY10 Dwellings on Farms states that a proposal for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will be assessed under the criteria set out in this policy. Given that this is however a non-agricultural activity, the Council, having taken account of the Department's policy, and using similar criteria chose to make it a separate policy, excluding it from Draft Policy HOU12 Dwelling on a Farm Business. Given that Draft Policy HOU 13 Dwelling in association with the keeping and breeding of horses for commercial purposes would not lead to additional development opportunities, I consider this to be a logical approach and is sound based on the evidence presented.
- 5.20 Draft Policy HOU14 Rounding off and Infilling takes account of paragraph 6.73 of the SPPS and Recommended Amendment RA26 is necessary to meet soundness test C3 in order to take account of the policy provisions within Policies CTY 2a New Dwellings in Existing Clusters and CTY 8 Ribbon Development in PPS 21. It however tailors the policy to meet the specific circumstances of the plan area given that between 2012-19 Policy CTY 2a of PPS21 only accounted for 8 planning approvals within the district. Concern was raised in relation to proposals requiring at least 3 buildings to each have their own defined curtilage. However, having taken account of the relevant policy issued by the Department, the Council sought to prevent the use of ancillary domestic buildings as buildings in their own right, whereby a domestic grouping would be used as justification for a new dwelling; this would be both damaging to rural character and an unsustainable form of development unlike the other tailored rural policies contained within the dPS (Draft Policies HOU10 and HOU11). The Council was also conscious that there is a need to balance the number

of resulting approvals with the dPS's spatial growth strategy and its allocation of housing in the countryside. I therefore find this draft policy to be sound.

- 5.21 Concern was raised that there was no regional policy support for Draft Policy HOU15 Dwelling to serve a Non-agricultural business however I am satisfied that it is consistent with paragraph 6.73 of the SPPS and is sound.
- 5.22 A representation was submitted seeking Draft Policy HOU17 to support affordable housing being located at crossroads in the countryside; this could however result in a significant number of rural planning approvals which could adversely impact on the spatial growth strategy. Recommended Amendment RA27 is required to meet soundness test CE2 given the representation from NIHE and legal advice received by both it and the Council. Any future review of the definition of affordable housing could be assessed by the Council as part of its 5-year review following the plan's adoption.
- 5.23 The suggestion of extending the 3-year time limit stipulated in Draft Policy HOU18 Residential Caravans and Mobile Homes to 5 years would not be appropriate as it would no longer be temporary but rather lawful development. If necessary, the appellant could however re-apply to extend the time period. Such an amendment is not necessary to make the plan sound.
- 5.24 Therefore, given that the Council has taken account of the policy issued by the Department and has set out coherent and robust evidence for their approach which seeks to achieve sustainable forms of development within the countryside that is tailored to their specific circumstances, subject to amendments discussed above including the additional criterion to Draft Policy HOU09 (RA23-27), the housing in the countryside policies are considered to be sound.

#### **Community Facilities**

- 5.25 In order to take account of policy and guidance issued by the Department, Recommended Amendment RA28 is necessary in order to ensure that the majority of community uses are located within a settlement or in association with a Rural Community Area and that they are appropriately protected.
- 5.26 The dPS's policy in relation to community facilities, subject to the amendment discussed above (RA28), is found to be sound.

#### **Open Space Strategy**

- 5.27 Paragraph 6.205 of SPPS states that there will be a policy presumption against the loss of open space to competing land uses in LDPs irrespective of its physical condition and appearance. As a result, Recommended Amendment RA29 to Draft Policy OSR01 Protection of Open Space is necessary in order to ensure its protection and to meet soundness test C3. To meet soundness test CE1, Recommended

Amendment RA30 provides appropriate clarification as to the circumstances in which criterion (b) would apply. Any future agreement between the Council and the NIHE in terms of recognising the provision of affordable housing as being a substantial community benefit, similar to the agreement between the Department and NIHE, is a matter for the two parties.

- 5.28 In terms of Draft Policy OSR02 Intensive Sports Facilities, having taken account of paragraph 6.207 of the SPPS, the Council chose to depart from the regional policy's approach. Whilst the criteria would apply to all intensive sports facilities and not just a sports stadium like in the SPPS, given that criterion (a) of Draft Policy OSR02 requires that it be demonstrated that there is no alternative site within a settlement which can accommodate the development this reinforces the Council's support for it to be located within a settlement and would limit its occurrence. Provided it can meet the specified strict criteria, the policy provides a degree of flexibility for intensive sports facilities without restricting it to sports stadiums, the specific identification of which is not apparent within the SPPS. However, to take account of the SPPS, Recommended Amendments RA31 and RA32 to Draft Policy OSR02 are necessary to clarify its intent, to avoid duplication with other policy provisions adequately covered elsewhere in the dPS and remove the policy's provision for large scale intensive sports facilities outside settlement limits where it is demonstrated that it is of strategic importance.
- 5.29 Although Policy OS 4 Intensive Sports Facilities of PPS 8 will cease to have effect upon the adoption of the dPS, the policies contained within the Strategy are sufficient to allow for the assessment of a proposal for an intensive sports facility within a settlement without the various potential issues such as accessibility, amenity, built and natural heritage having to be duplicated here. Likewise, these policies would be considered when assessing outdoor recreation in the countryside thus taking account of paragraph 6.212 of the SPPS which advises that the LDPs should contain policy for the consideration of such development proposals; Recommended Amendment RA33 is therefore necessary to meet soundness tests CE1 and C3. Any issues arising from the implementation of the policy can be addressed as part of the monitoring process.
- 5.30 Both the SPPS and PPS 2 use the terminology of 'no adverse impact' and therefore to take account of Departmental policy it is necessary to remove the reference to 'significant' adverse impact within criterion (a) of Draft Policy OSR04 Protection of Lough Shores as this would lower the level of protection afforded to the natural environment (RA34). To meet soundness test CE1, it is necessary for Recommended Amendment RA35 to detail a definition of what is meant by the term 'lough shore' and to highlight how designated sites may be impacted. As it would be impossible for the policy to address all potential development scenarios, each proposal will be assessed by the Council based on its individual merits. Other policy provisions within

the dPS, namely Draft Policy L02 Special Countryside Areas and Draft Policy L03 Areas of High Scenic Value provide opportunities for tourist related facilities and therefore there it is not necessary for this to be addressed within Draft Policy OSR04. The additional policy tests that were contained within Policy OS6 Development of Facilities ancillary to Water Sports of PPS 8 are for the most part adequately covered elsewhere within the dPS. However, to take account of criterion (vii) of Policy OS6 and therefore to meet soundness test C3 the Council should add an additional criterion within the dPS that it be demonstrated that there is no conflict with the provisions of any local management plan (RA36).

- 5.31 The Council's justification for the biodiversity strip being of at least 10m from the edge of the river within Draft Policy OSR05 Development Adjacent to a Main River is logical. There is no need for Draft Policies OSR05 and OSR07 Floodlighting of Sports and Outdoor Recreational Facilities to repeat policies contained elsewhere within the dPS, including in relation to flood risk management, and therefore Recommended Amendment RA37 is appropriate. Nature conservation issues are also addressed in external policies and legislation.
- 5.32 Having examined the open space strategy and the various associated policies, subject to the amendments discussed above (RA29-37), I find this to be sound.

#### **Rural Community Areas**

- 5.33 In terms of development in the countryside, paragraph 6.65 of the SPPS states that the aim of the SPPS is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS. Paragraph 6.68 of the SPPS adds that in preparing LDPs councils shall bring forward a strategy for sustainable development in the countryside, together with appropriate policies and proposals that must reflect the aims, objectives and policy approach of the SPPS, tailored to the specific circumstances of the plan area. Paragraph 6.69 goes on to state that the policy approach must be to cluster, consolidate, and group new development with existing established buildings, and promote the re-use of previously used buildings.
- 5.34 The FAP identified 11 Dispersed Rural Communities (DRCs). The Council, having taken account of paragraphs 6.65, 6.68 and 6.69 of the SPPS as well as representations received in response to the POP, it is the Council's intention that these DRCs will be considered as Rural Community Areas (RCAs) within the dPS. The Council assessed the three options of how development in the countryside could sustain rural communities within the POP and Interim SA, with the SA going on to assess the preferred option. A further assessment of the issue has been carried out by the Council in the paper Addendum to Sustaining Rural Communities (Document FODC 228, January 2020). Given the current presence of DRCs, representations made

in response to the POP, that this is the largest and most peripheral rural council area in Northern Ireland with areas remote from facilities in settlements, has the lowest population density, has been found to have still the capacity to absorb further sustainable development and given the robust evidence base presented by the Council, I consider this new strategic policy to be coherent and logical.

- 5.35 However, to adopt a consistent approach across the new district area and given that there remains the potential to identify them at the LPP stage, using paragraph 3.87 of the dPS as a basis, it is appropriate not to identify them within the dPS until a comprehensive district-wide list is compiled. Although the precise number is not known at present, parties will have the opportunity to comment on the Draft LPP once published. Given the extensive nature of the previous DRCs, comparable in size to the district's two main towns, it is appropriate that the identification of an RCA would be limited to the existing facilities and buildings in order to help to sustain rural communities where they exist. This is a logical change in emphasis away from the regeneration role of the DRCs which, following a review by the Council, were shown to deliver little in terms of new housing or other development. Existing shops and post offices will not be affected by this policy which will not apply retrospectively.
- 5.36 Substantive evidence was not presented to support the claim that not specifying the RCAs would make it more difficult to obtain planning permission. Given that any proposal within these areas is currently treated as being within the countryside and are therefore considered against the relevant policy provisions, this will continue to be the approach with some scope for rural residential development under policies such as Draft Policy HOU17. Although the dPS seeks to provide for vibrant rural communities, its role is not to provide a basis for funding applications, and it has to protect the countryside by accommodating sustainable development whilst not potentially damaging the services in settlements by making provision for new retail opportunities within RCAs. To meet soundness test CE1 to set out a coherent strategy, it is necessary for Recommended Amendment RA38 to clarify what is meant by the use of the term 'workshop/business start-up units'. Given that Draft Policy RCA01 relates to rural start-up projects or community development within an RCA it is not appropriate for it to refer to the provision of affordable housing which is adequately dealt with within Draft Policy HOU17.
- 5.37 In adopting their approach, I am satisfied that the Council has acted consistently and has met soundness test C4 by having regard to the relevant plans, policies and strategies relating to the adjoining council districts, including those located in the Republic of Ireland. It has also met soundness test C2 by taking into account its Community Plan, with its objectives formulated and aligned with it. Although the Council acknowledge that this district has a low population density and that parts of it are less accessible in terms of their remoteness from services, I accept that it

would be difficult to introduce 'isolation' as a test within the policy due to it being hard to demonstrate or measure. The dPS also has had to take account of policy and guidance issued by the Department and whether the landscape has the capacity to absorb sustainable forms of development.

- 5.38 Therefore, I am satisfied that the dPS's approach to Rural Community Areas, subject to the amendment discussed above (RA38), is sound.

## 6.0 ECONOMY

### Industry and Business

- 6.1 Position Papers Employment and Economic Development (Document FODC 207, 2015) and Employment, Industry and Business (Document FODC 208, 2018) as well as Employment, Industry and Business Topic Paper (Document FODC 209, June 2020) take account of the SPPS as well as PPS 4 Planning and Economic Development. It was suggested that Draft Policy IB01 Industry and Business Development in Settlements should introduce a 'commitment test' to ensure that there are specific end-user requirements to justify an edge or out-of-centre location. Draft Policy IB01 however adopts the sequential approach as advocated within regional strategic policy contained within the SPPS.
- 6.2 Paragraph 6.86 of the SPPS states that within the villages the LDP will not normally zone land for economic development purposes, as this could inhibit flexibility. It is therefore logical for the dPS to follow a similar approach. Draft Policy IB01 does however permit such proposals where the scale, nature and design of the proposal is in keeping with the character and setting of the settlement and that is compatible with adjacent and nearby land uses and therefore takes account of paragraph 6.86 of the SPPS.
- 6.3 Rather than being too restrictive, allegedly stymieing regeneration and growth, Draft Policy IB02 Loss of Industry and Business Uses takes account of paragraph 6.89 of the SPPS which seeks to ensure that economic development land and buildings which are well located and suited to such purposes are retained to ensure a sufficient ongoing supply. It adds that any decision to reallocate zoned land to other uses ought to be made through the LDP process. This would allow an informed decision to be taken having considered the uptake of land for industry and business together with assessing future requirements and trends. The Council acknowledged that this may identify or highlight the need to reconsider the proposed use of such sites. This approach would permit, at the LPP stage, the determination as to which sites would be retained and protected and which would be released for other uses as per paragraph 6.92 of the SPPS. Calls for a consistent approach with other councils in terms of how they propose to address any over-supply of industrial land in their forthcoming Draft Plan Strategies is premature given that they are still all at draft stage with none yet adopted. This plan-led approach, with its monitoring and regulatory 5-year review, would ensure that there is reasonable flexibility if the land uses in the area have changed since it was originally zoned. This approach does not prevent an argument being presented through the development management process if an applicant for planning permission considers that they have material considerations to justify a departure from the Plan Strategy's policy. The Council's approach in the dPS would prevent a piecemeal approach which would result if it were left to be determined through individual planning applications. This approach is



appropriately reflected in Recommended Amendment RA39 which is required to make the plan sound.

- 6.4 Taking account of paragraph 6.94 of the SPPS, the dPS provides the opportunity for mixed-use development on unzoned land and at the LPP stage the Council intends to give due consideration to zoning land for such mixed-use purposes. To allow mixed-use development on zoned land prior to the review process to be conducted at the LPP stage could undermine the Council's intention to ensure the provision of a generous supply of land suitable for economic development and a choice and range in terms of quality which is a regional strategic objective (paragraph 6.82 of the SPPS).
- 6.5 A representator made a suggestion about requiring the delivery of the economic development element of a mixed-use scheme first. This is a matter to be addressed by the Council at the LPP stage. The Council provided robust reasoning for their use of the timescale of one year of continuous active marketing within criterion (b)(iii) and the clarification of what is meant by this terminology within Recommended Amendment RA40 is necessary to ensure its implementation.
- 6.6 In order to take account of paragraph 6.90 of the SPPS, it is necessary for consistency that the policy clarification of Draft Policy IB03 Development Incompatible with Industry and Business Uses to state, as per Recommended Amendment RA41, 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. The amendment would also emphasise that 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.
- 6.7 Concern was raised that Draft Policy IB04 Industry and Business Development in the Countryside should recognise and be supportive of home-based 'cottage industries'. This is the focus of the dPS's Strategic Objective 9 which is to recognise and accommodate the micro business base including rural entrepreneurship, self-employment, and homeworking. As well as having operational policies for such development which require planning permission, the Council intend to produce supplementary planning guidance on homeworking upon which there will be the opportunity to comment. Such an approach is acceptable and logical.
- 6.8 There is no basis in regional policy or local evidence to support the proposition that outside of settlements employment lands should be located near major economic corridors. Criterion (b) of Draft Policy IB04 provides for the exceptional circumstances for a major expansion of an industrial enterprise taking account of paragraph 6.88 of the SPPS. The policy provides appropriate opportunities for sustainable economic development in the countryside and as stated within

paragraph 1.4 of the Part Two of the dPS, the policies contained within the dPS should be read in conjunction with the SPPS and the RDS. In terms of criterion (d), which relates to the re-use of an existing building for a rural start-up project, the requirements that it has to be demonstrated that there is no suitable site within nearby settlements and that there are site specific reasons for the proposed location would limit its occurrence. It takes account of paragraph 6.87 of the SPPS which acknowledges that the re-use of rural buildings is one instance which will normally offer the greatest scope for sustainable economic development in the countryside.

- 6.9 A suggestion was made by a representator that Draft Policy IB05 Farm Diversification should allow for the re-use or adaptation of a farm proposal or development rather than buildings and that an exception should be provided for a new building away from the farm group if it has a significant level of integration and screening. However, Draft Policy IB05 takes account of paragraph 6.73 of the SPPS which states that proposals must involve the re-use or adaptation of existing buildings as well as paragraph 4.30 of the SPPS which states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surrounds and to meet other planning policy and environmental considerations including the policy approach to cluster, consolidate and group new development with existing established buildings. The suggested removal of criterion (c) of Draft Policy IB05 is not required to make the plan sound.
- 6.10 Draft Policy IB06 Agricultural and Forestry Development appropriately takes account of paragraph 6.73 of the SPPS which states that new buildings must be sited beside existing farm or forestry buildings on the holding or enterprise with an alternative site away from the existing buildings only being acceptable in exceptional circumstances. The Council has chosen to provide for two such exceptional circumstances, having taken account of Policy CTY 10 Dwellings on Farms in PPS 21. Calls were made by representators for Draft Policy IB06 to not permit all proposals for intensive farming and animal husbandry however such planning applications, as well as mining and quarrying proposals, could be subject to the EIA regulations, would be dealt with by the development management process on a case-by-case basis and would include an assessment of any cumulative effects. The Council's extensive evidence base has sufficiently considered the transboundary and cumulative effects of the dPS. Given the potential significant adverse effects of ammonia emissions, Recommended Amendment RA42 is required to ensure the coherence of the policy.
- 6.11 I am therefore satisfied that the dPS, amended as outlined above (RA39-42), appropriately deals with the issue of industry and business within the district, has taken account of the policy and guidance issued by the Department and is sound.

## **Town Centres and Retailing**

- 6.12 In relation to Draft Policy TCR01 Town Centres, the town centre boundary for Enniskillen is unchanged to that contained within the current Fermanagh Area Plan (FAP) and persuasive evidence was not presented as to why that boundary, or indeed Omagh's, should be altered. In Enniskillen, the commercial core identified in the FAP to a large extent follows the town centre's boundary, with its outer elements being separated from the main concentration of retail uses, thus making it inappropriate for the commercial core to align with the Primary Retail Core (PRC) contained within the dPS. The respective PRCs have been drawn up to focus on the primary retail core and maintain compact, lively, and attractive centres which would be more conducive to linked, multi-purpose trips. I find this approach to be logical.
- 6.13 The dPS takes account of the town centre first approach for the location of future retailing and other main town centre uses. This follows the approach advocated within paragraphs 6.271, 6.273 and 6.275 of the SPPS. Draft Policy TCR01 gives preferential support for proposals for new retail development within the PRC where it is defined, and then applies a sequential approach to site selection. Its approach takes account of paragraph 6.281 of the SPPS, which establishes the PRC at the highest level in the hierarchy, in order to protect the viability and vitality of the plan area's existing town centres. It takes into account the local circumstances in what is considered to be a vulnerable area where there is not enough money being generated and, together with the result of the town centre health checks, provides a robust and reliable evidence base to justify the Council's approach. There is no need to change the wording of the policy clarification text of Draft Policy TCR01, contained within paragraph 4.31, given that the dPS's strategy is to promote the town centres first for retail and other main town centre uses. The identification of specific land use designations and their locations is a matter for the Council at LPP stage.
- 6.14 Concern as to how the RIA would be undertaken and its' content are matters for an applicant to discuss with the planning authority prior to the submission of a planning application. Guidance is provided within paragraph 4.36 of the dPS as well as factors identified within paragraph 6.290 of the SPPS. At the IE hearing session, the Council's expert witness also stated how the assessment of the potential impacts of a proposal on a site outside the PRC is normal practice within England and Wales and therefore there is sufficient and widely known evidence as to how it is conducted. Persuasive evidence was not presented that such an approach has not been or could not be adopted in Northern Ireland. The reference to paragraph 6.282 of the SPPS, calling for a proportionate assessment of need, relates to instances where there is an absence of a current and up to date LDP. It is normal practice to require a proportionate amount of evidence at the development management stage.
- 6.15 Paragraph 6.283 of the SPPS states that all applications for retail or town centre type development above a threshold of 1000 square metres gross external area which are

not proposed in a town centre location and are not in accordance with the LDP should be required to undertake a full assessment of retail impact as well as need. Where appropriate however it is added that the planning authority may choose to apply a lower threshold taking into account local circumstances such as the size, role and function of their town centres. In preparing a LDP Councils therefore 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. Having taken account of the provisions contained within the SPPS, the Council are entitled to introduce a requirement for those proposals greater than 500 square metres gross external floor area which are outside the PRC to carry out a full assessment of retail impact as well as need. As Omagh and Enniskillen are ranked 18<sup>th</sup> and 25<sup>th</sup> largest towns in Northern Ireland in the 2011 census this is sufficient to reflect the scale of development currently found within the two main towns. The average unit size in Enniskillen and Omagh town centres in 2016 was 276 square metres and 197 square metres respectively (Fermanagh and Omagh Retail and Commercial Leisure Needs Assessment (RCLNA), Document FODC 305, March 2017, p.30-31). It is accepted that proposed units larger in size than the average unit size in the two main towns are likely to have an increased impact on the areas. Given their ranking, the Council justifiably considered that the impacts of larger retail provision would be more keenly felt in the main towns than many larger towns throughout Northern Ireland. Substantive evidence was not presented to support the claim that no sites are available for new development within the PRCs, and it could be demonstrated by an applicant through the development management process that there are no such sites. I therefore find the Council's approach on this matter to be sound and based on robust evidence.

- 6.16 The 2017 RCLNA indicated that, up until 2030, Enniskillen had a requirement of 1,800-2,200 square metres net of convenience floorspace whilst Omagh had no such further capacity. Over the same period, 2,300-3,600 square metres net of comparison goods floorspace was going to be required in Enniskillen with Omagh having a capacity for 1,400-2,200 square metres net. In the Retail Needs Assessment Update 2020 (Document FODC 307), which took account of the latest population and expenditure data and commitments, it however identified that there was no material capacity for comparison goods through until 2030 and beyond as the large number of comparisons' good commitments more than wiped out any expenditure headroom emerging over the Plan period. There was a small amount of identified convenience good expenditure identified of up to 1,900 square metres in Enniskillen and up to 200 square metres elsewhere in the district, outside of Omagh, again up until 2030. As a result, the Council's retail experts recommended that they not seek to allocate any non-central retail floorspace in the LDP. This is an acceptable approach taking account of local circumstances.

