



## Response from the Green Party in Northern Ireland to the consultation on FODC Local Development Plan 2030

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The Green Party in Northern Ireland would like to issue a response to the consultation process associated with Fermanagh and Omagh District Council's Local Development Plan 2030 through its West Tyrone Constituency Group representative, Ms Susan Glass.

While the consultation process rather narrowly confines admissible responses to a "tick-box" process-oriented understanding of the concept of "soundness", as a political party we would like to express our disappointment in this plan against both the statutory framework set out, as well as addressing the distinct social and environmental "unsoundness" and incompleteness of these proposals as a robust, sustainable and equitable framework for planning in this district in the coming years.

Running through the whole document is a presumption that the role of the Council is to facilitate development, in spite of the costs and risks to citizens and the environment. Several sections make presumptions centred on the pursuit of economic growth as a goal of higher priority than the long-term protection and improvement of quality-of-life for residents. Moreover, the plan provides no impediment to current threats from extractive industries to the District's community and environment, and as such we urge the political representatives on the Council to reject it. We posit that the tenor of these sections reveals a worrying lack of soundness in the document as a whole, to the extent that it is a fundamentally unsatisfactory basis on which the Council is proposing to base its long-term vision for sustainability in the District.

Of particular concern to us is the conspicuous absence of a serious framework around pertinent industrial activities and proposals in the District, particularly those involving extractive industries.

### 1. Incompleteness and lack of soundness

We contend that the plan fails the 'soundness test' on several grounds, most notably because so many critical aspects are either completely omitted or are inadequately addressed.

The plan presumes the continuance of the current regulatory framework within the European Union, despite having been drafted in a period when the UK's exit from the European Union was known, but where specific exiting arrangements have not yet been agreed between member states and the UK government. As of December 2018, one of the critical aspects still not known is

arrangements for the Northern Ireland border. It seems somewhat incredible that the Council can therefore make such long-term plans in this context. If the soundness test were to be applied in this context, it would easily be regarded as premature to put forward plans purporting to amount to a full 'development plan' without dealing substantively with the anticipated challenges associated with the UK's exit from the European Union, which at the time of writing included the risk of a "hard border" with the Republic of Ireland. The fact that the plan does not even deal with these known challenges renders it completely inadequate for planning until 2030 in a border district.

Even in assuming the continuance of its statutory responsibilities under European Law, the plan is fundamentally unsound in that it gives only passing consideration to an onerous responsibility to carry out proper Habitats Regulations and Strategic Environmental Assessments to underpin its stated policies which positively favour minerals development, for e.g.:

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

*i) the natural environment;*

*ii) the landscape and visual amenity;*

*iii) the historic environment;*

*iv) the water environment;*

*v) public safety, human health and amenity of people living or working nearby; and*

*vi) road safety and convenience of road users.*

What is to be deemed 'unacceptable' in these contexts is not defined in the plan, yet it would be defined had proper Strategic Environmental and Habitats Regulations Assessments been duly considered. This points to a worrying lack of soundness and consistency in the approach of the plan, and perhaps even more pertinently to a disregard for the legal compliance of development processes in current major mineral developments taking place within the District Area. The default position should be the *precautionary principle*, not supportive of development as long as the costs and risks are not "unacceptable".

The plan gives only cursory consideration to alternative development options, noting in almost every section variations of development being permitted so long as "alternatives" are not practicable or feasible. Strategic Environmental Assessments require alternatives to be relatively fully developed when considering development options, whereas in this plan they are given only passing mention, without definition or elaboration. This indicates that the plan is possibly in breach of statutory responsibilities, thereby failing the soundness test.

Similarly, little indication is given as to how the plan defines 'impact' of development on communities, environment and surrounding local authorities as well as the Republic of Ireland, or indicates how this will be monitored. This must be included to consider e.g. run-off, leeching and other environmental impacts of quarry developments with neighbouring authorities. There is no indication that this, or any serious effort to recognise these with sufficient scientific measures underpinning it, is being considered. It is astonishing that "retail impact" features greatly in the town centre development section, and "visual impact" is mentioned throughout yet such focus is

not given to impact from e.g. mineral development, in spite of the existence of protected EU sites in areas where this activity is/will take place.

