

Roisin McAllister

From: Angela Wiggam [REDACTED]
Sent: 18 August 2020 13:32
To: DevelopmentPlan@midulstercouncil.org
Subject: Submission to draft Plan Strategy Consultation
Attachments: Complete Representation_Form and Report JHT Upperlands.pdf

To whom it may concern,

Please find enclosed our representation on behalf of JHT Upperlands.

I would appreciate if you could acknowledge receipt of the enclosed Representation and look forward to receiving a reference number shortly.

Kind regards

Angela

Angela Wiggam
Director

Turley
Hamilton House
3 Joy Street
Belfast BT2 8LE

[REDACTED]

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Submission of a Representation to Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Local Development Plan
Representation Form
Draft Plan Strategy**

Ref:
Date Received:
(For official use only)

Name of the Development Plan Document (DPD) to which this representation relates

Draft Plan Strategy

Representations must be submitted by 5pm on 24th September 2020 to:

Mid Ulster District Council Planning Department
50 Ballyronan Road
Magherafelt
BT45 6EN

Or by email to developmentplan@midulstercouncil.org

Please complete separate form for each representation.

SECTION A

1. Personal Details

Title

First Name

Last Name

Job Title
(where relevant)

Organisation
(where relevant)

2. Agent Details (if applicable)

Address Line 1		Hamilton House 3 Joy Street Belfast
Line 2		
Line 3		
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E-mail Address		

SECTION B

Your comments should be set out in full. This will help the independent examiner understand the issues you raise. You will only be able to submit further additional information to the Independent Examination if the Independent Examiner invites you to do so.

3. To which part of the DPD does your representation relate?

- (i) Paragraph _____
- (ii) Objective _____
- (iii) Growth Strategy/
Spatial Planning Framework _____
- (iv) Policy SPF2; SPF4; GP1; HOU2
- (v) Proposals Map _____
- (vi) Site Location _____

4(a). Do you consider the development plan document (DPD) is:

Sound		Unsound	X
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4(b). If you consider the DPD to be unsound, please identify which test(s) of soundness your representation relates, having regard to Development Plan Practice Note 6 (available on the Planning Portal Website at <https://www.planningni.gov.uk/index/advice/practice-notes/development-plan-practice-note-06-soundness-version-2-may-2017-2a.pdf>).

Soundness Test No.

C1; C3; CE1; CE2; CE4

5. Please give details of why you consider the DPD to be unsound having regard to the test(s) you have identified above. Please be as precise as possible.

If you consider the DPD to be sound and wish to support the DPD, please set out your comments below:

Please see enclosed representation

(If not submitting online and additional space is required, please continue on a separate sheet)

6. If you consider the DPD to be unsound, please provide details of what change(s) you consider necessary to make the DPD sound.

Please note your representation should be submitted in full and cover succinctly all the information, evidence, and any supporting information necessary to support/justify your submission. There will not be a subsequent opportunity to make a further submission based on your original representation. After this stage, further submissions will only be at the request of the independent examiner, based on the matters and issues he/she identifies at independent examination.

Please see enclosed representation

(If not submitting online and additional space is required, please continue on a separate sheet)

7. If you are seeking a change to the DPD, please indicate if you would like your representation to be dealt with by:

Written Representation

Oral Hearing

Please note that the Department will expect the independent examiner to give the same careful consideration to written representations as to those representations dealt with by oral hearing.

Signature:

Date:

18 August 2020

Representations to Mid Ulster District Council Draft Plan Strategy

On behalf of JHT Upperlands

August 2020



Turley

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Contact
Angela Wiggam

Client
JHT Upperlands
Our reference
TKRB1000

17 August 2020

Executive Summary

1. This representation is submitted on behalf of JHT Upperlands who welcomes the opportunity to submit comments on the draft plan strategy issued by Mid Ulster District Council (MUDC).
2. Having reviewed and considered the Local Development Plan (LDP), we consider that elements of the Plan are unsound. We consider that the legal compliance tests have not been met, and the following policies contained within the Draft Plan Strategy are unsound.
3. The table below summarises the changes sought.