- 6.17 Concern was expressed in relation to aspects of the RCLNA, including how account was taken for the potential for inflow/cross-border trade, thus resulting in there being greater capacity for retail floorspace over the plan period, as well as in relation to speculative schemes in the town centre inhibiting future development. However, there is no mechanism or reasoning for treating speculative or firm proposals differently nor is there a requirement to submit a detailed full planning application or commence development within the 5-year time period from when the outline proposal was granted planning permission. I am satisfied that the RCLNA, together with its 2020 Update, provides a robust and up-to-date evidence base for the Council's approach and that retaining the existing main town centre boundaries is justified given the limited anticipated additional demand for retail provision over the plan period. At any rate, this is a matter that could be reviewed by the Council should circumstances change.
- 6.18 The exclusion of Erneside shopping centre from Enniskillen's PRC and the Showgrounds retail park from Omagh's PRC have been satisfactorily justified by the Council. It is only planning applications including extensions for retail development and town centre uses above the threshold of 500 square metres gross external area that will require a full assessment of retail impact as well as need in order to assess their impact on the retail provision within the PRCs. Having taken account of paragraph 6.286 of the SPPS, the Council has chosen to consider whether to undertake a 'call for sites' consultation exercise at the LPP stage given that this is when local policies and site-specific proposals are considered; this is a coherent and logical approach. Any retail impact from the relocation of the schools and health services in Omagh to out of town locations can be monitored as part of the town centre health checks process; the sequential approach as set out in the dPS would be applied to any new associated retail developments. I am satisfied that the Council's evidence base in relation to this matter is robust.
- 6.19 In terms of small-scale convenience shops outside of town centres, persuasive evidence was not presented to justify increasing the proposed 200 square metre gross retail floorspace limit contained within Draft Policy TCR01 to 500 square metres. Subject to fulfilling the other criteria contained within the relevant section of Draft Policy TCR01 and based on the existing small-scale convenience provision within the main towns, the 200 square metre limit is sufficient to encourage development without having adverse consequences for the existing town centres. The Council also calculated that the most recent planning approvals within the main towns outside the existing town centres had an average gross retail sales floor area of approximately 123 square metres.
- 6.20 Given the Council's aim, in line with regional strategic policy, to encourage retail development back into the traditional commercial centres, their justification for the proposed local town centre boundaries is well-founded. Claims that town centre

boundaries are too restrictive and that there has been a lack of analysis regarding retail activity within local towns was not substantiated with persuasive evidence. Outside town centres, Draft Policy TCR01 states that planning permission may be granted for a small-scale convenience shop where it can be demonstrated that it meets three criteria.

- 6.21 Given their location within the open countryside, it would be unsustainable to make provision for small retail opportunities within Rural Community Areas. The retail policies contained within the dPS would not impact upon existing rural post office and shops.
- 6.22 In compiling their retail hierarchy, the Council has taken account of paragraph 6.277 of the SPPS which states that LDPs should define a network and hierarchy of centres—towns, district and local centres, acknowledging the role and function of rural centres. Although the dPS identifies local neighbourhood centres in its retail hierarchy, it has not however identified any district centre. This has legitimately been justified by the judgement of the Council that they are not appropriate within the retail hierarchy of this plan area. Their evidence base indicated that they should not seek to allocate any non-central retail floorspace and there not any locations within either of the two main towns to currently fulfil the functions of such a centre. The Council took account of paragraph 6.276 of the SPPS which requires planning authorities to retain and consolidate existing district and local centres rather than requiring or encouraging the identification of such new centres. Unlike other council areas, this Council area did not have any previously designated district centres and therefore this was a business-as-usual approach. This approach takes account of the local circumstances relating to the plan area.
- 6.23 Given that the SPPS is silent on the issue of retail warehousing and the lack of substantive evidence to demonstrate the need for such a requirement, the Council are entitled to conclude that the suggestion of a 300 square metre threshold is unnecessary.
- 6.24 Suggestions were made that Draft Policy TCR02 Primary Retail Frontage could contain more detail in order to be helpful or a section moved to guidance however these changes are not required to make the plan sound.
- 6.25 No substantive evidence was presented as to why Draft Policy TCR03 Local Neighbourhood Centres should be amended to include a 50% increase in the permitted gross retail sales floor area for additional retail provision or to support the assertion that it would not have an adverse impact on town centres within the catchment; this would be dependent on factors such as the number of units and the number of such centres.
- 6.26 In order to provide a coherent strategy and to ensure that retail development in a village and small settlement would not be of a scale to impact on nearby town

centres Recommended Amendment RA43 of Draft Policy TCR04 Villages and Small Settlements is necessary in order to satisfy soundness test CE1.

- 6.27 The Council examined a sample of extant planning approvals of shops ancillary to Petrol Filling Stations (PFS) within town centres, within settlement limits however outside of town centres, in villages and in the countryside. The average new gross retail sales floor area of such shops ranged from 136-529 square metres with the latter highest average figure occurring in villages. Some of the recent planning approvals resulted in approximately doubling the gross retail floorspace of the original store. Given the extensive range of goods that are now sold at these shops, the readily accessible free parking at each store and the fact that they are increasingly becoming a destination for top-up shopping and hot food at the expense of town centres, Recommended Amendments RA44 and RA45 are necessary for coherence to ensure that the 250 square metre threshold contained within Draft Policy TCR05 aligns with the appropriate 200 square metre threshold in Draft Policy TCR01. This would allow proposals for small scale convenience shops outside town centres to compete, to address the trend towards ever increasing PFS retail provision and to ensure that the shops are ancillary to the main use of the site as a petrol filling station. Substantive evidence was not presented to support the request for the element of the policy relating to petrol filling stations outside settlement limits to be deleted or how the policy would result in an increase to rural hardship and disadvantage. The policy enables the dPS to be sufficiently flexible to deal with changing circumstances in terms of future road schemes. Recommended Amendment RA44 would allow for exceptional cases outside of settlements to be considered. This would provide flexibility yet ensure that the retail development a PFS would not be of a scale to adversely impact on nearby town centres. Such an amendment is necessary in the interests of soundness.
- 6.28 Given that the Council has therefore provided a robust and up-to-date evidence base to justify a coherent approach to town centres and retailing, which responds to local economic circumstances and is reasonably flexible, this section of the dPS, as amended above (RA43-45), is sound.

### **Tourism**

- 6.29 Paragraph 6.262 of the SPPS acknowledges that 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. The SPPS defines what is a tourism asset and AONBs are listed as an example. It is added that the safeguarding of such tourism assets from unnecessary, inappropriate, or excessive development is a vital element in maintaining a healthy tourism industry and to allow such development could damage the intrinsic character and quality of the asset and diminish its effectiveness in attracting tourists. Accordingly, it is stated 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.

- 6.30 Draft Policy TOU01 Protection of Tourism Assets and Tourism Development is applicable to all forms of development which would impact on a tourism asset. It would not be appropriate to list all tourism assets or development within this extensive council area as any such list could become quickly outdated. Draft Policy TOU01 does not prohibit minerals extraction or wind energy developments but rather their potential impact on a tourism asset would be a material consideration when determining such planning applications. Whilst the Council are seeking to introduce a higher test to that contained within paragraph 6.262 of the SPPS, whereby a development proposal should not diminish its tourism value as opposed to significantly compromise its tourism value, the Council have taken account of the Department's policy as well as their own Tourism Development Strategy, Community Plan and Community Action Plan. The Council are entitled to seek to further the area's tourism base and address the plateau in the tourism performance of the district compared to the wider growth experienced in the Northern Ireland Tourism economy. There is an extensive up-to-date evidence base to support their position including three specific background papers.
- 6.31 Given that four council areas have responsibility for the Sperrin AONB, it is appropriate that they are conducting ongoing work through the Sperrin Forum on areas of common ground such as Sustainable Tourism, with each council bringing forward their own strategy for tourist development which seeks to balance the protection of the area's tourism/heritage assets with the economic and recreational benefits of the tourism industry. The Background Paper-Cross Boundary Working (Documents FODC 402, December 2020) provides sufficient detail in relation to this matter to ensure that there is compatibility in their strategic policy approach across the AONB. Such an approach ensures that the dPS has had regard and is not in conflict with the relevant plans, policies, and strategies of neighbouring councils in relation to this matter thus meeting soundness tests C4 and CE1.
- 6.32 Concern was raised that Part B within Draft Policy TOU01 was open to a range of interpretations. This was accepted and as a result, Recommended Amendments RA46 and 47 are necessary for coherence in order to reaffirm the intent of the policy which is to protect tourism assets. The recommended amendments also remove any conflict between this policy and Draft Policy TOU02 Tourism Development and strengthen the test for justifying the loss of tourism amenity. The removal of the text within Recommended Amendment RA47 and the additional clarification contained within Recommended Amendment RA48 would provide the necessary detail required for coherence in relation to the comprehensive information required to



demonstrate that a facility has been marketed and is no longer economically viable thus preventing extensive losses to the tourism industry.

- 6.33 At the hearing sessions of the IE it was proposed that the title of Draft Policy TOU02 revert to that published in the dPS in order to remove the suggested reference to it relating to 'within settlements'. Given that the policy also relates to proposals in countryside locations, this is considered logical and necessary for coherence. This is set out within Recommended Amendment RA49. Recommended Amendment RA49 also provides necessary clarificatory text in relation to defining what the dPS means by a tourism hub and usefully provides the reader with a number of examples located within the district.
- 6.34 Having taken account of the SPPS, namely paragraphs 6.260, 6.263 and 6.264, Recommended Amendment RA50 to Draft Policy TOU02 sets out the circumstances in which tourism facilities and self-catering accommodation in the countryside, outside of Special Countryside Areas and the lough shores, will be supported. This recommended amendment makes the policy intent clearer. It is not accepted that it does not permit self-catering accommodation within the countryside. The amended restructuring of the policy as per Recommended Amendment RA50 prevents the unintended interpretation that self-catering accommodation constitutes major tourism benefit. By introducing a further criterion (d), that the building is suitable for reuse or adaption under Draft Policy IB05, Recommended Amendment RA50 also resolves the potential conflict between this policy and Draft Policy IB05 Farm Diversification which aims to promote forms of diversification that are suitable in the countryside including suitable tourism. The section of the Recommended Amendment RA50 which refers to the exception for a major tourism development however requires a minor amendment in order to read coherently and it should revert to the wording contained within the dPS, namely that it may be provided for as per paragraph 6.261 of the SPPS.
- 6.35 Given that the SPPS seeks to facilitate sustainable tourism development (paragraphs 6.254 and 6.256), I agree with the Council (Page 188, Document FODC109) that for consistency it is appropriate that the word 'sustainable' is inserted within Draft Policy TOU02. This is addressed within Recommended Amendment RA50. Any potential impact on the built or natural environment would be a material consideration to be considered with other relevant policies during the development management process. It is not appropriate for Draft Policy TOU02 to be definitive as to what is appropriate in the countryside as each tourism development proposal would have to be assessed on its own merits. Concern was raised in relation to the policy's reference to the lough shores however it is apparent from this section of the policy that it refers to those which are in the countryside. The Council clarified within their supporting evidence that, for the purpose 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; it would be beneficial for coherence for such clarification to be provided within the dPS document (RA50). In order to deter permanent residential use, it is appropriate to control the size and design of tourism accommodation. No substantive evidence was presented that this would hinder visitors to this area and as highlighted by the Council it is not a consideration when Tourism NI are making their assessment of self-catering accommodation.

- 6.36 Draft Policy TOU03, and as proposed in Recommended Amendment RA51, introduces a policy to set out the particular circumstances when a new building hotel, guest house and tourist hostel outside settlement boundaries will be supported by the Council. It takes account of paragraph 6.260 of the SPPS. Given the use of the word 'periphery' within the regional strategic policy and Draft Policy TOU03, for coherence it is appropriate to amend the clarificatory text of the Draft TOU03 to define the term as per that stated on Page 194 of Document FODC109 (RA51). It is not appropriate for the policy to make specific reference to individual tourism assets, the sustainable development of which must be balanced with the need to safeguard such tourist assets from inappropriate development.
- 6.37 Paragraph 6.260 of the SPPS states that the guiding principle to carefully manage tourism development in the countryside should be to ensure policies and proposals facilitate appropriate tourism development such as, among other examples, the re-use of rural buildings. Rather than being supportive of a proposal for the redevelopment an existing group of redundant buildings, it is therefore necessary to meet soundness test C3 that criterion (c) of Draft Policy TOU04 Holiday Parks, Touring Caravan and Camping Sites is amended as per Recommended Amendment RA52. This recommended amendment states that, exceptionally, where it has been demonstrated through submitted information that existing buildings are unsuitable for adaption and re-use, a new building which is similar in size and scale to the existing buildings may be permitted.
- 6.38 Having taken account of the Department's policy and guidance, and ensuring consistency with their own plans and strategies, I am therefore satisfied that the dPS's tourism strategy and its supporting policies, as amended above (RA46-52), are coherent and sound.

### **Minerals**

- 6.39 As stated in Section 250 of the Planning Act (Northern Ireland) 2011 and within the dPS, 'minerals' includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include turf cut for purposes other than sale. As acknowledged within paragraph 6.148 of the SPPS, minerals, including valuable minerals, are an important natural resource. Whilst minerals development delivers significant economic benefits, such as providing the primary minerals for construction and provider of

employment, paragraph 6.150 of the SPPS highlights that the effects of specific proposals can have significant adverse impacts on the environment and on the amenity and well-being of people living in proximity to operational sites. Salt is simply cited as an example of an economically valuable mineral within the SEA Final Environmental Report on the SPPS (2015). An exhaustive list of minerals deposited within Northern Ireland is not provided. It is therefore appropriate that the dPS deals with all minerals including sand, gravel, and aggregates. The SPPS highlights that the policy approach for minerals development must be to balance the need for mineral resources against the need to protect and conserve the environment.

- 6.40 The Minerals Topic Paper (Document FODC 221, June 2020) states that the principal source of their information regarding the location, extent and nature of the minerals resource of each county is provided by the Minerals Resources Map for Northern Ireland. This shows the location of minerals workings (as of 23 March 2012) and environmental designations (ASSIs, SPAs, SACs, RAMSAR sites and NNRs). In the period 2007-15 a total of 52 mineral prospecting licences were issued by the Department of Enterprise, Trade and Investment (DETI), the Department for the Economy (DfE) predecessor, as the appropriate licensing authority over the whole of Northern Ireland. Of these licences, 13 were located wholly or partly within the Fermanagh and Omagh Council area. There are 5 active mineral prospecting licences within the Council area (Minerals Topic Paper, June 2020). County Tyrone is the main producer of sand and gravel in Northern Ireland (over 55% of the total output) with the type of extraction said to be generally from opencast quarrying. County Fermanagh is the largest producer of limestone in Northern Ireland, accounting for 68% of the total output. The extraction of basalt, limestone and sandstone is also from opencast mining. There are extensive resources of peat in Tyrone and Fermanagh with some bogs designated as ASSIs, two of which are also RAMSAR sites and therefore of international importance.
- 6.41 According to the Updated Minerals Topic Paper (June 2020) Northern Ireland is arguable the most prospective area of the UK and Republic of Ireland for precious metal deposits. The results of the 1976 GSNI survey confirmed the potential for gold bearing rock in the Sperrin Mountains and in the early 1980s bedrock gold mineralisation was discovered in Curraghinalt Burn. Consequently, planning applications for underground minerals mining and exploration, surface level development and other associated development at Curraghinalt were submitted to DfI in November 2017. Given that these are the subject of current planning applications and the purpose of the IE, I shall not be making comment on these matters. I have assessed all the information submitted in the context of the independent examination.
- 6.42 Concern was raised that Draft Policy MIN01 Minerals Development introduces Areas of Constraint on Minerals Development (ACMD) and designates the full extent of the

Sperrin AONB, which falls within the Council area, as an ACMD. There are no ACMDs defined in the OAP 2002. ACMDs are identified in the FAP 2007 on areas of nature conservation interest, Areas of Significant Archaeological Potential (ASAIs) and Areas of High Scenic Value (AoHSV). The strategy of both plans was to promote mineral development while affording protection to the existing environment.

- 6.43 The most recent evidence information on minerals by type and tonnage of materials extracted, as well as their cumulative value to the local economy, was produced by DfE's Minerals and Petroleum Branch in 2018. The Council sent quarry returns to the operators/owners of 45 quarries/mines in December 2016 seeking information on current production and estimated reserves. Even with an approximate 50% response rate, those that did respond indicated that there was a reserve of 1.85 million tonnes of sand and gravel remaining. However, the Updated Minerals Paper (June 2020) indicated that, apart from the estimates received from quarry operators in February 2017, there are no quantifiable details in relation to the amount of mineral reserves that lie within the district. There is also a lack of information on the amount of permitted mineral reserves i.e., existing permissions which are still being worked. An analysis of recent planning decisions for quarries since 2017 however showed that there are 2.46 million tonnes of sand and gravel permitted reserves available over the next 10 years and that a further 1.6 million tonnes may be available through undecided applications; one of the quarries is said to be located within the Sperrin AONB. Whilst there is a significant resource of sand and gravel within the Sperrins, the Council evidence was that most of the working sand and gravel quarries are located outside the Sperrin AONB portion of the district.
- 6.44 In order to build the projected housing growth (then 4,300 homes up to 2030), the Council's estimation is that a minimum of 1,893,180 tonnes of sand and gravel aggregates would be required over the plan period. Therefore, there appears to be ample reserves of aggregate remaining for the duration of the plan period. Reserves of limestone were estimated to be approximately 73 million tonnes which, applying the 2018 production figures as an annual average, the Updated Minerals Paper (2020) states would last well beyond the plan period. There is an acknowledged deficit in knowledge in relation to the supply requirements of customers outside the council area, for example within the Republic of Ireland, however the Council hopes that this will be addressed by the Regional/NI Minerals Working Group who will co-ordinate data gathering for minerals across all council areas. This group may also be able to address the absence of detail in terms of the flow of supply and demand for minerals in and out of the district. This information could be fed into the 5-year review process to assess the available reserves and review the designation if need be. This knowledge deficit is however a Northern Ireland wide issue and I am satisfied that the Council has endeavoured to utilise the evidence at their disposal.

- 6.45 Whilst tourism is valuable to the local economy, the mineral extraction is an indigenous industry within the district which also makes an important contribution. Although it is not possible to precisely quantify the amount of minerals required over the Plan period, the dPS seeks to ensure that supplies of raw materials are provided in pace with economic growth thus accommodating any potential expansion of existing quarries as well as the opening of new workings. The Council has relied upon currently available information which is acceptable. There is no requirement within the SPPS for the Council to undertake an assessment of the additional value that can be applied to mineral resources and the contribution this makes to the local economy. This would also be difficult to quantify as accurate evidence may be commercially sensitive and may not be forthcoming from all operators given their reluctance to respond to the Council's reserve survey.
- 6.46 In line with the policy approach contained within the SPPS, the dPS's overall approach balances the demands of the mining and extractive industry with protecting and conserving the most valuable and vulnerable areas of the environment from the detrimental effects of mineral extraction not only to offer a degree of protection for the area's natural environment but also given its contribution to the development of tourism and recreation. The dPS seeks to safeguard minerals resources which are of economic or conservation value and ensure that workable mineral resources are not sterilised by other surface development.
- 6.47 Although a different approach may have been adopted in other plan areas prior to the formation of the new council areas, this was based on a different evidence base. Given the distribution of existing quarries outside the Sperrin AONB, nature designations and the general extent of potential resources indicated in the Minerals Map, the Updated Minerals Paper (2020) states that there is no need to permit mineral developments in protected areas apart from in exceptional circumstances. As a result, even though the integrity of the area may be protected by other designations and that environmental enhancements can be gained from such operations and restorations schemes, the strategic approach is to: protect the Sperrin AONB from minerals development except where proposed operations are for a short term, of less than 15 years, and the environmental and amenity impacts are not significant; protect important environmental assets from minerals development including the Marble Arch Geo-Park, Areas of Special Scientific Interest (ASSI), Areas of Scientific Interest (ASI), Special Protection Areas (SPA), Special Areas of Conservation (SAC), Ramsar sites, Nature Reserves and Sites of Local Nature Conservation Interest (SLNCI); identify areas suitable for minerals development within the plan areas; minimise the adverse impact of mineral workings on neighbouring communities and sensitive land uses, the historic environment, biodiversity and the water environment; identify and safeguard mineral resources which are of economic or conservation value; encourage and support recycling

initiatives and proposals at existing aggregate sites; and ensure that restoration of mineral workings enhance and complement the natural and historic environment and contribute to biodiversity. The evidence base presented here to support the approach by the Council is realistic and appropriate considering the new two-stage LDP process. The provisions of Section 38 of the Planning Act (Northern Ireland) 2011 is of little relevance as they relate to Simplified planning zone schemes.

- 6.48 The suggestion was made that the policy should address the issues of public safety and separation distances from residential properties. It is noted that paragraph 6.166 of the SPPS acknowledges that the distance required will vary according to a number of factors including the nature of operations, intervening topography, and the layout/design of the housing development. If public safety and separation distances are going to be issues for a specific minerals' development, then it is best that they are assessed on a site specific, case by case basis taking account of its proposed nature, scale and location as each case, including possible mitigation measures, may differ.
- 6.49 Draft Policy MIN01 states that the Council will support proposals for minerals development where it is demonstrated that they do not have an unacceptable adverse impact. Some representators suggested that the word 'unacceptable' should be removed from this section of Draft Policy MIN01. However, this would not be appropriate as a proposal would not be supported by the Council unless it was demonstrated that it would not have any adverse impact. Any potential adverse effects would have to be considered when making a planning judgement along with possible mitigation measures. It is also not accepted that it is appropriate for the adverse impacts to have to be significant as it is important that all effects are assessed. The use of the term significant could also create confusion, be a matter of debate as to when the threshold is exceeded in planning terms and result in a two-stage test of what is significant and then unacceptable.
- 6.50 For a minerals development proposal, including any future exploitation of uranium, an environmental statement under the Planning (Environmental Impact Assessment) Regulations (NI) 2015 could be required during the development management process to demonstrate that it would result in acceptable environmental impacts including on the natural and historic environment. This is the forum to assess matters such as the impacts of a specific minerals' development on a local area, the community's opinion and the economic benefits of a scheme, as opposed to at the dPS stage. For consistency, Recommended Amendment RA53 also appropriately adds that in considering a proposal for the extraction of valuable minerals, where the site is within a designated area in the LDP, due weight will be given to the reason for the statutory zoning; this takes account of paragraph 6.157 of the SPPS. Paragraph 6.157 of the SPPS acknowledges that the exploitation of valuable minerals may create environmental effects which are particular to the methods of extraction

or treatment of that mineral and therefore it is appropriate for criteria (i)-(vii) to also apply to this type of minerals development.