## **2. Consultation processes**

The barriers to the ordinary citizen participating in this process are too high for it to be considered a bona fide “consultation”. We discern a tendency in governance in Northern Ireland to treat “consultation” as a bureaucratic step towards the positivist goal of facilitating proposed developments where possible, rather than a meaningful process through which citizens are able to engage with planners in the social interest. The length of the plan belies the value of its contents – despite being over 300 pages long with appendices, its evidential and definitional base is almost completely absent, whereas the main sections of the document seem to be merely collations of disparate planning ‘factsheets’ prefixed with a brief contextual history of LDPs and Area/Community Plans. Not only is this inaccessible to the ordinary citizen, basic positivist presumptions of “growth” and permitted development are interpolated throughout. It is not clear from the plan where the political impulse for such policies come from, and it is difficult for the ordinary citizen to engage with a document so constructed without unduly onerous interpretation and further research. As a cursory example, the introduction points to documents which respondents are “strongly advised” to digest before responding, yet these documents are neither linked nor referenced – it is up to the reader to find them among a collection of thousands of documents published on the Department of Infrastructure’s website.

The ways in which the consultation can be responded to is even further narrowed by the form provided, in an 8-week timeframe, which is far too short for a heavy document to be read and understood and substantively responded to by the ordinary citizen. Consultation processes should be longer and actually facilitate response rather than reducing the scope for it.

## **3. Economic interest versus social interest**

Local Authority plans should be focused on citizens and residents first and foremost and this document fails to address the relationship between community wellbeing and health, as well as the major conflicts over controversial proposals such as proposed goldmines and potential conflicts reigniting over hydrocarbon exploration such as fracking. These industries increase tension and conflict, as evidenced with the Greencastle area, and can affect the wellbeing of local communities and the lessons from the illegal dump near Derry city, Woodburn oil drilling and the fracking conflict in Fermanagh have clearly not been considered. The protection of the environment and human rights should be core minimum policies for the regulation of this sector through the planning regime.

“Growth” is given as an assumed pretext for ‘good’ development in this plan. Sustainability is a secondary criterion and not defined. In other words, the plan makes presumptions that its

purpose is to facilitate growth through 'sustainable' development. Who benefits from this growth? From the document it is clear that the cost and risks of growth is to be born by the community and environment, while the benefits are not accrued locally beyond incidental employment. as long as it is not "unacceptable" but it does not say unacceptable to whom. This doesn't explain who the intended beneficiaries of the plan are. But from reading, they are clearly not citizens.

This document seems to omit major developments like Dalradian, presumably under the premise that these are "strategic" and are the Department of Infrastructure's responsibility. Any sound plan would make reference to these and failure to do so reduces them to externalities, around which FODC would be unable to manage without setting out a position in a plan at this stage.

While mining and quarrying can provide vital commodities, this sector is arguably the most environmentally and socially damaging type of land use. Its negative environmental and social impact is well documented globally and mining is a major contributor to environmental damages. The economic evidence from around the world demonstrates that these industries extract wealth from local economies, can also adversely affect jobs in tourism and agriculture and leave long-term problems with often irreparable damage that has a negative impact economically.

This Plan should have been an opportunity to indicate how FODC were intending to contribute to the UK effort towards the UN's Sustainable Development Goals and climate change more widely, and this is a missed opportunity. There is a serious lack of innovation and we contend that this is purely a technocratic document designed to permit the status quo, a risky strategy given new statutory responsibilities handed down by 2015 Local Government Act. Access to information, public participation and access to justice as required by the Aarhus Convention is a foundation to be established before new consents are issued. This will provide transparency and ensure an informed public can participate in decision-making and provide mechanisms to hold decision makers to account.

#### **4. Specific industries**

**Extractive industries:** The policy presumption in favour of mineral exploitation "*in any area*" that may be "*particularly valuable to the economy*" as contained in 6.157 in the Strategic Planning Policy Statement is exceptionally permissive and needs to be challenged by more sustainable policies in the local development plan. This effectively gives policy supremacy for mining and quarrying above *all other* land uses, such as farming, residential use, nature conservation and tourism. There is also sufficient gold in circulation to meet the world's current industrial needs and there are realistic alternatives, such as mining existing waste to recover materials. We would further contend that overall, the plan avoids the contentious issue of gold mining entirely at a time when the Council should be taking the opportunity to protect itself and its citizens.