- 6.51 In preparing their LDP, the SPPS states that councils may also identify areas most suitable for mineral development within the plan area. In terms of valuable minerals, paragraph 6.157 of the SPPS states that whilst their exploitation may create environment effects, there will not be a presumption against their exploitation in any area, 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. Despite the various concerns raised by numerous representations in relation to valuable minerals development, given that the dPS is required to take account of this strategic policy, the Council does not seek to impose a policy presumption against their exploration and extraction. For coherence Recommended Amendment RA55 is necessary to provide additional policy clarification which acknowledges that the exploitation of valuable minerals may create environmental effects which are particular to their methods of extraction or treatment and that any risks posed to safety or human health will be fully considered. It is noted that the European Commission has not proposed a ban on cyanide being used in mining and that existing regulatory requirements should ensure that waste is appropriately managed.
- 6.52 Draft Policy MIN01 does not propose a moratorium of development but rather that there will be a presumption against all mineral development, not just valuable minerals, within designated Special Countryside Areas. This due to their limited extent, quality of the landscape and unique amenity value as was evident from the Council's Countryside Assessment and Landscape Character Review (Documents FODC 222 and 302). It would therefore be for an applicant to demonstrate how a proposal could integrate into the landscape. Having taken account of paragraphs 6.75, 6.155 and 6.157 of the SPPS, the Council have provided a robust evidence base for their approach.
- 6.53 Other wide ranging material considerations such as public health and pollution concerns would have to be assessed at the development management stage and all minerals development applications would be subject to consultation with a wide range of statutory consultees. The need for buffer zones around existing sites which manufacture pre-case concrete products within settlements is a matter for the Council to consider at the LPP stage. The extraction of minerals deposits and necessary ancillary development within an undefended area of a flood plain takes account of paragraph 6.107 of the SPPS and is therefore necessary in order to comply with soundness test C3.
- 6.54 It is acknowledged that minerals can only be exploited where they are found. Whilst all consultees and representatives may not concur with the Council's approach, their opinions have been taken into account when formulating their policy and the proper

procedures have been followed. The draft policy does not seek to place a ban on quarrying or mining activities within ACMDs and the various options open to the Council were examined as part of the Sustainability Appraisal. As a result, taking account of the SPPS, including paragraphs 6.155 and 6.164, and as proposed within Recommended Amendment 53 which is required for coherence, Draft Policy MIN01 states that within such areas there is a presumption against minerals development unless one or more of a number of identified criteria are met in addition to those specified within criteria (i)-(vii) which apply to all minerals development proposals. In terms of other development not being controlled to the same extent as minerals, the impact of mineral working on the environment is not comparable to agricultural or residential development. Concern was expressed that the ACMD designation and the associated minerals policy approach would put pressure on the Causeway Coast and Glens Borough Council however this was not substantiated with supporting evidence, and it is noted that this is not a neighbouring council area. It is also noted that the Council position is that their approach is not at odds with the discussions that have taken place at the Sperrin Forum.

- 6.55 It is acknowledged that the minerals sector is highly regulated. Existing quarries which are located within an ACMD could continue to operate based on their existing planning permissions. A proposal to extend an existing operation would be assessed against the relevant criteria (i)-(vii) as set out in RA53. It is also appropriate for the cumulative effects of all minerals development proposals to be assessed, as per RA53, in order to prevent an unacceptable concentration of minerals development within a particular area. There is no need to provide clarification as to what is meant by 'permitted' development as this is a matter of law and is a common planning term. The effect on natural environment designations or the historic environment would be considered when assessing all minerals development under criterion (i) and (iii) as well as under other relevant policies within the dPS which has to be read as a whole.
- 6.56 Concerns were raised in relation to criterion (xii) of Draft Policy MIN01, as contained within RA53, which requires that within an ACMD minerals development should be for less than a 15-year duration. 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 exceptions to the LDP provisions and an example is cited that a 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, on-site processing of the excavated material is unlikely to be appropriate.



- 6.57 Taking account of this provision within regional policy, the dPS seeks to quantify what a 'short term' period is in order to provide a degree of certainty. Counter arguments were presented by representations including that planning permissions of a longer duration than 15 years have been granted in other council areas and jurisdictions, and that reserves are extensive requiring a longer period for the development. However, concerns were also raised in relation to the impact of minerals developments within sensitive landscapes and the wish to promote the Sperrin AONB as a recreational and tourism destination. As highlighted by the Council, I also note the use of the 15-year period within the future provision for the review of old mineral planning permissions within the Planning Act (Northern Ireland) 2011 which, even though it is a prospective provision within the Northern Ireland legislation, is in line with the rest of the UK. Having considered all the representations and evidence, including the consideration of alternative options during the POP process, I consider the duration of less than 15 years to be appropriate and based on robust reasoning thus allowing planning permissions to be kept up to date to reflect the current environmental standards within an environmentally sensitive area. The selection of what are reasonable alternatives is a matter for the Council. Where activities continue beyond this time period, paragraph 4.80 within the policy clarification of Draft Policy MIN01 allows for a new planning application to be submitted to extend the life of the quarry/mine to allow it to be considered against the policy criteria of Draft Policy MIN01 and the provision of the necessary supporting evidence and environmental information. This is contained within Recommended Amendment RA54 which is necessary to ensure that the policy logically flows. Given the provisions of paragraph 6.164 of the SPPS in terms of on-site processing, for consistency it is not appropriate for the policy to state that it will be assessed on a case-by-case basis.
- 6.58 The SA states that FODC contains approximately one quarter of the total peatland area within Northern Ireland, including approximately one third of the peatland area that is intact in that it has never been cut. The district contains eight peat extraction sites, all on lowland raised bog, some of which have been operating since the 1990s and the Council considers that such extraction is likely to continue for many years to come. The Council's cross-cutting, robust evidence demonstrates how the process of extracting the peat decimates extensive areas, leaving the landscape devoid of vegetation, damaging hydrology, impacting on wetlands and archaeological remains and, as stated in the SA and Updated Minerals Paper (2020) represents the loss of a vital carbon sink making it environmentally unsustainable, exacerbating global warming and climate change. The Council also identified research which indicates that, despite restoration measures, the milled bog surfaces where peat is extracted are never fully restored. Paragraph 6.158 of the SPPS states 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. Having taken account of this provision, Recommended Amendment RA53 to Draft Policy MIN01 appropriately states that commercial peat extraction, including proposals for new or extended sites or renewal of extant permissions, shall not be permitted. It is a reasonable proposition that by introducing such a policy provision, it is hoped that it will encourage the phasing out of the usage of peat in horticulture, now that there are alternatives available, and that it will assist in protecting the remaining areas of lowland raised bog not covered by nature conservation designations. This policy corresponds with the approach proposed within Draft Policy NE03 as amended by Recommended Amendment RA91 in relation to protecting the habitats, species or features of natural heritage importance.

- 6.59 Concern was raised that the Ironside Farrar studies do not consider the capacity for minerals development however these studies only relate to the capacity for wind energy development. In terms of the Landscape Character Review (LCR, Document FODC 302, 2018), this is not a capacity assessment but rather provides a description of landscape character and a high-level assessment of sensitivity to different types of development. The ability of a landscape to accommodate a development would therefore have to be determined through a capacity assessment for that particular development.
- 6.60 The Council's proposed amendment 62 states that in considering a proposal where the site is within a designated site, due weight will be given to the reason for the designation. It is acknowledged that the natural environment and landscape and visual amenity are considerations under criteria (i and ii) of Draft Policy MIN01 as well as within various policies in the dPS. However, to take account of the provisions of paragraph 6.158 of the SPPS, amendment 62 should also relate to minerals development which is within or in close proximity to an area that has been designated or is proposed for designation in order to protect its landscape, scientific or natural heritage significance (Recommended Amendment RA55).
- 6.61 Although not a requirement within regional policy and irrespective of the approach in the NPPG, in response to concerns raised during the POP stage, the Council has provided robust reasoning to justify why Draft Policy MIN02 Restoration and Aftercare requires a restoration and aftercare bond or other financial provision to ensure full restoration and reinstatement of the site should the developer fail to implement the agreed restoration plan. Following discussion at the hearing sessions, given that financial security would be required in all instances, it is appropriate for coherence that the word 'normally' be removed from the policy clarification text (Recommended Amendment RA56). There is no requirement for the dPS to take account of previous planning appeals decisions and at any rate each appeal is assessed on its own merits and within its evidential context at that time. Whilst it may not have been a previous requirement, Draft Policy MIN02 would only apply

should the developer fail to carry out their obligations. The Council's intention to produce supplementary guidance on the matter should provide the necessary detail for applicants and the minerals industry; the public will also get an opportunity to raise any concerns. This approach is sound.

- 6.62 Irrespective of what is allowed under the waste management regime, in order to promote sustainable development reducing for example transportation impacts, Draft Policy MIN02 reasonably requires that all materials used should be overburden and taken from within the site. The Council has taken account of paragraphs 6.152, 6.161 and 6.167 of the SPPS. The use of material from within the site would also reduce biosecurity concerns. The use of the word 'normally' allows for a degree of flexibility for instances when there is a lack of availability of fill and to ensure there is sufficient material to achieve the planting scheme. Concern in relation to the lack of restoration of specific sites is a matter for a concerned party to pursue directly with the Council.
- 6.63 Concerns were raised that Draft Policy MIN03 Minerals Safeguarding Areas (MSAs) are not defined within the dPS and that this was inconsistent with the decision to identify ACMDs. The information that the Council requires to identify MSAs is however different to that required and which they possess to identify ACMDs. Despite a small number of sites being identified in representations, the wording of paragraph 6.156 within the SPPS does not place a necessity on the Council to identify MSAs but rather states that in preparing their LDP it may also identify areas most suitable for minerals development within the plan area. Although the Council acknowledge that the primary purpose of the ACMDs is to minimise or restrict minerals development in sensitive landscapes, it is also a means of safeguarding a minerals resource. The evidence base presented here to support the approach by the Council is realistic and appropriate considering the two-stage nature of the LDP process. The exemptions to the policy are for minor applications, whose impact on the mineral resource would be negligible.
- 6.64 In their correspondence with quarry and mining operators the Council sought their views as to potential sites of important mineral reserves which would merit protection as MSAs. The response rate from operators was very low. At present, even though applicants may have presented information within their planning applications, evidence as to the precise extent of all the areas of deposits required to be safeguarded is currently uncertain and during the early stages of exploration it may not be possible to identify with sufficient precision the Protection Zone. There is currently a lack of knowledge on the full extent of the mineral reserves, where workable resources are located as well as data on supply and demand for that mineral in a marketplace inside and outside the council area. Although concern was expressed that considerable surface development could occur between the adoption of the PS and the LPP, the SPPS will remain a material consideration when

determining planning applications and paragraph 6.155 would ensure that workable mineral resources are not sterilised by other surface development which would prejudice future exploitation. This approach is sound.

- 6.65 Claims from the minerals sector that the information is now available is encouraging for the future identification of the MSAs. It is therefore logical that the intention is to identify MSAs at the LPP stage following discussions with the minerals industry, the Minerals and Petroleum Branch/GSNI and through the Minerals Engagement Group in which all the councils engage. It is a matter for the Council to engage with the statutory consultees as well as key stakeholders in this information gathering process. Any claims of conflicts of interests between the various organisations is beyond the remit of the Independent Examination.
- 6.66 In drafting Draft Policy MIN04 Unconventional Hydrocarbon Extraction the Council has taken account of paragraph 6.157 of the SPPS and the public concern about the issue. Given the provisions of the General Permitted Development Order (NI) 2015, the Council does not have the authority to place an outright restriction on exploration works for unconventional hydrocarbon. In such cases, where a planning application would 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 Council has the option to remove permitted development rights. No acceptance of fracking is implied within the policy. For clarity it would be beneficial for the process to be defined as per the Council's proposed amendment 63 however this is not required to make the plan sound.
- 6.67 Calls were made for the dPS to introduce a policy in order to reject higher activity radioactive nuclear waste being stored in a Geological Disposal Facility situated within the council area. The proposal by the United Kingdom Government to accommodate a Geological Disposal Facility within the UK is at a very early stage with no host site identified. As there is no requirement within regional policy to provide planning policy in relation to this matter, there is no policy and guidance in which the Council must take account of. Whilst the Council have stated that they would be opposed to any such plans, they stated that it would not be possible for them to introduce such a policy at this stage in the process given that it would not be subject to public consultation. I have insufficient evidence to make such an amendment as part of my assessment of the soundness of the plan. Concern in relation to the United Kingdom Internal Markets Act 2020 creating a mechanism for spend money in areas of infrastructure which is devolved to NI without the required engagement of the devolved government is beyond the remit of this process. The retention of the provisions within Policy M1 of FAP 2007, which relates to the cement industry in south-west Fermanagh, is a matter for the Council to consider at the LPP stage. It would not be appropriate or reasonable to impose a moratorium on new extractive industries until a number of criteria are met. Calls for changes to the SPPS minerals policy are beyond the remit of this process and the purpose of the IE is to test the soundness of the plan before me.

6.68 In order to be consistent with Departmental policy and guidance, the dPS's overall approach to minerals therefore successfully balances the demands of the minerals industry with protecting and conserving the most valuable and vulnerable areas of the environment. Having utilised the available information, which is at their disposal, they have endeavoured to provide a robust evidence base for their minerals policies which, subject to the discussed amendments (RA53-56), meet the relevant procedural, consistency, coherence and effective tests and are sound.

## **7.0 ENVIRONMENT**

### **Historic Environment**

- 7.1 Draft Policy HE01 Historic Environment Overarching seeks to identify the circumstances in which the Council will support development proposals which affect a heritage asset or its setting. Appendix 5 of the dPS also provides guidance for those submitting planning applications that affect the Historic Environment or a Heritage Asset. In response to valid concerns, amendments 65, 66 and 137 were proposed to delete Draft Policy HE01 and Appendix 5. This deletion is necessary in order to take account of policy and guidance published by the Department and to ensure that the policies are realistic, appropriate and logically flow (Recommended Amendments RA17, RA57 and RA58). The addition of amendment 64, which highlights that guidance documents have been produced by HED which detail relevant considerations for development proposals which may affect heritage assets, is a matter for the Council as it is not necessary to make the plan sound.
- 7.2 In terms of Draft Policy HE02 Archaeology Recommended Amendments RA59, RA60, RA61, RA62 and RA63 are required in order to take account of paragraphs 6.8, 6.10, 6.11 and 6.29 of the SPPS. Without such an amended policy, there would be a policy lacuna within the dPS, and it would thereby fail soundness test C3. There is no need for amendment 68 to be located within the policy headnote as it is setting out a statement of fact on the legal position of such sites. I am not persuaded nor do I accept that paragraph 5.12 introduces a general presumption against certain large-scale development types in Areas of Significant Archaeological Interest (ASAs). Rather I consider that it takes account of paragraph 6.29 of the SPPS which recognises that these distinctive areas of the historic landscape, whose character and integrity are worthy of protection, may generally be unlikely to accommodate such development. Therefore each proposal in such areas will therefore have to be assessed on their own merits. It is sufficiently clear from Recommended Amendment RA59 as to the role of the Statement of Significance thus meeting soundness test CE1. However, although it is stated within paragraph 5.12 of Draft Policy HE02 that generally it is unlikely that ASAs will be able to accommodate large scale development, it is also stated that specific policies would be developed at the LPP stage for each of the ASAs providing details on the types of development that may be acceptable. This reads as permissive of development proposals which is at odds with paragraph 6.29 of the SPPS which refers to local policies or proposals for the protection of the overall character and integrity of these distinctive areas being included in LDPs where relevant and therefore should be amended by the Council (Recommended Amendment RA59).
- 7.3 Given the provisions of paragraphs 6.8 and 6.9 of the SPPS and the fact that expert opinion is necessary in order to identify and assess archaeological sites, it would not be appropriate for the dPS to state that development proposals which would

adversely affect archaeological remains of regional importance or the integrity of their settings should not be permitted in any circumstances and that all recorded archaeological sites should benefit from statutory protection. Taking account of paragraph 6.8 of the SPPS, it is also appropriate for Draft Policy HE02(a) to include reference to those that would merit scheduling and candidate ASAs as the scheduling programme is an ongoing process, as acknowledged by the SPPS.

- 7.4 There is no conflict between Draft Policy HE02 and the policy clarification within paragraph 5.10. There is no need for the policy clarification text of Draft Policy HE02 to refer to the LPP having to contain specific policies for each of the ASAs in order to take account of the SPPS' requirements. Paragraph 1.4 within Part Two of the dPS highlights that its policies should be read in conjunction with the SPPS and the RDS. Such requirements are necessary in accordance with soundness test C3. There is also no need to provide additional text in relation to how archaeological considerations and mitigation will be dealt with during the development management process as this is sufficiently dealt with within Recommended Amendment RA64, would amount to guidance which could be subject to change during the duration of the plan period and is already detailed within a HED publication Development and Archaeology: Guidance on Archaeological Works in the Planning Process (2019).
- 7.5 The insertion of information on the legislative requirements of Scheduled Monument Consent for works that would affect scheduled monuments is not necessary to make the plan sound as the legislation applies in its own right. This is beyond the remit of the dPS. It would not be required to make the plan sound and would fail to meet soundness test CE4 as it could become outdated during the lifetime of the Plan Strategy. Likewise, as new ASAs could be identified at a later date, there is no need to make specific reference to individual ASAs within this section of the dPS as the current ASAs are identified on the relevant Proposals Maps. Representations were received in relation the extension of the Beaghmore ASAI, shown on the relevant Proposals Map, with some parties wanting it extended and others deleted, however I am satisfied that the extent of the proposal contained within the dPS is founded on a robust evidence base which includes fieldwork, GIS analysis and data from the Northern Ireland Sites and Monuments Record. The Historic Monuments Council was also consulted on the extension as the Statutory Advisory Body to DfC-HED and they offered their endorsement. Soundness test CE2 is therefore met.
- 7.6 Whilst the Council has had regard to the relevant plans, policies and strategies relating to adjoining council districts to meet soundness test C4 and has a Memorandum of Understanding in place with Mid-Ulster Council to ensure co-operation on policy development, it would not be appropriate or necessary for Draft Policy HE02 to refer to designations within the adjoining districts. The inclusion of individual sites and roads is a matter for the Council; the SPPS however

acknowledges within footnote 13 to paragraph 6.29 that it may not be feasible for the LDP to identify and bring forward policies specific to individual heritages assets and therefore states that it should identify the main built and archaeological features where they exist within the plan area.

- 7.7 Paragraph 6.10 of the SPPS states that planning authorities should seek all necessary information from applicants in making 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, it is stated that the planning authority should adopt a precautionary approach and refuse planning permission; Policy BH 3 Archaeological Assessment and Evaluation of PPS 6 contains a similar policy provision. Paragraph 6.11 of the SPPS adds that where a planning authority is minded to grant planning permission for development which will affect sites known or likely to contain archaeological remains, it should ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development. Where appropriate, it is added that this may involve the preservation of remains in situ, or a licensed excavation, recording examination and archiving of the archaeology by way of planning conditions. Again, Policy BH 4 Archaeological Mitigation of PPS 6 contains a similar policy. Whilst the various arguments presented by the Council have been considered, including the need for brevity in formulating the LDP, rather than deal with these important matters within the policy clarification as proposed by amendment 73, in order to meet soundness test C3 they should be contained within the policy headnote of Draft Policy HE02 and supported with relevant clarificatory text (Recommended Amendment RA64). It is noted that such an approach was requested by HED, who are the relevant statutory consultees in this field and whose role in the LDP process, as well as in the identification of the heritage and measures for protection, are also protected in Article 5 of the Valetta Convention (Revised) 1992.
- 7.8 Draft Policy HE03 Listed Building and their Settings has a different format to the relevant policies contained within PPS 6. I appreciate that the Council are trying to make the policies more concise and I am satisfied that, subject to the changes to the amendments discussed below, that all the necessary aspects are addressed. Whilst Recommended Amendment RA65 to Draft Policy HE03(a) is necessary to meet soundness tests C3 and CE1, its title should include reference to change of use as this is also being addressed in the policy and a change of use proposal may not involve alterations and extensions to a Listed Building or result in development in its setting (Recommended Amendment RA66). It is also noted that the term 'change of use' has been used in the policy heading elsewhere within the dPS such as Draft Policy HOU07 Conversion and Change of Use of Existing Building to Self-Contained Flats. In order to take account of Policy BH 7 Change of Use of a Listed Building of PPS 6, paragraph 6.13 of the SPPS, RG11 in the RDS and therefore also meeting soundness



test C1 it is necessary for the fourth bullet of Policy HE03(a) to state that the change of use secures its ongoing viability and upkeep (Recommended Amendment RA67).

- 7.9 In terms of Policy HE03(b), as proposed to be amended by Recommended Amendment RA68, which relates to the demolition of a Listed Building, whilst there is a statutory obligation under Section 91(2) of the Planning Act (NI) 2011 to have special regard to the desirability of preserving the Listed Building or its setting, in order to take account of RG11 of the RDS, paragraphs 6.13 and 6.15 of the SPPS and Policy BH 10 Demolition of a Listed Building of PPS 6 this should be further amended to state the presumption in favour of the retention of Listed Buildings. The first line of its second bullet point should be amended as this could be misinterpreted and needs to take account of the whole text contained within paragraphs 6.13 and 6.15 of the SPPS. The second sentence of the second bullet point should also be amended to state that in such cases, appropriate arrangements must be in place for recording the building prior to demolition. Where consent for the total demolition of a Listed Building, or any significant part of it, is granted, this will be conditional on prior agreement for the redevelopment of the site. It is logical to place this text here rather than in paragraph 5.16 as suggested by amendment 77 as this change takes account of paragraph 6.15 of the SPPS and Policy BH 10 of PPS 6. This is therefore required to meet soundness test C3.
- 7.10 The other suggested changes to Draft Policy HE03 made by the representations to the dPS are not required to make the plan sound. Guidance on how a proposal would be considered is adequately covered in other Departmental guidance documents and practice note. It is not necessary to repeat this within the dPS in order to make it sound. A request was made for reference to be made to repair notices and urgent works notices. However, given that the policy only relates to development proposals, I accept the Council's position that it would require them taking a corporate decision on when to use such powers and that this would be outside the LDP process.
- 7.11 Section 104(11) of the Planning Act (NI) 2011 states that where any area is for the time being designated as a Conservation Area (CA), special regard must be had to the desirability of (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise; (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise. Paragraph 6.18 of the SPPS also states that in managing development within a designated CA the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. In order to make the plan sound, it is therefore necessary for Draft Policy HE04(a) to be amended to take account of the guiding principle as stated within paragraph 5.18 of the dPS (Recommended Amendment RA69). Draft

Policy HE04(a) has taken account of paragraph 6.19 of the SPPS which states that development proposals should, amongst other things, respect the characteristics of adjoining buildings in the area and therefore there is no need to amend this provision. Recommended Amendment RA70 is necessary to meet soundness test C3 by taking account of paragraphs 6.18 and 6.19 of the SPPS.