A moratorium must be put in place for *new* extractive industries (quarries and minerals) until all of the following criteria are met:

- (a) A review of permitted development rights for exploration takes place by the Department for Infrastructure. This review has been established by the Department but is yet to be completed.
- (b) The Department for the Economy must carry out a Strategic Environment Assessment of the issuing of mineral licensing and that its failure to carry this out renders those existing licences in breach of the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004.
- (c) In the absence of B your council must carry out its own Strategic Environmental Assessment to comply with the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004
- (d) A cumulative assessment on the impacts of all extractive industries in your Council area is carried out to develop a scientifically accurate *baseline* against which all future Environmental Impact Assessments for extractive industries can be reliably assessed.
- (e) FODC carries out a *review of extant consents* for extractive industries they impact on to comply with the legal requirements under Regulation 45, 46, 50, 51 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 to ensure compliance with Article 6 of the Habitats Directive.
- (f) An *objective* assessment is carried out of existing *unregulated* and *unassessed* extractive industries in your Council area to enable you to assess:
  - strategic need for further extraction
  - current volumes of extracted material (please note the annual minerals statement is not up to date and industry claims potentially require independent verification)
  - human rights of communities affected by the industry
  - social impacts
  - economic impacts
  - environmental impacts
- (g) An *independent economic assessment* is carried out to assess the benefits and disbenefits of extractive industries that addresses at all issues including:
  - bonds for councils
  - restoration planning
  - clean-up costs
  - contribution to local economy
  - economic damage to other industries
  - impacts on road infrastructure, public health, impacts of unlawful extraction on lawful businesses, etc
- (h) Art 18 of the Quarries Order (NI) 1983 requires a return to be made each year by quarries. Until this is carried out and the figures assessed by your Council it is premature to approve any new quarries without objectively validating current extraction and strategic need.

- (i) ROMPS – The Review of Old Mineral Permission is carried out either by the Department for Infrastructure or independently by your Council (Planning Act (NI) 2011 Schedule 2 and Schedule 3).
- (j) An assessment of human rights impacts of existing and proposed extraction addressing
  - Access to information, participation and access to justice/redress
  - Right to life
  - Right to pursue land-based livelihoods
  - Right to food, water, housing
  - Right to health
  - Children’s rights
  - Cultural rights

It is premature for the Council to develop a robust, defensible and comprehensive minerals policy until these issues are resolved, legal obligations fulfilled, baselines established and orderly planning is carried out. The Precautionary Principle as detailed in Article 191 of the Treaty on the Functioning of the European Union, with regard to minerals development must be applied by FODC, as this aims at ensuring a higher level of environmental protection through preventative decision-taking in the case of risk.

**Wind turbines:** We welcome the fact that there appears to be some effort at strategic planning at last around wind turbines although it is worrying that this has come long after the massive increase in wind turbines in the District, the result of seemingly uncoordinated, ad-hoc applications. This lack of planning on wind turbines to this point has resulted in reports of loss of quality of life of citizens affected by their neighbours’ turbines. This in turn threatens the transformational potential of wind energy to move Northern Ireland away from fossil fuel usage towards renewable energy sources. These are imaginable risks, seemingly not dealt with in the plan.

A sound plan would recognise the challenge delivered by the current ‘growth-facilitating’ approach, but it appears that the planning here has not sufficiently recognised the problems associated with unplanned proliferation of wind turbines, and thus the plan cannot pretend to deal with them.

Additionally, alternative schemes are not considered, for example, community-owned wind energy. The Council’s new financing powers under the 2015 act permit this kind of innovative planning/investment approach, and appear not to be considered.

## 5. Housing

Section 3 on housing is essentially incoherent. In the urban setting, intentionally ambiguous and misleading words are used to refer to aspirations for “good” housing, and problems of a lack of

supply of 'affordable housing' are identified but not explored in any real depth. A sound Local Development Plan would, having identified such a problem, seek to address it rather than provide verbose reiteration of current planning policy.

On rural housing, the plan is contradictory and unsound. For example:

*"The Council views facilitating new residential development in the countryside as playing a key role in addressing the need to sustain our rural communities."*

What is required for "sustainable rural communities" is a policy reorientation away from permitting single dwellings as facilitated under previous disastrous deregulation efforts by the NI Executive such as PPS21. 'Sustain our rural communities' means investing in village and town infrastructure and housing stock, and providing housing to meet the needs of the local population, economically and socially. The Plan allows for a continuation of the unsustainable current practice of granting permission to single new-build properties in the countryside, while describing this as "sustainable". The plan avoids considering these issues in tandem with transport (public and private) and utilities infrastructure. It does not deal adequately with making the current housing stock more energy efficient, or approaches to tackling problems of poor provision of rental housing by unscrupulous landlords. This section is therefore inadequate and unsound as a substantive plan for housing in the District until 2030.

## **Conclusion**

It should be noted that our response to the Local Development Plan has only provided some of the headline concerns that we have with this draft document; a fuller response was not possible within the limited timeframe without professional research assistance, which is beyond the capacity of our party locally. To conclude, in highlighting these concerns we would also like to take the opportunity of this consultation to state that we are very keen to engage constructively with the Council about how to improve this plan and address its inadequacies.