- 7.12 Recommended Amendment RA71 to Draft Policy HE04(b) Demolition of an Unlisted Building in a Conservation Area takes account of the exceptions test contained within paragraph 6.18 of the SPPS. As suggested by the statutory consultee, in order to meet soundness test C3, Draft Policy HE04(b) should be amended in accordance with Recommended Amendment RA72. This would take account of the provisions within Section 104(11) of the Planning Act (NI) 2011, paragraphs 6.18 and 6.19 of the SPPS as well as PPS 6's Policy BH12 New Development in a Conservation Area, paragraph 7.7 and Policy BH14 Demolition in a Conservation Area. The amendment would require that following the demolition of an unlisted building in a CA that it be demonstrated that a new building enhances the character or appearance of the area. Paragraph 5.18 within the dPS contains a list of examples of measures that may conserve, preserve or enhance the character or appearance of the CA. It is clarificatory text as opposed to containing policy tests. It is not necessary to provide a similar list under Draft Policy HE03 Listed Buildings and their Settings in order to make the plan sound. Recommended Amendment RA73 removes some of the wording within paragraph 5.19 of the dPS in order to meet soundness test C3. Recommended Amendment 74 is necessary to meet soundness test C4 in order to correct the Enniskillen's CA boundary to reflect that contained within the Enniskillen Conservation Area Guide (1988). There is no need to refer to Article 4 Directions in order to make the plan sound and the provision of such a Direction would be a corporate matter for the Council.
- 7.13 Recommended Amendments RA75-79 inclusive to Draft Policy HE05 Areas of Townscape Character (ATCs) and Areas of Village Character (AVCs) are necessary in order to meet soundness test C3 by taking account of PPS 6 as well as its Addendum and the SPPS. The suggested protection for townland or parish boundaries or that a development proposal conform to supplementary design guidance is not required to make the plan sound. The consideration of views within, into and out of the ATC would, if applicable, be assessed as part of its character and unique identity which is to be maintained or enhanced under Draft Policy HE05(a). Concern was raised in relation to the level of protection of trees within Draft Policy HE05. It is noted however that paragraph 6.29 of the SPPS states that local policies or proposals and guidance for such areas should be included in the plan or where appropriate in supplementary planning guidance. The Council has expressed concern that unprotected trees within an ATC or AVC could be removed and pruned without the need for specific consent of the Council or prior to the implementation of a planning permission which seeks to retain trees through the imposition of a planning

condition. The need to protect and satisfactorily integrate the trees into the design and layout of the development is also included within Policy ATC 2 New Development in an Area of Townscape Character of the Addendum to PPS 6 and could be assessed as part of the development management process. The Council could also invoke its Tree Preservation Order powers if need be.

- 7.14 Recommended Amendment RA80 to Draft Policy HE06 Historic Parks, Gardens and Demesnes is necessary as it will take account of paragraph 6.17 of the SPPS thus meeting soundness test C3. No other changes are required to the policy to make it sound.
- 7.15 The identification and review of LLPAs is not to be carried out until the LPP stage and therefore it would not be appropriate to comment on specific LLPAs at the dPS stage. Recommended amendment RA81 to Draft Policy HE07 Local Landscape Policy Areas (LLPAs) is appropriate in order to take account of paragraphs 6.29 and 6.30 of the SPPS. Although not a provision within Departmental policy and guidance, given the local circumstances of Policy Man Env 3 Local Landscape Policy Areas in the FAP which state that LLPAs function as buffer zones and would have been identified and designated on that basis, it is appropriate for amended paragraph 5.25 of Draft Policy HE07 (Recommended Amendment RA82) to state that sometimes LLPAs can assist in carrying out such a function. The Council consider that there are no areas of existing open space within the settlements which would satisfy the strategic function of the suggested landscape wedges and no substantive evidence was presented to legitimately dispute this position.
- 7.16 Draft Policy HE08 Enabling Development refers to a proposal securing the future conservation of a heritage asset. I agree with those who have expressed concern that the use of the word 'future' in this context is open to misinterpretation, perhaps something to be carried out further down the line and open ended. I view this as being different to paragraph 6.25 of the SPPS and Policy ED1(i) Enabling Development of PPS 23 which refer to a proposal securing the long-term future of a significant place. The other aspects of the Council's proposed amendment 91 are required in order to meet soundness test C3 by taking account of the SPPS and PPS23. This is reflected in Recommended Amendment RA83.
- 7.17 The criteria that an enabling development proposal will need to demonstrate in the Statement of Justification should be contained within the policy headnote of Draft Policy HE08 rather than in the clarification text of paragraph 5.28 in order to take account of PPS 23. This is reflected within Recommended Amendment RA84. Placing the criteria in the headnote would take account of Policy ED1 Enabling Development of PPS 23 and paragraph 6.26 of the SPPS which acknowledges that the justification for allowing it lies in the over-riding public benefit to the conservation of the significant place and its sustainable future use. The inclusion of the required criteria within the policy headnote has also been the approach adopted elsewhere within

the dPS within numerous policies such as Draft Policies DE08, HOU05 and IB04. It is therefore recommended, in order for the policy to be coherent and logically flow, that the last line of Draft Policy HE08 be amended requiring that it must be demonstrated through a Statement of Justification that all of the following criteria will be met (Recommended Amendment RA83). This suggested amendment would also remove the use of the term 'future conservation'. It is unnecessary to specify the source of the Council's expert advice who assesses a Statement of Justification or to outline the legislative requirements of other consents which exist outside the development management process.

- 7.18 It is appreciated that the Council has carried out a detailed examination of the different definitions used across the various PPSs, the SPPS and other guidance which relate to non-listed historic buildings and used this to inform the definition used within the dPS. It was suggested that Draft Policy HE09 Change of Use, Conversion or Re-Use of an Unlisted Locally Important Building or Vernacular building ensure that there is not a net loss of biodiversity. However, this is adequately addressed in other policy provisions such as Draft Policies DE02 and NE03. In order to take account of the SPPS, Recommended Amendments RA85 and RA86 are however required in order to meet soundness test C3. A call was made for this policy to explicitly highlight that extensions, alterations or modifications should have no adverse impact on locally important or vernacular building. Given that paragraph 6.24 of the SPPS states that '*the effect of an application on the significance* (my emphasis) of a non-designated heritage asset such as an unlisted vernacular building or historic building of local importance should be taken into account in determining the application', in order to meet soundness test C3 the Council should include such a requirement within Draft Policy HE09 (Recommended Amendment RA87). Paragraph 6.24 of the SPPS does not exclude an application for a change of use, conversion or re-use and criterion (i) of Draft Policy HE09 only refers to a proposal not having an adverse effect on the character or appearance of the locality. It would be for an applicant at the development management stage to demonstrate that this criterion is not applicable in that particular instance.
- 7.19 The Council presented a robust evidence base on this matter including fieldwork, GIS analysis, data from the Northern Ireland Sites and Monuments Record as well as consultation with the relevant expert bodies. The local circumstances of the area have also been considered by the Council and this is reflected in its historic environment policies such as Draft Policies HE05 and HE07 as amended. The Council did however suggest numerous amendments, a lot of which I accept are necessary to take account of the RDS, SPPS, PPS 6 and the Addendum to PPS 6 to make the plan sound. However, having considered the Council's evidence I am not persuaded by their approach on several matters and therefore I have recommended a number of further amendments which I consider are also necessary to make the plan sound for

the reasons indicated. Subject to recommended amendments RA17 and RA57-87 however, the historic environment section of the dPS is sound.

### **Natural Environment**

- 7.20 Draft Policy NE01 Nature Conservation sought to simplify the experience for the reader by utilising more user-friendly language and subsuming numerous policies into a single shorter policy. However, in doing so, some of the protection afforded to the natural environment has been diminished thus resulting in negative consequences for the environment and biodiversity. As a result, Recommended Amendment RA88 is required to meet soundness tests C3 and CE1 to provide a coherent strategy to protect the natural environment. The protection afforded to the various natural environment hierarchy tiers is agreed at an international level and appropriate weight would be given to them in determining future planning proposals. It is noted that the dPS proposes a draft Special Countryside Area designation to provide a greater level of protection to unspoilt landscapes which may be vulnerable to change. Having taken account of paragraph 3.9 of the SPPS, Recommended Amendment RA09, which is required to meet soundness test C3, contains the precautionary principle and therefore there is no need to restate it again within this section of the dPS.
- 7.21 Recommended Amendment RA89 to Draft Policy NE02 Protected Species and their Habitats is necessary in order to take account of paragraphs 6.180 and 6.181 of the SPPS and Policy NH 2 Species Protected by Law of PPS 2 thus distinguishing between the different policy tests for EU and nationally protected species, each of which has a different level of protection. In order to meet soundness test C3 and given the views of the expert body in this field, a further change should however be made to Recommended Amendment RA89 in order to reflect the 'harm' test contained within paragraph 6.180 of the SPPS and Policy NH 2 of PPS 2 as opposed to the 'adverse effect' test contained within Draft Policy NE02 in order to make the plan sound.
- 7.22 To take account of paragraph 6.191-6.193 of the SPPS and Policy NH 5 Habitats, Species or Features of Natural Heritage Importance of PPS 2, Recommended Amendments RA90 and RA91 to Draft Policy NE03 Other Habitats, Species or Features of Natural Heritage Importance are necessary to make it sound.
- 7.23 Whilst it is accepted that the Council are trying to make the dPS a concise and easily negotiated document, this cannot be at the expense of providing comprehensive planning policies which take account of Departmental policy and guidance. The amendments discussed above would ensure that there is a coherent strategy to ensure the protection of the natural environment which respects its various hierarchical tiers and levels of protection. Subject to the amendments discussed above (RA88-91), the natural heritage section of the dPS is therefore considered to be sound.

## Landscape

- 7.24 The Fermanagh and Omagh area has a variety of unique and special landscapes. This includes a significant section of the north-east of the council area being located within the Sperrins AONB. The Marble Arch Caves Global Geopark and Cuilcagh are in the south of the council area and the lakelands contain an abundance of habitats.
- 7.25 The methodology used to conduct the landscape studies conforms to the best practice guidance and it provides a robust and balanced up to date assessment of the varying character and sensitivities of the AONB landscape. The subdivision and renaming of LCAs results in no change to the boundaries of the LCAs within the AONB. In terms of the timing of the various landscape studies, while the NILCA 2000 study formed the basis of establishing the landscape and visual baseline, this was confirmed and updated by conducting site visits and a desk study. As stated previously, concern was raised that the Ironside Farrar studies do not consider the capacity for minerals development however these studies only relate to the capacity for wind energy development. In terms of the LCR, this is not a capacity assessment but rather it provides a description of landscape character and a high-level assessment of sensitivity to different types of development. The ability of a landscape to accommodate a development would therefore have to be determined through a capacity assessment for that particular development.
- 7.26 Recommended Amendment RA93 to Draft Policy L01 Development within the Sperrin Area of Outstanding Natural Beauty is necessary to take account of paragraphs 6.187, 6.188 and 6.198 of the SPPS and Policy NH6 Areas of Outstanding Natural Beauty of PPS 2. It reflects the distinctiveness of the AONB and ensures that Landscape Character Assessments and other relevant guidance are considered. Draft Policy L01 is not an embargo on development within the AONB but rather reflects paragraph 6.187 of the SPPS which states that development proposals in such areas must be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. The location of any development within the AONB would be one of a number of material considerations, including social and economic factors, when determining a planning application. Recommended Amendment RA93 also corrects the inconsistency in the language used within the policy headnote and clarification text with the term 'adversely affect' being appropriately selected in order to give the required level of protection to the AONB. The use of the term 'significant adverse impact' would result in a much lesser test and fundamentally change the intent of the policy. The assessment of views is a normal planning consideration during the development management process. Given the representations from the statutory body, that a landscape and visual assessment (LVIA) is required within an Area of High Scenic Value (AoHSV) which is a lesser designation in the landscape hierarchy, to protect the integrity of its distinctive special character and secure it as a tourism asset and in order to meet soundness

test CE1, it is appropriate that a LVIA be a requirement for a development proposal within an AONB. Recommended Amendment RA94 proposes to delete paragraph 5.53 which meets soundness test CE1 as it fails to provide clarification to the policy and can be dealt with through the development management process.

- 7.27 Difference in professional judgement as to the value of the AONB and landscape character of certain areas within will be inevitable. It is noted that the statutory body responsible for the matter welcomed that the review and update of the Landscape Character Assessment had been carried out by a consultant experienced in that area of work and that the assessment corresponds with the established and evolving principles of landscape character assessment. The AONB, which was originally designated in 1968, was redesignated with amended boundaries in 2008 by the Department under the Nature Conservation and Amenity Lands (NI) Order 1985 including to conserve or enhance the natural beauty and amenity of the area and to conserve wildlife, historic objects or natural phenomena within it. It was one of five factors used for the evaluation of landscape value. The Landscape Character Review (2018) captured changes within the landscapes including those located within the AONB.
- 7.28 Having participated in cross boundary forums, including the Sperrin Forum with the three other council areas with responsibility for the Sperrin AONB, from the Background Paper-Cross Boundary Working (Document FODC 402, December 2020) and representations received from adjoining Councils, it is apparent that the Council has sought to ensure that there is compatibility in their strategic policy approach across the AONB. Such an approach demonstrates that the dPS has had regard to the relevant plans, policies and strategies of neighbouring councils thus meeting soundness test C4.
- 7.29 The identification of a section of the Sperrin AONB as a Special Countryside Area (SCA) meets soundness test C3. It takes account of paragraph 6.75 of the SPPS which acknowledges that such areas of the countryside, which should be designated as SCAs in LDPs, exhibit exceptional landscapes wherein the quality of the landscape and unique amenity value is such that development should only be permitted in exceptional circumstances. This is set out in Recommended Amendment RA95 to Draft Policy L02 Special Countryside Areas. Recommended Amendment RA95 would provide sufficient coherence and allow for where there are exceptional circumstances to justify permitting a proposal within such a location. This will be a matter of judgement and a balancing exercise for the decision maker. To allow the families of inhabitants of these areas to build new dwellings here would be contrary to the intent of the policy. This designation does not undermine the AONB designation but rather seeks to provide it with a higher level of protection from unnecessary and inappropriate development. Given the views of the statutory body, in order to protect the exceptional landscapes of such areas and that a LVIA is

required within an AoHSV which is a lesser designation in the landscape hierarchy, to meet soundness test CE1 it is necessary that a LVIA be a requirement for a development proposal within a SCA. This is set out within Recommended Amendment RA95.

- 7.30 Concern was raised by several parties in relation to how SCAs were designated. In response and utilising information from published documents such as the NILCA 2000, the Council's Community and Action Plans, background studies and papers including the Landscape Character Review (LCR), the background, rationale and methodology used to identify the various SCAs is clearly set out and robustly justified in Appendix 6 of the Addendum to the Countryside Assessment (Document FODC 223, August 2020). The Council's approach was also informed by discussions held with the other councils located within the Sperrin AONB. Appendix 6 of the Addendum to the Countryside Assessment together with the LCR provide details of the landscapes considered to be of exceptional character meriting designation as a SCA. Recommended Amendment RA96 to paragraph 5.54 is necessary to meet soundness test CE1 as it provides additional clarification of the consideration of the special character of the designation in terms of recognising the interdependency between the special qualities of the landscapes and the natural functioning of the environment.
- 7.31 Draft Policy L03 Areas of High Scenic Value (AoHSV), as amended by Recommended Amendments RA97 and RA98 and discussed at the hearing, sets out the circumstances in which proposals for development in such areas will be permitted meeting soundness test C3 as it takes account of paragraphs 6.75 and 6.76 of the SPPS. The requirement for the submission of a LVIA for large-scale development proposals does not provide policy support for such a development, which would have to be robustly assessed at the development management stage, but rather is reflective of its lower tier in the landscape hierarchy compared to an AONB or SCA. It is not necessary to provide examples of such development or connect it with the EIA thresholds which are applicable for that regime as opposed to the LDP process. Draft Policy L03 adds a policy test over and above that contained within the other dPS policies which relate to development in the countryside. The opportunity for the provision of pathways and informal recreational facilities which are of an appropriate scale and in a suitable location arises due to the findings of the Landscape Designation Review which identified positive opportunities for change within the various AoHSVs. Concern was raised by several representations that there are no AoHSVs within County Tyrone however it is accepted that AONB and SCA designations, which offer higher levels of protection, have been identified here. The amendment to the justification text of paragraph 5.49, which was discussed at the hearing session, reflects the landscape hierarchy and therefore meets soundness test CE1. This is set out within Recommended Amendment RA92.



7.32 To conclude, the Council's evidence base is robust and up to date. They have taken account of representations, including those made by the statutory body, as well as the policy and guidance issued by the Department. Draft Policies L01-L03 as amended above logically flow, respecting the landscape hierarchy, and it has been ensured that the dPS is not in conflict with the plans of neighbouring councils. The landscape section of the dPS, subject to Recommended Amendments RA92-98, is therefore considered to be sound.

## **8.0 INFRASTRUCTURE**

### **Flood Risk Management**

- 8.1 In correspondence from the Commission to the Council dated 4<sup>th</sup> October 2021, it was highlighted that DPPN 07 states that the plan strategy should make it clear how infrastructure which is needed to support it will be provided. DPPN 07 states that a council should aim to ensure that its plan strategy is both realistic and deliverable taking account of the resources available and any potential constraints which may arise during the plan period. In furthering sustainable development, the RDS and the SPPS emphasise the importance of the relationship between the location of housing, jobs, facilities, services and infrastructure. They also recognise the need to avoid, where possible, the selection of flood prone land for employment and housing growth urging the adoption of a precautionary approach to development in areas of flood risk and use of the latest flood risk information that is available to properly manage development.
- 8.2 The Sustainability Appraisal of the dPS (Document FODC 103, October 2018) and the Public Utilities Paper (Document FODC 233, November 2020) state that the flood defences in Omagh, while providing a degree of protection from flooding, are no longer considered to provide the minimum level of protection required under Planning Policy Statement 15: Planning and Flood Risk (September 2014). The Council however commented in correspondence with the Commission dated 20<sup>th</sup> October 2021 that housing need is likely to come from commitments which have already been assessed under the relevant policy context at that time. As per Recommended Amendment 08, which relates to Draft Policy SP03 Strategic Allocation and Management of Housing Supply, a criteria-based approach is to be undertaken when selecting sites for each housing phase with the selection criteria including an assessment of flooding risk thus taking account of paragraphs 6.104 and 6.128 of the SPPS.
- 8.3 The exceptions contained within Draft Policy FLD1 Development in Floodplains, as amended by Recommended Amendments RA99 and RA100, reflect the regional strategic objectives and policy contained within the SPPS as well as within Policy FLD 1 in PPS 15 (revised) Planning and Flood Risk and are therefore required in order to meet soundness test C3. Paragraph 6.8 of the accompanying clarification text sufficiently sets out what is meant by ‘minor development’ taking account of paragraph 6.107 of the SPPS and its associated footnote.
- 8.4 DfI Second Cycle Draft NI Flood Risk Management Plan 2021-27 (December 2020, page 29) states that it is expected that new LDPs will provide appropriately worded and suitably future proofed floodplain definitions to enable the continued implementation of the presumption against development in both present day and climate change flood map areas. Having taken account of DfI Rivers’ concerns, at the hearing sessions the Council proposed a minor and clarificatory change (amendment 107) to paragraph 6.4 of the policy clarification to reflect the now published Flood

Risk Guidance in relation to the allowances to climate change within Northern Ireland and to allow for flexibility over the plan period. During the hearing sessions DfI Rivers however proposed a further minor change to amendment 107. Given their expertise in this area and the history of flooding within the council area, DfI River's definition of the limits of the floodplain, as defined as the extent of a modelled flood event with a 1 in 100 year probability (Annual Exceedance Probability (AEP)) of 1% plus the latest climate change addition, in accordance with the latest guidance published by DfI, provides greater clarity. This is reflected within Recommended Amendment RA101. Given its clarificatory nature, it is not necessary for this text to be contained within the policy box. It would not be appropriate to specify the exact dimensions of the required freeboard as its required depth may change over the plan period; reference to adhering to the latest guidance published by DfI Rivers would be more appropriate. As well as referring to their location and the area benefiting from their protection, given the crucial role of flood defences, the record of flooding within this council area and the evidence that some of its existing flood defences are considered to be below the minimum standards, it would also be appropriate for the policy clarification to state within paragraph 6.5 that DfI Rivers, as the competent authority, need to confirm that flood defences are structurally adequate and provide the minimum standard of 1% Annual Exceedance Probability fluvial flood protection. This is reflected in Recommended Amendment RA102.

- 8.5 In terms of Draft Policy FLD02 Development affected by Surface Water Flooding outside Floodplains, in order to meet soundness test C3 an amendment should be made to changing the emphasis of the policy so that it is expressed in negative terms, as suggested by DfI Rivers in SPCDPS0024. This would reflect the precautionary approach to development in areas of flood risk taking account of SPPS which is the most recent expression of departmental policy in relation to this matter (Recommended Amendment RA103). In light of the proposed change, it would be logical for the policy clarification text to provide direction in relation to the instances when a Drainage Assessment is required under the policy so that a developer is aware that it is their responsibility to assess the flood risk, drainage impact, to mitigate the risk to the development and any impact beyond the site thus taking account of paragraph 6.117 of the SPPS (Recommended Amendment RA104). To take account of paragraph 6.114 of the SPPS, Recommended Amendment RA105 appropriately moves the instances when a Drainage Assessment will be required into the policy text. It is logical however for the reference to change of use within this amendment to state that it relates to those involving new buildings as opposed to all change of uses as it currently reads. This takes account of the SPPS.
- 8.6 The minor change contained within Recommended Amendment RA106 in relation to Draft Policy FLD03 Sustainable Drainage Systems (SuDS), which increases the application of SuDS to all types of development, takes account of paragraph 6.118 of the SPPS. This recommended amendment is necessary in the interest of soundness.

- 8.7 Draft Policy FLD04 Protection of Flood Defences and Drainage Infrastructure states that development proposals located beside a flood defence, control structure or designated watercourse must provide a working strip of a minimum of 5m. It is acknowledged that Schedule 5 of the Drainage NI Order 1973 places duties on occupiers of any land with respect to undesignated watercourses in terms of the need to scour out, cleanse and maintain them. Paragraph 6.123 SPPS and Policy FLD 02 Protection of Flood Defence and Drainage Infrastructure of Revised PPS 15 relates to all watercourses, not just those designated which, as stated in the accompanying footnote within the dPS, is a river, stream, canal, ditch or culvert already managed and maintained by DfI Rivers. The reference to 'drainage infrastructure' within paragraph 6.123 of the SPPS would include a watercourse. Therefore, in order to take account of policy issued by the Department, Draft Policy FLD04 should relate to all watercourses (Recommended Amendment RA107). Given paragraph 6.123 of the SPPS and Policy FLD 02 of PPS 15, it is logical for paragraph 6.17 of the policy clarification to be amended as suggested at the hearing sessions to state that the working strips may be up to 10m in width as opposed to stating that they will normally be 10m. This is reflected in the wording of Recommended Amendment RA108. It is unreasonable to expect the working strip in all instances to be level; the requirement within paragraph 6.17 of the policy clarification that clear access and egress be provided at all times should be sufficient.
- 8.8 Paragraph 6.124 of the SPPS acknowledges that the artificial modification of watercourses through culverting or canalisation is widely considered to be environmentally unsustainable as such operations can adversely impact upon landscape quality, ecological integrity and biodiversity of watercourses. As a result, paragraph 6.125 of the SPPS states that planning authorities should only permit the artificial modification of a watercourse in two exceptional circumstances. Whilst the clarificatory text of Draft Policy FLD05 reflects the concerns contained within paragraph 6.124 of the SPPS, the policy states that the Council will permit the artificial modification of a watercourse in the two listed instances as contained within amendment 111. Given the Council's acknowledgement of the issues surrounding the artificial modification of watercourses and in order to meet soundness test C3, it is appropriate for the wording of Draft Policy FLD05 to reflect that it will only be permitted in exceptional circumstances. This is set out in Recommended Amendment RA109. As there is no distinction between watercourses within Departmental policy and guidance, there is no requirement for the Council to impose a presumption against culverting and canalisation of those located in designated sites.
- 8.9 In January 2020 DfI Rivers issued revised Technical Guidance Note 25 which relates to development within the potential flood inundation areas of controlled reservoirs as shown on Flood Maps (NI). As a result, at the hearing sessions the Council amended the wording of Draft Policy FLD06 and the introductory section of the

policy clarification contained within paragraph 6.21. Recommended Amendments RA110 and RA111 are set out in order to take account of DfI River's guidance which I consider to be necessary for reasons of consistency and coherence. There is no differentiation in the SPPS between replacement of an existing building and other development in a flood inundation area. The clarification as to what is meant by the term 'a suitably qualified engineer' contained within Recommended Amendment RA112 is appropriate.

- 8.10 The Council presented a robust evidence base on the issue of flood risk management. Numerous amendments were however suggested by the Council, a lot of which I accept are necessary in order to take account of policy and guidance issued by the Department. Given the local circumstances in the area and the views of the statutory consultee, I have however not been persuaded by their approach on several matters. I have therefore recommended a number of further amendments which I consider to be necessary to make the plan sound. Subject to these recommended amendments (RA99-112), the flood risk management section of the dPS is however sound.

### **Renewable Energy**

- 8.11 In terms of renewable energy proposals within designated landscapes which are of significant value, such as Areas of Outstanding Natural Beauty, the SPPS calls for a cautious approach to be applied. Paragraph 6.223 within the SPPS states 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. It does not however state that within such areas there should be no such development as sought by some representations.
- 8.12 It is acknowledged that the Council is not seeking to replace the necessity for a specific LVIA to assess the landscape, visual and cumulative effects of an individual scheme. Rather, the Council's Landscape Wind Energy Capacity Study (LWECS) (2018) provides it with a logical and appropriate means of assessing proposals to capitalise on the potential for wind energy within the council area, while balancing this with protecting the landscape, environmental and residential amenity considerations, encourages wind energy development to locate in those landscapes which can best accommodate it and anticipating the cumulative effect of wind energy development. The LWECS provides suitably detailed technical assessment on landscape, visual and cumulative development matters including providing guidance on the number and height of turbines and the scale of related infrastructure that would be appropriate in landscape and visual terms. The outworking of this study is contained within Annex 1 of Appendix 7 in the dPS in a table which identifies the underlying capacity, current consented development and proposed limits to future development in order to inform future applicants and agents.

- 8.13 Concern was raised that the wording ‘outside the Sperrin AONB, Special Countryside Areas (SCAs) and Areas of High Scenic Value (AoHSV), we will support proposals for large scale solar farms’ in Draft Policy RE01 Renewable and Low Carbon Energy Generation suggests a blanket ban on the development of large-scale wind energy proposals within the AONB and proposed SCAs. However, this provision within the policy clearly relates to solar farms as opposed to wind energy developments. With the Wind Energy Strategy and LWECS detailing the capacity for wind energy across the district, including within the AONB, it is therefore not accepted that there is a presumption against wind energy development or a conflict between Draft Policies RE01, L01 and L02.
- 8.14 As previously stated, difference in professional judgement as to the value of the AONB and landscape character of certain areas within it is inevitable. The methodology used to conduct the landscape studies conforms to the best practice guidance and it provides a robust and balanced up to date assessment that the Local Character Areas (LCAs) within this AONB have a low capacity for wind energy development based on visual sensitivity, landscape character and landscape value with any capacity being for turbines below 80m in height. The Council’s evidence base demonstrates that the subdivision and renaming of LCAs does not undermine the capacity assessments and it results in no change to the boundaries of the LCAs within the AONB. In terms of the timing of the various landscape studies, while the NILCA 2000 study formed the basis of establishing the landscape and visual baseline, this was confirmed and updated by conducting site visits and a desk study. It is accepted that it is appropriate for the Landscape Wind Energy Strategy (Appendix 7) to refer to the landscape and visual impact assessment identifying and describing the likely effects of a proposal as opposed to those that are significant as this is a requirement for EIAs as opposed to LVIA; it permits the assessment of all effects.
- 8.15 Appropriate account has been taken of operational/consented wind energy development and other forms of development within this council area’s portion of the Sperrin AONB. The two candidate ASAIs, located in LCA 25 within the AONB, have been ratified by the Historic Monuments Council. They were surveyed by HED who appropriately identified the area to be included within the designations which will come into effect once the Plan Strategy is adopted. There is no capacity for turbines greater than 80m within these areas and only scattered single or small turbine groups have been found to be appropriate.
- 8.16 As the dPS does not designate but rather identify areas of varying capacity and significant cumulative development, for coherence it is necessary for paragraph 6.29 of the policy clarification to refer to identified areas as opposed to designations. This is reflected in Recommended Amendment RA116. It is apparent from Draft Policy RE01 that it, together with the Landscape Wind Energy Strategy (Appendix 7 as amended by Recommended Amendment RA132) which is a material consideration

rather than guidance as originally stated within the dPS, relates to all proposals for wind energy development including single turbines and wind farms. Recommended Amendment RA115, that the policy clarification within paragraph 6.32 should state that the number, scale, size and siting of turbines may have an unacceptable impact on visual amenity or landscape character, is necessary in order to take account of regional policy and meet soundness test C3.

- 8.17 It is not appropriate to make specific provision for community-owned wind energy schemes; these would be assessed like any other wind energy proposal. It is not necessary to make such an amendment to the policy in the interest of soundness. Community ownership would be a material consideration that could be considered as part of the economic, social and environmental considerations of any renewable energy scheme.
- 8.18 In terms of proposals for the generation of energy from renewables or low carbon sources and any associated buildings and infrastructure on active peatlands, given PPS 18 and paragraph 6.226 of the SPPS, in order to meet soundness test C3 I agree with the proposed relevant amendments to the dPS (Recommended Amendments RA113 and RA114). Criterion (i) of Draft Policy RE01 should therefore be amended to state that any renewable energy development on active peatland will not be permitted unless there are imperative reasons of overriding public interest.
- 8.19 Many of the minerals development proposals would fall to be considered under the EIA and Habitats Regulations where there is an obligation to consider the cumulative effects of a proposal; this is a well-established and normal practice. It is therefore not accepted that it is difficult to assess the issue and agents could acquire the information from a variety of means such as desktop and on-site surveys and pre-application discussions with the Council. Given the balance that has to be struck between protecting the environment and facilitating such development, cumulative impact analysis (policy test j) should be extended as per Recommended Amendment RA113 so that firm proposals, which are currently the subject of a valid but undetermined application for renewable and low carbon energy generation development, are taken into account.
- 8.20 In requiring that a wind farm has a separation distance of 10 times rotor diameter to an occupied, temporarily unoccupied or approved property, with a minimum distance not less than 500m, the Council has taken account of paragraph 6.227 of the SPPS as well as PPS 18: Renewable Energy. The Council consider that in referring to only an occupied property that the SPPS is too narrow and insufficient to protect residential amenity, with the potential to produce illogical results e.g., a property could be on the market for sale. For the purposes of Policy RE 1 Renewable Energy Development, PPS 18 states that sensitive receptors are defined as habitable residential accommodation (although not necessarily occupied), hospitals, schools and churches. Therefore, following a robust assessment of the issue I am satisfied

that the Council's approach to this matter is justified and, with the addition to the clarification text as to what 'temporarily unoccupied' means, the wording is sufficiently clear. In terms of future wind farm repowering proposals, given that their potential benefits need to be balanced against the ramifications of the likely increase in turbine size and height, the application of the policy requirement in terms of the separation distance is appropriate and would be assessed with all other material considerations at development management stage. Appropriate policy direction is provided within the dPS for those seeking an extension to an existing wind farm or looking to repower.

- 8.21 In order to ensure that there was no conflict with neighbouring border councils, FODC participated in a Cross Border Forum where members were able to address common issues including wind energy development. FODC convened meetings with individual councils, including those in the Republic of Ireland, cross-border councils were consulted, and their submissions were considered as part of the POP and dPS. FODC carried out research into the separation distances and standards used in other countries, including the Republic of Ireland, when assessing wind energy proposals. Calls for the Council to consider other forthcoming planning guidance in neighbouring counties within the Republic of Ireland is not appropriate given that it is currently only being drafted. Research from other jurisdictions does not provide a robust evidence base to setting a greater specific separation distance; this is best assessed on a case-by-case evidential basis, thus not sterilising large areas from providing wind energy and potentially putting increased pressure on those areas outside the recommended distance.
- 8.22 Concern was raised that the policy should take account of what is considered to be emerging evidence in relation to the negative impacts of renewable development such as low frequency noise, shadow flicker and tourism. However, criteria (a), (b), (k) and (n) of Draft Policy RE01 adequately deal with these issues and they can be assessed during the development management process. Environmental Health would also be consulted on the various proposals and the views of the public would be sought at that stage. The Council provided robust reasoning as to why it is appropriate for the Landscape Wind Energy Strategy to refer to the assessment of the impacts on residential properties which is reflective of the Wind Energy Development in Northern Ireland's Landscapes SPG (2010), Guidelines for Landscape and Visual Impact Assessment (GLVIA) (Third Edition) (2013) and Landscape Institute's Technical Guidance Note TGN 2/19 Residential Visual Amenity Assessment (2019) as well as being consistent with other policies within the plan namely Draft Policy RE01 (criteria (a) and (k)) as well as Draft Policy DE01. In terms of the use of a matrix and the classification of the significance of the impacts, the Council's evidence, including extracts from the GLVIA, demonstrates that it is good practice to provide such to support and summarise the descriptive text.



- 8.23 Paragraph 6.28 within Part Two and paragraph 1.3 within Appendix 7 of the dPS states that the Council's Landscape Wind Energy Strategy is the principal material consideration for wind energy proposals. This elevation of the weight to be attached to it above other material considerations, does not appear to be appropriate or necessary especially given the legal provisions contained within Section 6(4) of the Planning Act (NI) 2011 which state that where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise; such material considerations could include, for example, any representations relating to that application received within the relevant time period as per Section 45(3) of the Act. The legislation therefore already gives determining weight to the plan however with the proviso that material considerations may indicate otherwise. To state that one element of the dPS, namely the Landscape Wind Energy Strategy, would be the principal material consideration could therefore unacceptably impact on the weighing exercise conducted at development management stage as required by Section 6(4) of the Act. I therefore recommend that the reference to the Landscape Wind Energy Strategy being the principal material consideration for wind energy proposals be removed from the dPS. This is reflected in Recommended Amendment RA117.
- 8.24 A monitoring indicator is proposed in relation to monitoring any planning decisions contrary to the provisions of Draft Policy RE01 and the Landscape Wind Energy Capacity Strategy. The council is also required under the Planning (Local Development Plan) Regulations (NI) 2015 to carry out a review of its local development plan every five years, and this should provide a mechanism to review the policy if need be. Substantive evidence was not presented that tourism is adversely impacted by renewable development within the Fermanagh and Omagh District Council area. Calls for a comprehensive and independent review of the wind energy business in Northern Ireland and for the provision of public liability insurance by wind energy developers/operators is outside the remit of the IE process.
- 8.25 To be consistent with the regional strategic objectives contained within paragraph 6.219 of the SPPS and the other plan policies, it is necessary for Recommended Amendment 113 to ensure that a proposal for the generation of energy does not have an unacceptable adverse impact upon the historic environment and their settings as well as biodiversity and nature conservation.
- 8.26 In terms of road safety, this is adequately addressed within criteria (a), (e) and (m) of Draft Policy RE01, with criterion (m) relating to both the construction and operational phase of a development, within paragraph 4.2.5 of Appendix 7 as well as within the suite of transportation policies. To ensure that all wind turbines have a safe set-back from the road, taking account of paragraphs 6.224 and 6.229 of the SPPS, it is necessary to have a further criterion (p), as stated in Recommended Amendment RA113, which requires this to be at least its fall distance plus 10% from

the edge of any public road or public right of way. There is no need to replicate sections of the Best Practice Guidance to PPS 18 within the dPS as this document is to be retained once the Council has adopted its Plan Strategy unless and until it is replaced by the Department.

- 8.27 It is necessary for criterion (o) to be amended as per Recommended Amendment RA113 to provide greater clarity in relation to decommissioning and restoration of the site in order to take account of paragraphs 6.231 and 6.233 of the SPPS.
- 8.28 The section of Draft Policy RE01 which relates to ground mounted solar PV installations as well as its clarification within paragraph 6.32 should not refer to their size. Rather, the reference to 'large scale' should be deleted as per amendment 115 to ensure clarity is given that the policy relates to all solar farms irrespective of their size. Similar to wind energy proposals, it is necessary to ensure that road safety is a consideration when considering solar farm planning applications. In order to meet soundness test CE1 there should be an additional criterion to this effect as per Recommended Amendment RA113. Given that this is an evolving area, the compilation of Supplementary Planning Guidance may be appropriate in the future.
- 8.29 Concern was raised that the policies contained within the dPS could impact on the delivery of the targets set out in the recently published DfE Energy Strategy (2021). The Council responded to the associated consultation exercise and have examined the now published Energy Strategy. Their justification as to why the dPS would be consistent with and help to assist to deliver the targets is well founded. Various policies were cited which demonstrate the Council's willingness to contribute to the task such as Draft Policy SP01 which states that the Council will permit development proposal which further sustainable development and promote measures to mitigate and adapt to climate change and which have regard to the LDP and other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance, and Draft Policy DE02 criterion (h) which seeks development proposals to demonstrate that they are energy and resource efficient and minimise their impact on the environment. The Council have also responded to the Regional Review of Renewable Planning Policies (April 2021) which, once finalised, they will take account of when reviewing their plan. At the hearing sessions DfI stated that they are currently undertaking a Review of Strategic Planning Policy on Renewable and Low Carbon Energy with the consultation exercise on its Issues Paper closing in February 2022. The draft revised policy document is due to be released for full public consultation in 2022. Concern in relation to this review exercise is beyond the remit of this examination and is a matter for interested parties to raise with DfI. Given the Council's statutory duty to prepare a plan strategy under Section 8(1) of the Planning Act (NI) 2011, I accept that it would be inappropriate for the Council to delay the progression of its plan strategy until the end of this review. The Council intend to take account of the outcome of the review,

if relevant, in due course under the plan review mechanism. In the meantime, proposals for the generation of energy from renewable or low carbon sources would be assessed under Draft Policy RE01 as well as against the other relevant parts of the dPS.

- 8.30 The Climate Change (No.2) Bill was passed by the Northern Ireland Assembly in March 2022 and will in due course lead to the production of plans which will include policies and proposals relating to planning and climate change. At present however I accept the Council's position that it would be inappropriate for it to delay the progression of its plan strategy until such plans are in place given its statutory duty to prepare such under Section 8(1) of the Planning Act (NI) 2011. It is also noted that the Department has not suggested that the Council wait until such plans are in place before bringing forward their LDP. The Council intend to review the implications of the Climate Change Bill (No.2), along with any relevant sectoral plans, under their plan review mechanism.
- 8.31 Having taken account of the provisions within the SPPS, PPS 18 including its Best Practice Guidance, and given the assessed capacity of their landscape, the Council have set out a coherent and robust evidence base for their approach. Subject to Recommended Amendments RA 113-117 and RA132, the renewable energy section of the dPS is sound.

#### **Transportation**

- 8.32 In order to inform the plan preparation process, the Council prepared a transportation position paper (2015) and updated this with a topic paper in relation to the matter in 2018. These papers took account of the relevant Departmental transportation policies contained within the RDS, RTS, RSTNTP, SRTP, SPPS, PPS 3: Access, Movement and Parking, and PPS 13: Transportation and Land Use when considering the issue of integrating land use and transportation. The papers outlined the up-to-date baseline information on current and key future transportation proposals to inform the LDP process including in relation to the expansive road network, the various modes of transport, the provision of car parking within the area, the availability of community transport services as well as the provision of an airport on the outskirts of Enniskillen. The Council confirmed at the hearing sessions that they have been in contact with DfI throughout the plan preparation process in terms of receiving updates and drafts of the Local Transportation Study including in relation to accessibility maps which, as acknowledged by DfI at the hearing, they dutifully took into account. When carrying out the strategic settlement evaluation, transportation was a test as per the RDS's broad evaluation framework and the Council's Sustainability Appraisal assessed the accessibility implications of the dPS with two related objectives.

- 8.33 Although DfI may disagree with the Council's conclusions in terms of the adequacy of the integration of land use and transportation, the Council has taken account of the current policy and guidance when identifying the settlement hierarchy and allocating housing. It would be unreasonable to expect the dPS to take account of the DfI Planning for the Future of Transport document, as suggested at the hearing session, as it was only published in June 2021. At any rate, as stated within paragraph 1.2 of this document, it does not result in a change to existing policy but rather acts as a guide to illustrate how the existing policies can support sustainable transport solutions when developing transport plans for local areas and in the prioritisation of investment across the regional network. The Council's monitoring and review process would also provide an opportunity for this document to be considered.
- 8.34 The Council did not utilise accessibility analysis at this stage in the LDP process as they stated at the hearing sessions that there is no requirement to do so within the RDS or SPPS. Whilst PPS 13 refers to accessibility analysis, DfI's Guidance on the Preparation of LDP Policies for Transport was first published in January 2019 with the latest version being published in June 2021, both after the publication of the dPS. That said, given their statutory duty and as the guidance builds on previous regional policy and guidance, the issue is adequately addressed within the dPS and its accompanying evidence base. For example, in trying to direct nearly half of the housing allocation to the area's two main settlements, the Council is seeking to direct growth to more accessible areas.
- 8.35 It has to be acknowledged that a number of transportation measures, such as the delivery of the A5 scheme and the provision of bus services and stops, are out with the functions of the Council. However, the dPS does not however inhibit the delivery of such measures or the desired outcome of the Local Transport Study. Whilst nearly a quarter of the area's growth will be within the countryside, which may be less sustainable in transport terms, the Council are responding to the rural nature of the district which results in a high level of car dependency and the need to sustain this rural communities as acknowledged within regional policy.
- 8.36 There was a concern that the Council's evidence whilst good is of a very high level and does not capitalise on the accessibility analysis to assess how well-connected places are. In this instance, the Council adopted a proportionate response to their evidence base in order for it to be reasoned and understandable for its readers, bearing in mind the size of the area's settlements. An undertaking was given at the hearing sessions that local accessibility analysis will be undertaken at the LPP stage as per DfI's guidance when zoning and releasing land and it is noted that RA08 states that the selection criteria for selecting sites for each phase of housing will take account of several factors including accessibility analysis.
- 8.37 As Draft Policy TR01 Land Use, Transport and Accessibility does not deal with the issue of accessibility, it is appropriate that Recommended Amendment RA118

removes its reference from the policy title; accessibility, as well as supporting the integration of sustainable modes of transport including walking and cycling, minimising the impact of car parking and design issues, are addressed within Draft Policy DE02. For clarity, the amendment proposes to delete the reference to the 'Council' when referring to parking standards which is appropriate. To encourage active travel, Recommended Amendment RA118 is also necessary as it appropriately suggests that an additional requirement be added to Draft Policy TR01 (criterion d) to ensure that development proposals provide appropriate safe, convenient, and secure facilities for cyclists. Recommended Amendment RA119, to the opening paragraph of the clarification text (paragraph 6.38), is necessary as it provides coherence and appropriately states that 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 their roads. Policies TR01 and DE02 also adequately address the issue of road safety, congestion, environmental quality and compatibility with the surrounding area.

- 8.38 Concern was raised that the LDP needs to provide full protection to access arrangements for all road users in the interests of public safety. This issue, the subject of Draft Policy TR01 criterion (b), is however adequately clarified within the accompanying paragraphs 6.39, 6.40 and 6.41, within Draft Policy TR04 Protected Routes as well as within Draft Policy DE02 Design Quality. Taking account of paragraph 6.303 of the SPPS, to facilitate the assessment of the transport impacts, Draft Policy TR01 also states that a transportation assessment will be required where a development proposal is likely to have a significant impact on highway conditions. The introduction of a footnote as part of Recommended Amendment RA118 would adequately signpost a reader where to seek further guidance on transport assessments and takes account of a similar footnote within the SPPS. As paragraph 6.303 of the SPPS states that the transport assessment *may include* (my emphasis) a transport plan, as well as an accessibility analysis, it is not considered appropriate to include it as a requirement or refer to it specifically.
- 8.39 It is unnecessary to repeat the reference to Supplementary Guidance Creating Places (2000) within this section of the dPS as paragraph 2.14 within Part One of the dPS states that any relevant supplementary and best practice guidance which reflect the Council's policies will continue to apply; paragraph 2.15 specifically referring to Creating Places supporting the wider regional policies relevant to the area. Any road layout issues could continue to be identified by DfI Roads as part of the development management process.
- 8.40 The Council presented a robust evidence base including its own Parking Strategy and vision as well as evidence of the low frequency of public transport services, with some not available at the weekends. It is therefore appropriate for Draft Policy TR02, as amended by Recommended Amendment RA120, to seek to protect existing car

parking facilities or space for servicing within the town centres. 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; their design would be addressed under Draft Policy DE02. To take account of paragraph 6.301 of the SPPS, it is necessary for Recommended Amendment RA121 to specify that the provision of suitable car parking for all users, includes people with disabilities, parents and child parking spaces is essential as well as ensuring that temporary car parking is time limited. The clarification text of Draft Policy TR02 appropriately addresses the need to provide electric charging points. The suggestion to improve the wording of Draft Policy TR03 Provision of Park and Ride and Park and Share car parks, is not required to make it sound and therefore is a matter for the Council.

- 8.41 It is DfI Roads who designate the network of protected routes. In formulating Draft Policy TR04 Protected Routes and in proposing amendment 128, as detailed in Recommended Amendment RA122, the Council has for the most part taken into account paragraph 6.301 of the SPPS and futureproofed the plan to enable it to deal with changing circumstances. However, in terms of criterion (d)(ii) as amended, paragraph 6.301 of the SPPS requires that for a farm dwelling, a dwelling serving an established commercial or industrial enterprise, or a development proposal that would meet the criteria for development in the countryside, and where access cannot be reasonably obtained from an adjacent minor road, that proposals will be required to make use of an existing vehicular access onto the protected route; this is not reflected in this criterion and sufficient justification is not provided by the Council as to why this is the case. It is therefore recommended that in order to meet soundness test C3 that criterion (d)(ii) of Draft Policy TR04 be amended in order to take account of paragraph 6.301 of the SPPS. This is set out in Recommended Amendment RA123.
- 8.42 For clarification purposes, Draft Policy TR05 Safeguarding New Transport Schemes, should be amended as per Recommended Amendment RA124. This is necessary in order for the dPS to be factually correct and signpost an applicant as to where to acquire further details on new schemes. The appropriately titled proposals map details proposed designations as well as features for information purposes which include new transport schemes. The suggestion to remove the reference to new roads and road improvement schemes within paragraph 6.52 is unnecessary as it is citing examples as to what are new transport schemes.
- 8.43 In order to take account of the fifth bullet point of paragraph 6.301 of the SPPS, it is necessary for the clarification text of Draft Policy TR06 Disused Transport Routes (paragraph 6.54) to be amended as per Recommended Amendment RA125. It is not appropriate at the dPS stage to identify individual disused transport routes.
- 8.44 I am therefore satisfied that the dPS has availed of the opportunity to assess the transport needs, problems and opportunities within the plan area and has given the

appropriate consideration to the various transportation issues within this predominantly rural council area whilst taking account of the policy and guidance issued by the Department. Differences of opinion as to how this is done is inevitable and does not make the transportation section of the dPS unsound. Accordingly, subject to Recommended Amendments RA118-125, the transportation section of the dPS is sound.

### **Public Utilities**

- 8.45 Draft Policy PU02 Overhead Electricity Lines takes account of paragraph 6.250 of the SPPS which states that any proposal for the development of new power lines will be considered having regard to the potential impact on amenity and should avoid areas of landscape sensitivity, including Areas of Outstanding Natural Beauty (AONBs); this forms a coherent approach when read with Draft Policy DE01 which applies to all development. It is therefore not appropriate to make changes to the policy which would lessen the policy test as suggested by several parties. If a development proposal is of a temporary nature, this would be a consideration to be taken into account during the development management process given that such infrastructure can also have a considerable visual presence within the landscape. Concerns in relation to the roll out of 5G broadband coverage and the adequacy of the International Commission on Non-Ionising radiation protection (ICNIRP) guidelines are beyond the remit of this report.
- 8.46 Given the Council's robust justification of Draft Policy PU04 Development Relying on Non-Mains Sewerage, which logically flows from the Sustainability Appraisal which seeks to ensure the maintenance of a safe supply of drinking water, this policy is sound. The alleged failure of Northern Ireland's rivers and lakes to meet EU quality standards is beyond the remit of this report.
- 8.47 I am therefore satisfied that the policy provisions for the public utilities section of the dPS are sound.

### **Waste Management**

- 8.48 It is recognised that NI Water is the statutory body responsible for the delivery of and improvements to the sewerage infrastructure in Northern Ireland. From the submitted evidence including topic papers on Public Utilities (Documents FODC 217, 218 and 233); Strategic Settlement Evaluation (Document FODC 226); Countryside Assessment (Documents 222, 223 and 901); Sustainability Appraisal (Documents 103, 113, 702, 703, 704, 902 and 1003); and the Council's response to the Commission's letter dated 20<sup>th</sup> October 2021, it is apparent that the Council has adequately taken account of the constraints in the existing sewerage network when preparing the dPS. Such constraints are not particular to this council area. The Council's position that it is not sound or realistic to wait for improvements and direct growth away from these areas, especially as the two main towns of Enniskillen and

Omagh would be adversely impacted thus resulting in sustainability issues, is accepted.

- 8.49 Although the Council had to base their work on the 2016 WwTW capacity assessment, additional information was requested by the Council from NI Water over the two years preceding the publication of the dPS and therefore I accept that they used the evidence base at their disposal. The criteria-based approach outlined in Draft Policy SP03 Strategic Allocation and Management of Housing Supply for the phasing of housing development will take account of such constraints on development. A significant portion of the housing need over the plan period is also likely to come from commitments which may already have been taken into account in the assessment of capacity constraints. Their continuous liaisons with NI Water, which now occurs, will ensure that any capacity issues are identified and addressed at an appropriate stage, with sewerage capacity taken into account when allocating and zoning land at the LPP stage when NI Water will be further consulted. Alternative solutions may also be available until a specific WWTW is upgraded and together with Draft Policy PU04, which would provide the relevant policy for assessing development relying on non-mains sewerage, it would ensure housing delivery during the plan period even if a capacity issue were to arise.
- 8.50 It was suggested that all proposals for waste management facilities should be guided by the precautionary principle and that this should be added to the dPS's section on waste management. Having taken account of paragraph 3.9 of the SPPS and to be consistent Draft Policy SP01, I concur that it would be necessary to state this precautionary principle within paragraph 1.3 of Part Two, Section 1.0 Introduction as it relates to the determination of all planning applications. This is set out in Recommended Amendment RA126.
- 8.51 Although Draft Policy WM01 Waste Management Facilities and Draft Policy DE01 adequately cover general amenity concerns, Draft Policy WM01 does not adequately take account of paragraph 6.322 of the SPPS in terms of ensuring that such facilities do not cause significant damage to the environment in terms of habitat or heritage destruction. Therefore, in order to meet soundness test C3 Draft Policy WM01 should be amended to ensure that waste management facilities do not cause such damage to habitats or heritage. This is detailed in Recommended Amendment RA127. In terms of the location of a regional waste management facility, Recommended Amendment RA128 appropriately takes account of paragraph 6.314 of the SPPS. In terms of the suggestion that the local authority should be the owner and operator of future management of waste facilities, this is not an issue to be addressed through the dPS.
- 8.52 In order to take account of paragraph 6.318 of the SPPS, it is necessary for Recommended Amendment RA129 to state within the policy clarification text of Draft Policy WM03 Development in the vicinity of waste management facilities that



Odour Consultation Zones may be identified for WWTWs. This would correspond with Draft Policy WM03 which states that such development will only be permitted where it will not give rise to an unacceptable adverse impact including in terms of people.

- 8.53 Having taken account of the policy and guidance issued by the Department, the Council has utilised the information at its disposal. It has set out coherent and robust evidence for its approach. Subject to the amendments discussed above (RA126-129), the waste management section of the dPS is sound.

## **9.0 MONITORING AND REVIEW**

- 9.1 The Council acknowledge their statutory duty under Section 21(2) of the Planning Act (NI) 2011 to monitor the extent to which the objectives set out in the local development plan are being achieved and also under Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations (NI) 2004 to monitor the significant environmental effects of the implementation of the plan. The dPS identified 34 monitoring indicators however only four had targets which was a source of concern for several representatives. Given that monitoring requires the use of key indicators and, responding to representations as well as to my questions posed at the Examination, the Council reviewed a number of indicators focusing on the issues of housing, industry and environmental protection where monitoring information and targets are readily identifiable and mostly measured through the planning system. As a result, an Indicative Monitoring Framework has been produced which lists 29 indicators the vast majority of which have an identifiable target and trigger. The relevant SA objective/s are identified which should aid the monitoring of the significant environmental effects of the implementation of the plan. The Indicative Monitoring Framework was published within Document FODC110 Schedule of Proposed Changes and on the Commission's website, subject to public consultation, and discussed at the relevant IE hearing session thus affording parties an opportunity to make comments. Recommended Amendment RA130, which recommends that the Indicative Monitoring Framework replace the monitoring indicators contained within the dPS, is therefore necessary to make the plan sound.
- 9.2 Indicator 1 adequately deals with monitoring the new dwellings completed in the countryside and stipulates an appropriate trigger if the number of dwellings completed exceeds 10% above or below the strategic allocation in the dPS.
- 9.3 Indicator 15 relates only to construction aggregates and not to unconventional fossil fuels. The Council has taken account of paragraph 6.155 of the SPPS which 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. Given the acknowledged difficulty in gathering accurate information on the supply and demand for minerals, it is appropriate in the context of Indicator 15 to gather the information from minerals planning applications in the plan area and to use DfE's Annual Minerals Statements to monitor future demand.
- 9.4 Given the legal protection afforded to Listed Buildings and the fact that Draft Policy HE03 applies equally to all Listed Buildings whether they are on the 'At Risk Register' or not, it is not necessary for the trigger set within Indicator 16: Number of Listed Buildings Demolished to be set at two different levels-more than 5% of At Risk Listed

Buildings removed due to demolition over a 5 year period and more than 10% of applications for demolition of Listed Buildings approved over a 5 year period.

- 9.5 Indicator 28 would monitor the number of planning applications approved by development type with the trigger being more than one application approved in any one-year contrary to policy provisions of the LDP. However, this would be ineffective in monitoring if proposals that were in accordance with Draft Policy HE03 were having an adverse effect on the historic environment. Given that Draft Policy HE03 states that the total or part demolition of a Listed Building must not be permitted unless there are exceptional circumstances, it is appropriate that the trigger for all Listed Buildings is 5%. At the relevant IE hearing session, it was suggested that the number of applications for the demolition of any significant part of a Listed Buildings should also be monitored. Taking account of paragraph 6.15 of the SPPS, which is reflected in Draft Policy HE03, in order to meet soundness tests C3, CE1 and CE3, it is necessary that Indicator 16 also includes these planning applications (Recommended Amendment RA130). In order to be sound, it would not be necessary for the LDP to monitor the instances when the Council has not followed the advice of statutory consultees as the weight placed on their advice is a matter of judgement for the decision-making body.
- 9.6 A request was made that the monitoring report should include detailed data on weather events, localised floods and land slippage events for the plan area. I accept the Council's position that utilising river and flooding statistics from DfI to analyse flood record events would not be a meaningful indicator for the LDP. Indicators 22 and 23 do however relate to appropriate flood risk management issues of development in floodplains and the number of planning permissions granted which include SuDS measures both of which can be measured through the planning system.
- 9.7 It is accepted that it would be onerous and disproportionate to the monitoring information required for other key indicators for the LDP to assess the length and quality of the walk and cycle network, to assess the usage of park and ride/park and share facilities and the turnover of short stay and long stay car parks.
- 9.8 Subject to the amendment discussed above in relation to Indicator 16, as set out in Recommended Amendment 130, the amended Indicative Monitoring Framework presented within the Schedule of Proposed Changes Updated as part of the IE (Document FODC 110, March 2022) is therefore considered to be sound. It is in accordance with soundness test CE3 as it provides a clear mechanism for the implementation and monitoring of the dPS as modified by the amendments discussed within this report.

## **10.0 RECOMMENDED AMENDMENTS**

- 10.1 Following consideration of the representations received in relation to the dPS, the Council proposed a number of changes to the dPS. In considering the representations, and the extent and nature of the proposed changes required, the Council took account of DPPN 10: Submitting Development Plan Documents for Independent Examination. As well as the Council identifying minor and focused changes as per DPPN 10, they also identified several other changes which they considered to represent logical and rationale amendments to a policy or policy clarification in response to the consultation exercise. Whilst the latter changes were considered by the Council in many cases to be important and significant, they did not consider them to be required to make the plan sound. To ensure that all interested parties had an opportunity to comment, all proposed changes were included in the Schedule of Proposed Changes (Document FODC 110, October 2020) which was consulted on for an 8-week period from 8<sup>th</sup> October-3<sup>rd</sup> December 2020. The Council advised the parties that comments were only to address the soundness of the proposed changes. All comments received were made available for public inspection and placed on the Council's website. I am therefore satisfied that the public has had an appropriate opportunity to comment on the proposed changes. An Equality Impact Screening Report Addendum (Document FODC 111), Sustainability Appraisal Report Addendum (Document FODC 112), Habitats Regulations Assessment Addendum (Document FODC 113) and Rural Needs Impact Assessment Addendum (Document FODC 114) were all carried out on the proposed changes.
- 10.2 Where relevant to the matter being discussed, the proposed changes were raised at the IE. At the IE, concern was however raised by a representative that the Council had prematurely made proposed changes in response to the circulated questions on the various topics which had been posted on the Commission's website a number of weeks prior to the relevant hearing sessions. At the opening of the IE, which was conducted remotely via YouTube which any party was permitted to view, I alerted all parties of the need to regularly review the Commission's website for developments in relation to the IE. Towards the end of the IE hearing sessions, the Council issued a consolidated list of suggested proposed changes, to reflect the Council's final position on matters discussed in the open forum of the IE. All parties who had indicated that they wanted to participate had an opportunity to comment. These 'Matters Arising' were published on a weekly basis on the Commission's website. Parties had an opportunity to contact the Commission if they considered that the 'Matters Arising' did not accurately reflect what was discussed at the relevant hearing session and in the one instance where this did arise, the interested party had the opportunity to discuss the matter at the IE. The availability of the questions prior to the IE was welcomed by the Council and it permitted the smooth running of the process as well as detailed preparation and focused responses by all the interested parties.

10.3 Section 10(8) of the Act states that the person appointed to carry out the examination must make recommendations and give reasons for the recommendations. As the purpose of the Independent Examination is to determine whether the dPS satisfies the relevant legal requirements and if it is sound, I have only made and justified recommendations in relation to proposed changes that are required to make the plan sound (Appendix 4). Other changes, including the Schedule of Minor Editing Changes (Appendix 2 of Document FODC 110) are matters for when delivering the final version of the PS.

## **11.0 CONCLUSION**

- 11.1 Having reviewed all the evidence presented I am satisfied that the Council has met the relevant legal requirements and the procedural tests required at this stage in the process. The Council has taken account of the Regional Development Strategy, its Community Plan, policy and guidance issued by the Department and such other matters prescribed by the Department such as the relevant Development Plan Practice Notes and revised HGIs. It has also had regard to other information and considerations which it considered to be relevant. As a result, I am satisfied that Sections 7 and 8 of the Planning (NI) Act 2011 has been complied with.
- 11.2 Subject to the amendments identified, the dPS satisfies the procedural, consistency, coherence and effectiveness tests of soundness contained within DPPN 6. The plan is therefore sound.
- 11.3 Therefore, subject to the amendments identified within this report, the dPS satisfies the requirements of Section 10(6) of the Act.

**Planning Appeals Commission**

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## **Development Plan Practice Note 6: Tests for Soundness**

### **Procedural tests**

P1 Has the DPD been prepared in accordance with the council's timetable and the Statement of Community Involvement?

P2 Has the council prepared its Preferred Options Paper and taken into account any representations made?

P3 Has the DPD been subject to sustainability appraisal including Strategic Environmental Assessment?

P4 Did the council comply with the regulations on the form and content of its DPD and procedure for preparing the DPD?

### **Consistency tests**

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

C2 Did the council take account of its Community Plan?

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

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

### **Coherence and effectiveness tests**

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

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

CE3 There are clear mechanisms for implementation and monitoring

CE4 It is reasonably flexible to enable it to deal with changing circumstances.



## Matters arising documents

Document Number	Document
MA001.A	<a href="#">List of Legal Authorities</a>
MA001.B	<a href="#">R. (Friends of the Earth England, Wales and Northern Ireland Ltd) v The Welsh Ministers [2015] EWHC 776 (Admin) (paragraphs 88(iv), (v), (vi) and (viii)).</a>
MA001.C	<a href="#">Ashdown Forest Economic Development v Wealdon District Council [2015] EWCA Civ 681 (paragraph 42)</a>
MA001.D	<a href="#">Ashdown Forest Economic Development v Wealdon District Council [2014] EWHC 406 (Admin) (paragraph 90)</a>
MA001.E	<a href="#">R. (RLT Built Environment Ltd) v Cornwall Council [2016] EWHC 2817(Admin) (paragraph 46)</a>
MA001.F	<a href="#">Heard v Broadland District Council [2012] EWHC 344 (Admin) (paragraph 12, 66 and 67)</a>
MA001.G	<a href="#">Save Historic Newmarket Ltd v Forest Heath DC [2011] EWHC 606 (Admin) (paragraph 16)</a>
MA001.H	<a href="#">R. (Friends of the Earth Ltd) v Heathrow Airport Ltd [2020] UKSC 52 (paragraphs 66 and 41 - 47)</a>
MA002	<a href="#">Department for Infrastructure Holding Direction</a>
MA003.A	<a href="#">Explanation of Affordable Housing Figure</a>
MA003.B	<a href="#">Affordable Housing Action Point 1</a>
MA004.A	<a href="#">Action Point 2, amendment to proposed changes 7 and 8</a>
MA004.B	<a href="#">Housing Growth Indicators - 2016 based 1</a>
MA005	<a href="#">Fermanagh and Omagh Local Transport Study (March 2021)</a>
MA006	<a href="#">Accessibility Analyses Guidance Document (June 2021)</a>
MA007	<a href="#">Suggested Rewording of SP03</a>
MA008	<a href="#">Department for Economy Minerals Information Paper</a>
MA009	<a href="#">Best Available Techniques (BAT) Reference Document for the Waste Management from Extractive Industries</a>
MA010	<a href="#">Guidelines on Financial Guarantees and Inspections for Mining Waste Facilities</a>
MA011	<a href="#">Amended wording to FLD06: Development in Proximity to Controlled Reservoirs</a>
MA012	<a href="#">Suggested rewording of paragraph 5.49 (Landscape - Context and Justification)</a>
MA013	<a href="#">Extracts from Guidelines for Landscape and Visual Impact Assessment (Third Edition) 2013</a>
MA014	<a href="#">Suggested rewording of paragraph 5.16 of Draft Policy HE03 and paragraph 6.4 of Draft Policy FLD01</a>

Hyperlinks to all documents available at [www.pacni.gov.uk](http://www.pacni.gov.uk), Local Development Plans, Fermanagh and Omagh, FO Matters Arising

**Fermanagh and Omagh LDP - Submission of Draft Plan Strategy for Independent Examination  
Schedule of Documents**

Reference	Volume	Document Name	Date
<b>Draft Plan Strategy</b>			
FODC101	Volume 1	Draft Plan Strategy	October 2018
FODC102	Volume 1	Equality Impact Screening Report: DPS	October 2018
FODC103	Volume 1	Sustainability Appraisal Report: Sustainability Appraisal of the LDP DPS (Incorporating the Strategic Environmental Assessment)	October 2018
FODC104	Volume 1	Habitats Regulations Assessment: DPS	October 2018
FODC105	Volume 1	Rural Needs Impact Assessment: DPS	October 2018
FODC106	Volume 1	Draft Plan Strategy Maps Booklet - Proposals Map1	October 2018
FODC107	Volume 1	Draft Plan Strategy Maps Booklet - Proposals Map2	October 2018
FODC108	Volume 1	Draft Plan Strategy Maps Booklet - Proposals Map3	October 2018
FODC109	Volume 1	DPS Consultation Report - Consideration of Issues Raised in Representations and Counter Representations	December 2020
FODC110	Volume 1	Draft Plan Strategy - Schedule of Proposed changes	October 2020
FODC111	Volume 1	Equality Impact Screening Report addendum	October 2020
FODC112	Volume 1	Sustainability Appraisal Report: Sustainability Appraisal addendum	October 2020
FODC113	Volume 1	Habitats Regulations Assessment addendum	October 2020
FODC114	Volume 1	Rural Needs Impact Assessment addendum	October 2020
FODC115	Volume 1	Summary Report of Main Issues Raised to DPS	December 2020
<b>Background Papers</b>			
FODC201	Volume 2	Position Paper 1 - Population and Growth	June 2014
FODC202	Volume 2	LDP Population and Growth	October 2018
FODC203	Volume 2	Population and Growth Topic Paper	June 2020
FODC204	Volume 2	Position Paper 2 - Housing	November 2014
FODC205	Volume 2	LDP Housing	October 2018
FODC206	Volume 2	Position Paper 13 - Housing Allocation	November 2015
FODC207	Volume 2	Position Paper 3 - Employment and Economic Development	January 2015
FODC208	Volume 2	LDP Employment, Industry and Business	October 2018
FODC209	Volume 2	Employment, Industry and Business Topic Paper	June 2020
FODC210	Volume 2	Position Paper 4 - Town Centres and Opportunity Sites	February 2015
FODC211	Volume 2	LDP Town Centres and Retailing	October 2018
FODC212	Volume 2	Position Paper 6 - Transportation	May 2015
FODC213	Volume 2	LDP Transportation	October 2018
FODC214	Volume 2	Position Paper 7 - Tourism	June 2015
FODC215	Volume 2	LDP Tourism	October 2018
FODC216	Volume 2	Tourism Topic Paper	June 2020
FODC217	Volume 2	Position Paper 8 - Public Utilities	July 2015
FODC218	Volume 2	LDP Public Utilities	October 2018
FODC219	Volume 2	Position Paper 9 Minerals	October 2015
FODC220	Volume 2	LDP Minerals	October 2018
FODC221	Volume 2	Minerals Topic Paper	June 2020
FODC222	Volume 2	Countryside Assessment	October 2018
FODC223	Volume 2	Addendum to Countryside Assessment	August 2020
FODC224	Volume 2	Position Paper 10 - Education, Health and Community	October 2015
FODC225	Volume 2	Position Paper 11 - Open Space, Recreation and Leisure	October 2015
FODC226	Volume 2	Position Paper 12 - Strategic Settlement Evaluation	November 2015
FODC227	Volume 2	Position Paper 16 - Sustaining Rural Communities	February 2016
FODC228	Volume 2	Addendum to Sustaining Rural Communities	January 2020
FODC229	Volume 2	Please note reference FODC229 has been skipped.	
FODC230	Volume 2	Position Paper 14 - Landscape Character Assessment	December 2015
FODC231	Volume 2	Position Paper 15 - Development Pressure Analysis	December 2015
FODC232	Volume 2	Position Paper 5 - Environmental Assets	May 2015
FODC233	Volume 2	Public Utilities	November 2020
<b>Studies</b>			
FODC301	Volume 3	Landscape Wind Energy Capacity Study for Fermanagh and Omagh	January 2018
FODC302	Volume 3	Landscape Character Review for Fermanagh and Omagh	September 2018
FODC303	Volume 3	Landscape Designation Review for Fermanagh and Omagh	September 2018
FODC304	Volume 3	Housing Market Analysis Update - FODC Area	August 2017
FODC305	Volume 3	Retail and Commercial Leisure Needs Assessment - Main Report	March 2017
FODC306	Volume 3	Retail and Commercial Leisure Needs Assessment - Appendices	March 2017
FODC307	Volume 3	Retail Needs Assessment Update 2020	March 2020

FODC308	Volume 3	NIHE Fermanagh and Omagh Housing Investment Plan Annual Update 2020	2020
FODC309	Volume 3	Updated Housing Paper including Housing Land Studies	November 2019
FODC310	Volume 3	Annual Housing Monitor 2019/20	December 2020
<b>Soundness - Compliance</b>			
FODC401	Volume 4	Soundness Checklist	December 2020
FODC402	Volume 4	Cross-Boundary Working	December 2020
FODC403	Volume 4	Statement of Community Involvement	May 2016
FODC404	Volume 4	Statement of Community Involvement (Revised)	June 2020
FODC405	Volume 4	Community Involvement Report	December 2020
FODC406	Volume 4	LDP Timetable (Revision 2)	January 2020
FODC407	Volume 4	LDP Timetable (Revision 1)	June 2018
FODC408	Volume 4	LDP Timetable	May 2016
FODC409	Volume 4	Fermanagh and Omagh Community Plan 2030	
FODC410	Volume 4	Self-Assessment of Legal compliance checklist	December 2020
FODC411	Volume 4	LDP Steering Group Terms of Reference	
FODC412	Volume 4	LDP Project Management Group (Represented Bodies)	
FODC413	Volume 4	Public notices (inc. Press Ads)	
FODC414	Volume 4	Department For Infrastructure (Dfi) letters confirming timetable and SCI	
FODC415	Volume 4	Planning Appeals Commission (PAC) letters confirming timetable	
FODC416	Volume 4	LDP Timetable (Revision 3)	November 2020
<b>Consultation</b>			
FODC501	Volume 5	Representations excel table (Representations and Counter-Representations) (By Electronic transfer only)	
FODC502	Volume 5	Representations and Counter-Representations received (redacted)	
FODC503	Volume 5	Consultation responses to DPS PS proposed changes	
FODC504	Volume 5	Sample engagement letter with consultation bodies before publishing POP	May 2016
FODC505	Volume 5	Notification to consultation bodies regarding availability of the POP	October 2016
FODC506	Volume 5	SEA scoping report letter to NIEA	November 2016
FODC507	Volume 5	Sample notification letter to consultation bodies regarding DPS	October 2018
FODC508	Volume 5	Sample letter POP Representee regarding DPS	October 2018
FODC509	Volume 5	Draft Plan Strategy Information leaflet	October 2018
FODC510	Volume 5	Sample letter to consultation bodies regarding availability of representation on DPS and inviting Counter Representations	February 2019
FODC511	Volume 5	Sample letter to DPS representees regarding availability of representation on DPS and inviting Counter Representations	February 2019
FODC512	Volume 5	Sample letter to consultation bodies regarding availability of representation on DPS and inviting Counter Representations (readvertisement)	May 2019
FODC513	Volume 5	Sample letter to DPS representees regarding availability of representation on DPS and inviting Counter Representations (readvertisement)	May 2019
FODC514	Volume 5	Sample notification letter to consultation bodies regarding DPS proposed changes	July 2020
FODC515	Volume 5	Sample letter Representees regarding DPS proposed changes	July 2020
FODC516	Volume 5	Sample engagement letter with community group and section 75 groups - pre-pop	June 2016
FODC517	Volume 5	POP Information posters and leaflets	October 2016
FODC518	Volume 5	Sample notification letter to consultation bodies regarding DPS proposed changes re-consultation	October 2020
FODC519	Volume 5	Sample Letter Representees regarding DPS proposed changes re-consultation	October 2020
FODC520	Volume 5	LDP Timetable website screenshot	February 2020
FODC521	Volume 5	LDP Timetable website screenshot	December 2020
FODC522	Volume 5	Regulation 9 Notifications Pre-POP Consultation List of Consultation bodies	
FODC523	Volume 5	Regulation 17 Notification of Counter-Representation List of Consultation bodies	
<b>Other Strategies and Documents</b>			
FODC601	Volume 6	Fermanagh and Omagh District Council Corporate Plan update 2017 - 2019	
FODC602	Volume 6	Fermanagh and Omagh District Council Corporate Plan 2020 - 2024	
FODC603	Volume 6	Fermanagh and Omagh District Council Economic Development Plan 2016 - 2019	
FODC604	Volume 6	Fermanagh and Omagh District Council Tourism Strategy Summary 2016 - 2019	
FODC605	Volume 6	Fermanagh and Omagh District Council Corporate Plan 2015-2019	
FODC606	Volume 6	Omagh Area Plan 1987 - 2002	
FODC607	Volume 6	Fermanagh Area Plan 2007	
FODC608	Volume 6	Fermanagh Area Plan 2007 Maps	
<b>Preferred Options Paper (POP)</b>			
FODC701	Volume 7	Preferred Options Paper (POP)	October 2016

FODC702	Volume 7	Sustainability Appraisal Scoping Report	October 2016
FODC703	Volume 7	Sustainability Appraisal Scoping Report Appendices	October 2016
FODC704	Volume 7	Preferred Options Paper Interim Sustainability Appraisal Report incorporating Strategic Environmental Assessment	October 2016
FODC705	Volume 7	Preferred Options Paper Public Consultation Report	February 2017
FODC706	Volume 7	Consideration of Representations Received to the Preferred Options Paper	October 2018
<b>Council Meeting Minutes</b>			
FODC801	Volume 8	FODC Planning Committee minutes (20th January 2016) - SCI	20th January 2016
FODC802	Volume 8	FODC Council Minutes (2nd February 2016) - SCI	2nd February 2016
FODC803	Volume 8	FODC Planning Committee Minutes (16th March 2016) - Timetable	16th March 2016
FODC804	Volume 8	FODC Council Minutes (5th April 2016) - Timetable	5th April 2016
FODC805	Volume 8	FODC R&C Minutes (13th Sept 2016) - POP	13th Sept 2016
FODC806	Volume 8	FODC Council Minutes (4th October 2016)	4th October 2016
FODC807	Volume 8	FODC R&C Minutes (12th June 2018) - Revised Timetable	12th June 2018
FODC808	Volume 8	FODC Council Minutes (3rd July 2018) - Revised Timetable	3rd July 2018
FODC809	Volume 8	FODC R&C Minutes (19th July 2018)	19th July 2018
FODC810	Volume 8	FODC Special R&C Minutes (18th September 2018) - DPS	18th September 2018
FODC811	Volume 8	FODC Council Minutes (2nd October 2018) - DPS	2nd October 2018
FODC812	Volume 8	FODC R&C Minutes (9th October 2018)	9th October 2018
FODC813	Volume 8	FODC Council Minutes (6th November 2018)	6th November 2018
FODC814	Volume 8	FODC Special R&C Minutes (22nd October 2019)	22nd October 2019
FODC815	Volume 8	FODC Council Minutes (5th November 2019)	5th November 2019
FODC816	Volume 8	FODC R&C Minutes (14th January 2020) - Revised Timetable	14th January 2020
FODC817	Volume 8	FODC Council (4th February 2020)	4th February 2020
FODC818	Volume 8	FODC Special R&C Minutes (24th February 2020)	24th February 2020
FODC819	Volume 8	FODC Council Minutes (3 March 2020)	3rd March 2020
FODC820	Volume 8	FODC R&C Minutes (9th June 2020) - Revised SCI	9th June 2020
FODC821	Volume 8	FODC Council Minutes (7th July 2020)	7th July 2020
FODC822	Volume 8	FODC R&C Minutes (10th November 2020) - Revised Timetable	10th November 2020
FODC823	Volume 8	FODC Council Minutes (1st December 2020)	1st December 2020
<b>Error Noting</b>			
FODC901	Volume 9	Countryside Assessment correction notes	
FODC902	Volume 9	SA - Final Report Correction October 2018	
FODC903	Volume 9	Mapping error correction - Proposals Map 1 - North East	
FODC904	Volume 9	Mapping error correction - Proposals Map 1 - South East	
FODC905	Volume 9	Mapping error correction - Proposals Map 1 - West	
FODC906	Volume 9	Mapping error correction - Proposals Map 1 - Enniskillen Conservation Area	
FODC907	Volume 9	Mapping error correction - Proposals Map 1 - Landscape Wind Energy Strategy	
FODC908	Volume 9	Mapping error correction - Proposals Map 1 - Settlement Hierarchy	
<b>Consultation Report Documents</b>			
FODC1001	Volume 10	East Ayrshire LDP Supplementary Guidance - Financial Guarantees	April 2017
FODC1002	Volume 10	Planning guidance for the development of large-scale ground mounted solar PV systems - BRE National Solar Centre and Cornwall Council	October 2013
FODC1003	Volume 10	SA/SEA Transboundary Screening Table for dPS and Proposed Changes	December 2020

Recommended amendment number	Council's amendment number (if applicable)	Draft policy, paragraph or section within the Draft Plan Strategy	Page Number	Recommended amendment
<b>VISION AND STRATEGIC OBJECTIVES</b>				
RA01	3	Table 1 and footnote	27	Table 1: Provide for 4,300 <sup>2</sup> new homes by 2030 across a range of housing types and tenures...  Footnote: <sup>2</sup> The Revised Housing Growth Indicator for FODC for the period 2016-2030 is 4,300 (calendar year). This translates to 4,300 dwellings for the plan period - 1 <sup>st</sup> April 2015 to 31 <sup>st</sup> March 2030 (financial year).
RA02	4	Table 1	29	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.
RA03	5	Strategic Policy SP01	30	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 other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases, planning permission should be refused.
<b>SPATIAL GROWTH STRATEGY</b>				
RA04	7	Para 6.25	40	The scale, type, uses and form of development in settlements will reflect their role as employment, retail and service centres, their level of accessibility, and environmental and infrastructure constraints. Table 4 (below) indicates the overall strategic allocation of land for housing within our settlements to meet our housing need. Taking into account completions since 2015, this leaves a balance as of April 2019 of 2,608 of the 4,300 new

				homes provision by 2030.																													
RA05	8	Table 4	40	<table border="1"> <thead> <tr> <th></th> <th></th> <th>Housing Need (2019-2030)</th> </tr> <tr> <th>Status</th> <th>Settlement</th> <th>Dwellings</th> </tr> </thead> <tbody> <tr> <td rowspan="3"><b>Main Towns</b></td> <td>Enniskillen</td> <td>693</td> </tr> <tr> <td>Omagh</td> <td>939</td> </tr> <tr> <td><b>Total</b></td> <td><b>1,632</b></td> </tr> <tr> <td rowspan="6"><b>Local Towns</b></td> <td>Carrickmore</td> <td>15</td> </tr> <tr> <td>Dromore</td> <td>61</td> </tr> <tr> <td>Fintona</td> <td>58</td> </tr> <tr> <td>Irvinestown</td> <td>70</td> </tr> <tr> <td>Lisnaskea</td> <td>117</td> </tr> <tr> <td><b>Total</b></td> <td><b>321</b></td> </tr> <tr> <td><b>Villages and Small Settlements</b></td> <td><b>Total</b></td> <td><b>655</b></td> </tr> </tbody> </table>			Housing Need (2019-2030)	Status	Settlement	Dwellings	<b>Main Towns</b>	Enniskillen	693	Omagh	939	<b>Total</b>	<b>1,632</b>	<b>Local Towns</b>	Carrickmore	15	Dromore	61	Fintona	58	Irvinestown	70	Lisnaskea	117	<b>Total</b>	<b>321</b>	<b>Villages and Small Settlements</b>	<b>Total</b>	<b>655</b>
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RA06	9	Insert after Table 4	40	It should be noted that Table 4 is currently an indicative strategic allocation for our settlements. At the LPP stage more detailed analysis of current growth rates and any short-term infrastructure capacity limitations (including the forward programme for wastewater treatment works) will be accounted for and adjustments may be made to the allocation.																													
RA07	10	Strategic Policy SP03 Policy Title	41	Draft Strategic Policy SP03 – Strategic Allocation and Management of Housing Supply in our Settlements.																													
RA08	11	Strategic Policy SP03	41	The Plan Strategy will make provision for 2,660 new homes within our settlements in the period 2019-2030.																													

Appendix 4 Recommended Amendments

			<p><b>(a) Main and Local Towns</b></p> <p>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.</p> <p>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.</p> <p><b><u>Phase 1 Sites</u></b></p> <p>Phase 1 sites will be identified to meet any remaining housing need over the plan period once committed housing sites with extant planning permissions or sites which are under development have been taken into account.</p> <p><b><u>Phase 2 Sites</u></b></p> <p>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.</p>
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				<p><b>(b)Villages and Small Settlements</b></p> <p>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.</p>
RA09	13	Paragraph 1.3 Part Two	47	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...
<b>DEVELOPMENT AND DESIGN</b>				
RA10	15	Policy DE01	49	The Council will not support development proposals where they would unacceptably affect: 1) the amenities of the area or 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 ought to be protected in the public interest. These include: <ul style="list-style-type: none"> <li>(i) Overlooking and/or loss of privacy;</li> <li>(ii) Dominance or overshadowing;</li> <li>(iii) Odour, noise, vibration or other forms of disturbance;</li> <li>(iv) Forms of pollution; and</li> <li>(v) General disturbance.</li> </ul>
RA11	16	Para 2.5	49	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.
RA12	17	Para 2.11	51	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.
RA13	18	Policy DE03	53	<p><b>Non-Residential Development</b></p> <p>Planning permission will be granted for non-residential development in the countryside in the following cases:</p> <ul style="list-style-type: none"> <li>• Outdoor sport and recreational uses in accordance with Draft Policy OSR07</li> <li>• Park and Ride and Park and Share car parks in accordance with Draft Policy TR03</li> </ul>
RA14	19	Para 2.28	58	The Council will seek to ensure that the display of outdoor advertisements does not prejudice public safety, including road safety....
RA15		Policy DE08	58	The Council will only give consent for the display of advertisements or signs on heritage assets or affecting the setting of heritage assets when the following criteria are met: signage to a listed building must be carefully designed and located to respect the architectural form and detailing of the building; signage in a conservation area will not adversely affect the overall character, appearance or setting of the area; signage in an area of townscape character must maintain the overall character and built form of the area; where it is physically affixed to an asset, it does not cause

				<p>irreparable damage to the asset and is reversible.</p> <p>Amend the clarification text to reflect Policy DE08 as amended above.</p>
RA16	136	Appendix 1	229	<p>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.</p> <p>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.</p> <p>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.”</p> <p>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.</p>

Appendix 4 Recommended Amendments

RA17	137	Appendix 5	245-246	Delete all
<b>PEOPLE AND PLACES</b>				
RA18	21	Policy HOU01	61	<p><b>Draft Policy HOU01 – Housing in Settlements and Windfall Sites</b></p> <p><b>(a) Main and Local Towns</b>  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.  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.</p> <p><b>(b) Villages and Small Settlements</b>  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.</p>

RA19	22	New paragraphs after Para 3.7	61	<p>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.</p> <p>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).</p>
RA20	23	Policy HOU03	63	Add into policy box: Where it is demonstrated that a development is not viable a reduced or alternative provision of affordable housing may be acceptable.
RA21	24	Para 3.14	64	The delivery of affordable housing will be secured by planning conditions or by legal planning agreement.
RA22	25	Policy HOU05	65	<ul style="list-style-type: none"> <li>h) they demonstrate that secure-by-design principles have been applied; -</li> <li>i) they provide reasonable separation distances from overhead power lines and sub-stations; and</li> <li>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.</li> </ul>
RA23	29	Para 3.37	73	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 and is intended to promote imaginative design solutions that will help retain a visual link with the past.

#### Appendix 4 Recommended Amendments

RA24		Policy HOU09	72-73	A criterion should be added to Draft Policy HOU09 stating that the existing building is not suitable for conversion under Draft Policy HE09.
RA25	30	Policy HOU10	74	The Council will support the replacement of an intact redundant, non-residential building with a dwelling where all the following criteria are met:
RA26	31	Policy HOU14	78	<p>The development of a new dwelling as a rounding off will be permitted where all the following criteria are met:</p> <p>...</p> <p>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;</p> <p>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.</p>
RA27	32	Policy HOU17	81,82	<p>Development proposals for a group of no more than 8 dwellings adjacent to or near.....</p> <ul style="list-style-type: none"> <li>• the application is made by a registered Housing Association; and</li> </ul> <p>...</p>
RA28	33	Policy CF01	83	<p>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.</p> <p>In the case of a facility in association with an RCA, the use will be limited to a community hall only.</p> <p><b>Protection of community facilities</b></p> <p>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:</p> <p>(a) the building is no longer needed and is not economically viable for</p>

Appendix 4 Recommended Amendments

				<p>an alternative community use, and  (b) the alternative use is compatible with surrounding uses.</p> <p>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.</p>
RA29	34	Policy OSR01	86	The Council will only support the loss of existing or future open space, irrespective of its physical condition and appearance, to alternative uses in the following circumstances:
RA30	35	New paras	86	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.
RA31	36	Policy OSR02	87	Delete criterion (d) and the third paragraph
RA32	37	Para 3.75	87	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.
RA33	38	Policy OSR03, Paras 3.76 and 3.77	88	Delete policy and clarification.
RA34	39	Policy OSR04	88	a) there is no adverse impact on the natural environment, including biodiversity and landscape character;

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RA35	40	Para 3.78	89	It is evident that the lough shores are often, by their nature, unspoilt areas and some are European or Ramsar sites. It is important to conserve the environmental quality and character of the lough shores as well as the inland water bodies. For the purposes of this policy, lough shore is the area set back from the fringes 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. 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.
RA36		Policy OSR04	88-89	An additional criterion should be added that it be demonstrated that there is no conflict with the provisions of any local management plan.
RA37	41	Policy OSR05	89	The Council will only support development proposals on sites adjacent to a main river where the following criteria are met: 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) 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,
RA38	42	Para 3.89	92	Examples of such types of development include and are not limited to: • workspace/business start-up units, which include agricultural based, food production and machinery repairs.
<b>ECONOMY</b>				
RA39	43	Policy IB02 and Para 4.10	95	<b>(a) Zoned Land</b> Alternative uses on land zoned for industry and business uses will not be permitted.  The reallocation of land zoned for industry and business should only occur

				<p>through the Local Development Plan process.</p> <p><b>(b) Unzoned Land</b>  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"> <li>(i) it is from industry to a business use (excluding offices) or other comparable employment-generating use; or</li> <li>(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</li> <li>(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.</li> </ul> <p>Para. 4.10 Industry and business uses across the district, both on zoned and unzoned sites, should be protected and so sufficient land for employment uses in maintained.</p>
RA40	44	New paragraph after Para 4.13	96	To demonstrate 'continuous active marketing' the following may be required: (a) how long has the site 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/s to the marketing exercise.
RA41	45	New paragraph after Para 4.14	96	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.
RA42	47	Policy IB06 and insert new	100	Development proposals for intensive farming or animal husbandry must demonstrate that it does not result in any significant adverse environmental

Appendix 4 Recommended Amendments



		paragraph after Para 4.26		<p>effects, particularly through increased ammonia emissions.</p> <p>Ammonia (NH<sub>3</sub>) 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.</p>
RA43	48	Policy TCR04	112	<ul style="list-style-type: none"> <li>• it is to meet a local need and which sustains rural communities;</li> <li>• it is keeping with the size and character of the settlement; and</li> <li>• it would not have an adverse impact on town centres within the catchment.</li> </ul>
RA44	49	Policy TCR05	112	<p>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:</p> <ul style="list-style-type: none"> <li>• limited to a single shop ancillary to the use as a petrol filling station; and</li> <li>• not in excess of 200m<sup>2</sup> gross retail floorspace.</li> </ul> <p>Outside settlement limits, a proposal for a petrol filling station will only be supported in the following circumstances:</p> <ul style="list-style-type: none"> <li>• it is located along a dual carriageway route which is not currently served by existing petrol filling stations;</li> <li>• a clear and compelling need and safety case can be demonstrated;</li> <li>• there is no adverse impact on town centres within the catchment;</li> <li>• any shop ancillary to a petrol filling station will be limited to 200m<sup>2</sup> gross retail floorspace;</li> </ul>

				<ul style="list-style-type: none"> <li>and where it has been demonstrated to the satisfaction of the Council that there exists a need for a petrol filling station 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 a petrol filling station outside settlements will be limited to 200m<sup>2</sup> gross retail floorspace; and</li> <li>proposals would be permitted provided it has been demonstrated there is no adverse impact on town centres within the catchment.</li> </ul>
RA45	50	Para 4.42	113	Therefore, the Council considers that proposals up to 200m <sup>2</sup> gross retail floorspace are of such a scale and nature so as not to cause a significant impact on other centres.
RA46	51	Policy TOU01	115	<p><b>A Tourism Assets</b></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, or part thereof.</p> <p><b>B Tourism Development</b></p> <p>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.</p>
RA47	52	Policy TOU01	115	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 viable for a tourism use.
RA48	53	Para 4.57	116	<p>Applicants should demonstrate that the facility has been marketed and that it is no longer economically viable. This should be in the form of a marketing statement and include the following information:</p> <ul style="list-style-type: none"> <li>Independent valuation;</li> </ul>

				<ul style="list-style-type: none"> <li>• Sales marketing materials and responses;</li> <li>• Use/number of visitors/achieved room rate data;</li> <li>• Business plans;</li> <li>• Marketing plan, schedule and brochures;</li> <li>• Investment schedule and plans;</li> <li>• Details of plans to up-grade/re-position with full costing;</li> <li>• It is demonstrated that it cannot be used for an alternative tourism use</li> </ul> <p>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.</p>
RA49	54	Policy T OU02 and Para 4.51	114 and 116	<p>Change title of Draft Policy T OU02 to Tourism Development</p> <p>Paragraph 4.51: Outside of settlements, tourism development will be directed towards tourism hubs. 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-Creagán; Gortin Glens; Marble Arch Caves/Cuilcagh/Belcoo; and Killadeas/Lisnarick/Kesh area (includes Castle Archdale).</p>
RA50	Amended 55	Policy T OU02 and clarificatory text	116	<p>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.</p> <p>Sustainable 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:</p>

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				<ul style="list-style-type: none"> <li>a) It is in association with and located at an existing and established tourism hub;</li> <li>b) It is demonstrated that the development is to be run in association with the tourism amenity or asset;</li> <li>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.</li> <li>d) The building is suitable for reuse or adaption under Draft Policy IB05</li> </ul> <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>Exceptionally a major tourism development will be supported 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.</p> <p>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 must be sited and designed to consolidate with the tourist amenity and/or tourism asset part of the overall tourism hub or attraction.</p> <p>Within the clarification text the Council should state what is meant by the Lough Shore in terms of Draft Policy TOU02.</p>
RA51	56 amended	Policy TOU03 and Para 4.66	119	Policy TOU03: The Council will only support a proposal for a hotel, guest house or tourist hostel in the countryside in the following circumstances:...

				Paragraph 4.66: New hotels, guest houses and tourist hostels should normally be located within settlements boundaries. 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.
RA52	58	Policy TOU04	120	c) exceptionally, where it has been demonstrated through submitted information that existing buildings are unsuitable for adaption and re use, a new building which is similar in size and scale to the existing buildings may be permitted;
RA53	60	Policy MIN01	123	<p>The Council will support proposals for minerals development where it is demonstrated that they do not have an unacceptable adverse impact upon:</p> <ul style="list-style-type: none"> <li>i) the natural environment;</li> <li>ii) the landscape and visual amenity;</li> <li>iii) the historic environment;</li> <li>iv) the water environment;</li> <li>v) public safety, human health and amenity of people living or working nearby;</li> <li>vi) road safety and convenience of road users; AND</li> <li>vii) In all cases, the cumulative effects of such proposals on i) to vi) have been assessed for all minerals development regardless whether those developments are classed as permitted or temporary development.</li> </ul> <p>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 all mineral development within designated Special Countryside Areas.</p> <p>Within Areas of Constraint on Mineral Development, there is a presumption against mineral development unless one or more of the following criteria</p>

				<p>can be met in addition to i) to vii):</p> <ul style="list-style-type: none"> <li>viii) the proposal involves an extension to an existing minerals development; or</li> <li>ix) the minerals development will provide building materials that are substantially for the restoration and repair of built conservation interest in the local area; or</li> <li>x) the mineral is valuable; or</li> <li>xi) the mineral is of limited occurrence and there is no reasonable alternative source outside the ACMD; AND</li> <li>xii) the development is for less than 15 years duration</li> </ul> <p><b>Commercial Peat Extraction</b> Commercial peat extraction, including proposals for new or extended sites or renewal of extant permissions, shall not be permitted.</p> <p>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.</p>
RA54	61	Para 4.80	124	<p>However, if during the extraction phase, a mineral resource is found to be more extensive than originally indicated, the Council will consider 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>
RA55	62 amended	Additional paragraph	125	<p>Valuable minerals refer to high value metalliferous minerals such as gold, silver, lead, copper and diamonds. 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 or in close proximity to an area that has been designated or is proposed for designation, due weight will be given to the reason for the designation. There will not be a presumption against their exploitation in any area apart</p>

				from within designated Special Countryside Areas. 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.
RA56		Para 4.84	126	To ensure that restoration and aftercare proposals are carried out, the Council will require developers to provide a financial guarantee bond or make other financial provision.
<b>ENVIRONMENT</b>				
RA57	65	Policy HE01	129	Delete policy
RA58	66 and 67	Paras 5.5 and 5.6	129	Delete paragraphs
RA59	70 amended	Policy HE02 (inserting text from Paras 5.12 and 5.15)	130	<p><b>(a) Archaeological remains of regional Importance and their settings</b> 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.</p> <p><b>(b) Archaeological remains of Local Importance and their Setting</b> 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.</p> <p>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. The policies for specific ASAs will build on the Statement of</p>

				<p>Significance, which will themselves be a material consideration in assessing the impacts of development proposals on these landscapes.</p> <p>The Council will review existing and identify new Areas of Archaeological Potential (AAP) in the district in the Local Policies Plan.</p>
RA60	68	Para 5.8	130	...Scheduled Monuments and Areas of Significant Archaeological Interest (ASAs). Such sites (or constituent parts of them) are statutorily protected.
RA61	69	Para 5.9	130	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.
RA62	71	Para 5.13	131	These can include sites and monuments that are not scheduled, buildings and structures of Industrial Heritage or Defence Heritage, as well as battle sites.
RA63	72	Para 5.14	131	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:
RA64	73 amended	Add to Draft Policy HE02 and insert new paragraphs after Para 5.14	131	<p>Add to Draft Policy HE02: 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.</p> <p>New paragraphs after Paragraph 5.14: 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:</p>

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				<ul style="list-style-type: none"> <li>• preservation of remains in situ;</li> <li>• licensed excavation;</li> <li>• recording, examination and archiving of archaeology by way of condition</li> </ul> <p>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.</p>
RA65	74	Policy HE03(a)	132	<p><b>a) Alterations and Extensions to a Listed Building and development in the setting of a Listed Building</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>• the essential character, its special architectural and/or historical interest, integrity and setting of the listed building will be protected, conserved and enhanced;</li> <li>• the proposal makes use of quality materials and techniques (traditional and/or sympathetic) in-keeping with architectural details of the listed building;</li> <li>• 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</li> <li>• where a change of use is proposed, the use is compatible with the fabric, appearance, setting and character of the building; and</li> <li>• the alteration is desirable or necessary.</li> </ul>
RA66		Policy HE03	132	Draft Policy HE03's title should include reference to change of use.
RA67		Policy HE03	132	Fourth bullet of Draft Policy HE03(a) should state that the change of use secures its ongoing viability and upkeep.

RA68	75 amended	Policy HE03(b)	132	<p>The policy should be amended to state the presumption in favour of the retention of listed buildings.</p> <p>The first sentence of the second bullet point should be amended as this could be misinterpreted.</p> <p>The second sentence of the second bullet point should also be amended to read 'In such cases, appropriate arrangements must be in place for recording the building prior to demolition. Where consent for the total demolition of a listed building, or any significant part of it, is granted, this will be conditional on prior agreement for the redevelopment of the site'.</p>
RA69		Policy HE04(a)	133	Add 'in the interests of enhancing or preserving the character of a Conservation Area...'
RA70	79	Policy HE04(a)	133	<ul style="list-style-type: none"> <li>important views within, into and out of the area are protected and retained.</li> </ul>
RA71	80	Policy HE04(b)	133	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.
RA72		Policy HE04(b)	133	Draft Policy HE04(b) should require that it be demonstrated that the new building enhances the character or appearance of the area.
RA73	81	Para 5.19	134	Delete the second and third sentence
RA74	82	Enniskillen Conservation Area Map	135	Amend the incorrect CA boundary to reflect the boundary shown in the Enniskillen Conservation Area Design Guide (March 1988)
RA75	83	Policy HE05	138	The Council will only permit development proposals within An Area of Townscape Character or Village Character where the following criteria are

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				met...
RA76	84	Policy HE05(a)	138	Amend to read: <ul style="list-style-type: none"> <li>any trees or other landscape features are protected and satisfactorily integrated into the design and layout of the development.</li> </ul>
RA77	85	Policy HE05(b)	138	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.
RA78	86	Para 5.21	138	For this reason it is important that the design, scale, massing and finishes of any development proposal maintain or enhance the unique character of the ATC/AVC.
RA79	87	Para 5.22	138	In such cases, in order to maintain or 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.
RA80	88	Policy HE06	139	<ul style="list-style-type: none"> <li>the development would not adversely impact on the integrity and overall quality, understanding, experience and enjoyment of the Historic Park, Garden or Demesne.</li> </ul>
RA81	89	Policy HE07	139	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.
RA82	90	Para 5.25	140	Sometimes LLPAs can also assist in creating 'buffers' between...
RA83	91 amended	Policy HE08	140	The Council will only permit 'Enabling Development' relating to the conservation, refurbishment and re-use of a Heritage Asset in exceptional circumstances where it will not materially harm its heritage value or setting. It must be demonstrated through a Statement of Justification that all of the following criteria will be met'.

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RA84	92	Policy HE08	140	<p>The criteria that an enabling development proposal will need to demonstrate in the Statement of Justification should be amended as include:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• The impact of the enabling development is precisely defined at the outset;</li> </ul> <p>The criteria should be contained within the policy headnote of Draft Policy HE08 rather than in the clarification text of paragraph 5.28.</p>
RA85	93	Policy HE09	142	<p>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:</p> <ol style="list-style-type: none"> <li>i) 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</li> <li>ii) 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.</li> </ol>
RA86	94	Para 5.33	142	<p>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>
RA87		Policy HE09	142	<p>Include consideration of the effect of an application on the significance of a non-designated heritage asset, such as an unlisted vernacular building or historic building of local importance, when determining a planning</p>

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				application.
RA88	95	Policy NE01	144	<p><b>(a) Internationally Important Sites</b></p> <p>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.</p> <p>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.</p> <p>A development proposal which could adversely affect the integrity of an international site may only be permitted in exceptional circumstances and where:</p> <ul style="list-style-type: none"> <li>(i) there are no alternative solutions; and</li> <li>(ii) the proposed development is required for imperative reasons of overriding public interest; and</li> <li>(iii) compensatory measures are agreed and fully secured through conditions or a planning agreement.</li> </ul> <p><b>(b) Nationally Important Sites</b></p> <p>Development affecting an ASSI, National Nature Reserve or Nature Reserve will only be permitted where:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(ii) any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance. In such cases, appropriate</li> </ul>

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				<p>mitigation and/or compensatory measures will be required..</p> <p><b>(c) Locally Important Sites</b>  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.</p>
RA89	96 amended	Policy NE02	145	<p><b>European Protected Species</b>  Development that is likely to harm a European Protected species will not be permitted unless it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>(a) there is no satisfactory alternative;</li> <li>(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;</li> <li>(c) there is no detriment to the maintenance of the population of the species at a favourable conservation status; and</li> <li>(d) mitigation and compensatory measures are agreed and their delivery secured.</li> </ul> <p><b>Other Protected Species</b>  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.</p>
RA90	97	Policy NE03	146	<p><b>Other Habitats, Species or Features of Natural Heritage importance</b>  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</p>

				<p>compensatory measures will be required.</p> <ul style="list-style-type: none"> <li>• priority habitats;</li> <li>• priority species;</li> <li>• active peatland;</li> <li>• ancient and long established woodland;</li> <li>• features of earth science conservation importance;</li> <li>• features of the landscape which are of major importance for wild flora and fauna;</li> <li>• rare or threatened native species;</li> <li>• wetlands (including river corridors); or</li> <li>• other natural heritage features worthy of protection, including trees and woodland;</li> </ul> <p>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 site's interests and undertake a suitable ecological appraisal.</p>
RA91	98	Para 5.44	146	<p>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 habits and species identified through the Northern Ireland Biodiversity Strategy (NIBS) (to achieve the statutory duties under the Wildlife and Natural Environment (NI) Act 2011).</p>
RA92		Para 5.49	147	<p>The Council undertook a Landscape Character Review for Fermanagh and Omagh as part of its evidence base. It also undertook a Landscape Designation Review for Fermanagh and Omagh. These documents informed the designations made in this part of the plan strategy. The Council has designated three Special Countryside Areas (SCAs). These are exceptional landscapes, wherein the quality of the landscape and unique amenity value is such that they require protection from inappropriate development. They are:</p> <ul style="list-style-type: none"> <li>(i) Cuilcagh Mountain;</li> <li>(ii) The High Summits of the Sperrins; and</li> </ul>

				<p>(iii) The Islands of Lough Erne, Lough Macnean and Lough Melvin.</p> <p>Additionally, the Council has designated three Areas of High Scenic Value (AoHSVs). These are those parts of the countryside that are of a relatively unspoilt nature, and which provide an attractive setting of local importance. They are:</p> <p>(i) Cuilcagh, Marlbank and Lower Lough Macnean;  (ii) Upper Lough Erne; and  (iii) Lower Lough Erne.</p> <p>Further details are found in L02 (SCAs) and L03 (AoHSV).</p>
RA93	99	Policy L01	148	<p>Development proposals which 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 or setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted.</p> <p>Account must be taken of the Landscape Character Assessments and any other relevant guidance including an AONB Management Plan and local design guides.</p> <p>Development proposals must be accompanied by a Landscape and Visual Impact Assessment.</p>
RA94	100	Para 5.53	148	Delete paragraph
RA95	101	L02	149	<p>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:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• minor works or improvements to infrastructure such as walking and cycle-ways, fishing and canoe stands; or</li> <li>• providing tourism accommodation or facilities through the re-use of</li> </ul>

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				<p>existing vernacular buildings whilst being sympathetic to the landscape and nature conservation interests.</p> <p>Development proposals must be accompanied by a Landscape and Visual Impact Assessment.</p>
RA96	102	Para 5.54	149	<p>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.</p>
RA97	103	L03	150	<p>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. Exceptional consideration will be given to the provision of pathways and informal recreational facilities of an appropriate scale and in a suitable location.</p> <p>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.</p>
RA98		Para 5.56	150	<p>Development proposals should take into account the findings of the Fermanagh and Omagh Landscape Character Assessment (LCA) (2018), in particular the statement of importance which outlines the significance of each area and opportunities for change. Any analysis to assess the potential landscape and visual effects of the sensitivity of the landscape, should include consideration of the sensitivity of the landscape, the cumulative impacts of development and the capacity of the Area of High Scenic value to</p>

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				absorb the development proposal.
<b>INFRASTRUCTURE</b>				
RA99	105	Policy FLD01	152	<p>The Council will not permit development within the floodplain unless it falls within one of the following exceptions (a) to c)</p> <p><b>a) Defended Areas</b> – defined as previously developed land protected by flood defences but which excludes the following:...</p> <p>Where a proposal falls within one of the exceptions (a-c) or is minor development, it must be demonstrated that:...</p>
RA100	106	Policy FLD01	152	<p>The Council will not permit development within the floodplain unless it falls within one of the following exceptions (a) to (c):</p> <p><b>b) Undefended Areas:</b></p> <ul style="list-style-type: none"> <li>• 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;</li> </ul>
RA101		Para 6.4	153	Define the limits of the floodplain as the extent of a modelled flood event with a 1 in 100 year probability (Annual Exceedance Probability (AEP)) of 1% plus the latest climate change addition, in accordance with the latest guidance published by Dfl.
RA102		Para 6.5	153	Policy clarification to state within paragraph 6.5 that Dfl Rivers, as the competent authority, need to confirm that flood defences are structurally adequate and provide the minimum standard of 1% Annual Exceedance Probability fluvial flood protection.
RA103		Policy FL02	154	An amendment should be made to changing the emphasis of the policy so that it is expressed in negative terms; this would reflect the precautionary approach to development in areas of flood risk.
RA104		Para 6.10	154-155	Policy clarification text to provide direction in relation to the instances when a Drainage Assessment is required under the policy so that a developer is aware that it is their responsibility to assess the flood risk, drainage impact, to mitigate the risk to the development and any impact beyond the site.

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RA105	108	Policy FLD02	154	<p>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.</p> <p>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.</p> <p>A Drainage Assessment will be required for the following types of development as these have the potential to create surface flooding elsewhere:</p> <ul style="list-style-type: none"> <li>• a residential development comprising of 10 or more dwelling units;</li> <li>• a development site in excess of 1 hectare;</li> <li>• a change of use, new buildings and/or hard surfacing exceeding 1000 square metres in area;</li> <li>• where a proposed development (excluding minor development) is located in an area where there is evidence of a history of surface water flooding;</li> <li>• where surface water run-off from the development may adversely impact upon other development or features of the Natural and Historic Environment (unless it falls within one of the categories (a) to (c) of Draft Policy FLD01).</li> </ul>
RA106	109	Policy FLD03	155	All development proposals must, where practicable, include proposals for Sustainable Drainage Systems.
RA107		Policy FLD04	156	Draft Policy FLD04 should relate to all watercourses
RA108		Para 6.17	156	'These working strips (areas in which mechanical equipment can operate easily) may be up to 10m in width....
RA109		Policy FLD05	157	Amend the wording of Draft Policy FLD05 to state that it will only be permitted in exceptional circumstances.
RA110	112	Policy FLD06	158	<p><b>Development in Proximity to Controlled Reservoirs</b></p> <ul style="list-style-type: none"> <li>• Where a proposal for new development lies within the flood inundation area of a Controlled reservoir, the Council will grant permission where it can be demonstrated that the condition, management and maintenance</li> </ul>

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				<p>regime of the reservoir is appropriate to provide sufficient assurance, provided by a suitably qualified engineer regarding reservoir safety.</p> <ul style="list-style-type: none"> <li>• Where assurance on the condition, management and maintenance regime of the relevant reservoir/s is not demonstrated, the application must be accompanied by a Flood Risk Assessment, or other analysis, which assesses the downstream flood risk in the event of an uncontrolled release of water due to reservoir failure as being acceptable to enable the development to proceed.</li> </ul> <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"> <li>• essential infrastructure;</li> <li>• storage of hazardous substances;</li> <li>• accommodation for vulnerable groups; and</li> <li>• for any development located in areas where the FRA indicates potential for an unacceptable combination of depth and velocity.</li> </ul>
RA111	113 Amended	Para 6.21	158	Controlled reservoirs (or dams as they are often referred to) have a potential risk of flooding as they are capable of holding 10,000m <sup>3</sup> or more of water above the natural level of any part of the surrounding land (as defined in the reservoirs Act 2015). It is therefore necessary that proposals within the inundation area are accompanied by an assessment of reservoir safety and assurance from a suitably qualified engineer. Where assurance is not demonstrated there is a requirement for a FRA which demonstrates an assessment of the downstream flood risk in the event of:
RA112	114	Para 6.21	158	Footnote to be added: 'Suitably qualified engineer' is an All Reservoirs Panel Engineer.
RA113	116	Policy RE01 and para 6.27	159	<p>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:</p> <ol style="list-style-type: none"> <li>public safety, human health, or residential amenity;</li> <li>visual amenity and landscape character;</li> </ol>

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			<ul style="list-style-type: none"> <li>c) biodiversity, nature conservation or historic environment and their settings;</li> <li>d) local natural resources, such as air quality or water quality and quantity;</li> <li>e) the safety of public footpaths, highways;</li> <li>f) aviation interests, broadcasting installations and all other telecommunications.</li> <li>g) public access to the countryside and/or recreational/tourist use of the area;</li> <li>h) flood risk;</li> <li>i) any renewable energy development on active peatland will not be permitted unless there are imperative reasons of overriding public interest' ; <u>And</u></li> <li>j) they do not create unacceptable cumulative impacts when viewed in conjunction with other operational and approved, and those which are currently the subject of valid but undetermined applications for renewable and low carbon energy generation developments.</li> </ul> <p><b>Wind Energy Proposals</b></p> <p>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 Fermanagh and Omagh Landscape Wind Energy Strategy (Appendix 7) and demonstrate that:</p> <ul style="list-style-type: none"> <li>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;</li> <li>l) the development will not create a significant risk of landslide or bog burst;</li> <li>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;</li> </ul>
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			<p>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</p> <p>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;</p> <ul style="list-style-type: none"> <li>• timescales for completion of individual phases of restoration where a progressive scheme is proposed;</li> <li>• aftercare arrangements once restoration is complete.</li> </ul> <p>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.</p> <p><b>Ground Mounted Solar PV installations</b>  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:</p> <p>q) they do not result in unacceptable impacts on nearby residential properties and/or any sensitive receptors.</p> <p>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.</p> <p>Additional clarification should be added to paragraph 6.27 to state that temporary unoccupied refers to a dwelling capable of immediate</p>
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				occupation.
RA114	118	New paragraph after Para 6.28	161	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'.
RA115	120	Para 6.32	162	The landscape and visual effects of wind energy developments, solar PV farms and other renewable energy developments will vary on a case by case basis according to the type of development, its location and the landscape setting of the proposed development. Some of the effects may be minimised through appropriate siting, design and landscape schemes, depending on the size and type of development proposed. 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.
RA116	121	Text box	161	The areas identified as:...
RA117		Part Two Para 6.28 and Para 1.3 Appendix 7	161 and 249	The reference to the Landscape Wind Energy Strategy being the principal material consideration for wind energy proposals should be removed from the Draft Plan Strategy.
RA118	124	Policy TR01	163	<b>Land Use and Transport</b> The Council will permit development proposals where it is demonstrated that: 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 published parking standards;

				<p>d) appropriate safe, convenient and secure facilities for cycle parking and cyclists are provided.</p> <p>Transport Assessment<sup>1</sup> will be required where a development proposal is likely to have a significant impact on highway conditions.  <sup>1</sup>See guide to Transport Assessment (published by DoE and DRD, 2006).</p>
RA119	125	Para 6.38	164	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.
RA120	126	Policy TR02	165	<p>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.</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. There will be a presumption against temporary car parks where it is considered unnecessary and it is not linked to firm proposals for the development for the site.</p>
RA121	127	Para 6.46	165	The provision of suitable car parking for all users including people with disabilities, parents and child parking spaces and short and long-term visitors is essential to support the needs of our businesses, residents and visitors. 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 for a temporary car park, if granted, will be subject to a time limit of 1 year.
RA122	128	Policy TR04	166	<p>A development proposal involving direct access, or the intensification of the use of an existing access, will only be permitted where:</p> <ul style="list-style-type: none"> <li>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;</li> <li>b) in the case of other dual carriageways, ring roads, Through-Pass or By-Pass, the development is of regional significance; or</li> <li>c) in the case of a Protected Route within settlement limits:</li> </ul>



				<ul style="list-style-type: none"> <li>i) the development cannot be accessed from an adjacent minor road; or</li> <li>ii) in the case of residential developments, where it will significantly assist in the creation of a quality environment without compromising road safety or result in an excessive number of access points.</li> <li>d) in the case of a Protected Route outside settlement limits where the development is for: <ul style="list-style-type: none"> <li>i) a replacement dwelling, where there is an existing vehicular access onto the protected route, or;</li> </ul> </li> </ul>
RA123		Policy TR04 criterion (d)(ii)	166	d) (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 where access cannot be reasonably obtained from an adjacent minor road, use of an existing vehicular access onto a protected route will be permitted.
RA124	130	Para 6.53	167	The Regional Strategic Transport Network Transport Plan (RSTNTP) will be the main source of identifying and prioritising future major road schemes and these will be identified on the Proposals Map. In addition, applicants are advised that details of New Transport Schemes, and any updates are available from the Department for Infrastructure.
RA125	131	Para 6.54	168	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.
RA126		Part Two, Paragraph 1.3	47	Paragraph 1.3 of Part Two, Section 1.0 Introduction should state that in determining planning applications the Council will 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.
RA127		Policy WM01	173	Draft Policy WM01 should be amended to ensure that waste management facilities do not cause damage to habitats or heritage.
RA128	132	Policy WM01	173	Additionally, where a waste management facility is of a regional scale its location should relate closely to and benefit from easy access to a key

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				transport corridor and not have an unacceptable adverse impact upon road safety and convenience of road users.
RA129	133	Para 6.70	175	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...
<b>MONITORING AND REVIEW</b>				
RA130		Tables 7 and 8	178-212	Indicative Monitoring Framework should replace the monitoring indicators however given that Draft Policy HE03 states that the total or part demolition of a listed building must not be permitted unless there are exceptional circumstances, it is appropriate that the trigger for all listed buildings is 5% (Indicator 16). The number of applications for the demolition of any significant part of a listed buildings should also be monitored and therefore Indicator 16 should also include these planning applications.
RA131	135	Glossary	216	Update the definition of intermediate housing to reflect that used by the Department for Communities.
RA132	138	Appendix 7	248	Amended the title to The Landscape Wind Energy Strategy for Fermanagh and Omagh District Council