Schedule of Key Comments

Policy	Comment
<i>Growth Strategy & Spatial Planning Framework – SPF 2 & 4</i>	<i>Strategic Planning Framework Policies SPG 2 & 4</i> Change required: That Council reconsiders its evidence base to support these draft policies
<i>GP1</i>	<i>General Principles Planning Policy</i> Change required: <i>Redraft criterion (c) of GP1 in tandem with deleting Policy UD1. Text should explicitly request the submission of a Design Concept Statement for residential planning applications and a Design & Access Statements for major development proposals. References to a height restriction within supporting text should be deleted</i>
<i>HOU2</i>	<i>Quality Residential Developments</i> Change required: <i>The policy should be redrafted (in parts) and supported by robust evidence to underpin proposed thresholds. Further evidence should be prepared to demonstrate the coherence of the overall strategy and how HOU2 emanates from it</i>
<i>N/A</i>	<i>Policy Lacuna with respect to Enabling Development policy</i> Change required: <i>That Council reconsiders addressing this policy with operational policy currently set out in Planning Policy Statement 23 (PPS 23)</i>

1. Introduction

- 1.1 Turley submits this representation on behalf of JHT Upperlands and welcomes the opportunity to return comments on the Mid Ulster draft Plan Strategy (dPS).
- 1.2 In line with Council's procedures, each representation is set out on a separate page within each of the Chapter headings with the policy clearly identified.
- 1.3 The structure of the submission is as follows:
 - **Chapter 2:** Provides an assessment of how the draft Plan Strategy addresses the legislative compliance tests;
 - **Chapter 3:** Outlines the purpose of the Examination in Public and the Tests of Soundness as set out in Development Plan Practice Note 6;
 - **Chapter 4:** Details our representations to the Growth Strategy and Strategic Planning Framework;
 - **Chapter 5:** Details our representation to General Principles Planning Policy;
 - **Chapter 6:** Details our representations to Social Policies – Accommodating Growth);
 - **Chapter 7:** Details our representation to the policy lacuna identified; and
 - **Chapter 6:** Sets out our conclusions.

2. Legislative Compliance

- 2.1 In preparing their Draft Plan Strategy (dPS), Mid Ulster District Council (MUDC) is required to adhere to the provisions of the Planning Act (Northern Ireland) 2011 ('Act') and the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 ('Regulations').
- 2.2 This section identifies weaknesses in the compliance of the dPS with the Act and the Regulations.

Planning Act (Northern Ireland) 2011

- 2.3 Under Part 2 (8) of the Act the Plan Strategy must set out:
- the council's objectives in relation to the development and use of land in its district;
 - its strategic policies for the implementation of those objectives; and
 - such other matters as may be prescribed.
- 2.4 The Act also stipulates that the Plan Strategy should be prepared in accordance with the Council's Timetable, as approved by the Department and in accordance with Council's Statement of Community Involvement. The latest version of the Local Development Plan (LDP) timetable, available on Council's website is dated November 2018. While we appreciate that Council has had to reopen consultation on the dPS due to an error in the advertising which took place in March 2019, we take this opportunity to identify that the LDP timetable needs to be updated to reflect the current position whilst also setting out an indicative timeline for the balance of the plan making progress.
- 2.5 In preparing a plan strategy, the council must take account of:
- *"the regional development strategy;*
 - *the council's current community plan*
 - *any policy or advice contained in guidance issued by the Department;*
 - *such other matters as the Department may prescribe or, in a particular case, direct, and may have regard to such other information and considerations as appear to the council to be relevant."*
- 2.6 This representation identifies specific instances where, in particular, policy issued by the Department has not been taken in to account.

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

- 2.7 Regulation 15 identifies a schedule of the information that should be made available alongside the publication of the dPS. This includes:

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

- 2.8 We acknowledge that Council has prepared and made available its Preferred Options Public Consultation report which provides an insight as to how comments made to the Preferred Option Paper have been considered in the preparation of the dPS.
- 2.9 Notwithstanding this, there is insufficient supporting evidence to support a number of the proposed policies within the dPS and therefore the requirements of Regulation 15 have not been met – for example, the following documents either require updating or have not be provided in the first instance: Strategic Settlement Evaluation dated July 2015, Northern Ireland Housing Executive: Housing Needs Assessment and an updated Housing Monitor. We identify our specific concerns within the remainder of this representation.

3. The Purpose of the Independent Examination

The Tests of Soundness

- 3.1 The Planning Act (Northern Ireland) 2011 does not define the meaning of 'soundness'. However, Development Plan Practice Note 6 – Soundness (DPPN 6), dated May 2017, suggests that it may be considered in the context of its ordinary meaning of 'showing good judgement' and 'able to be trusted' (our emphasis).
- 3.2 Furthermore, DPPN 6 states that the tests of soundness are based upon three categories. These three categories relate to:
- how the development plan document (DPD) has been produced;
 - the alignment of the DPD with central government regional plans, policy and guidance; and
 - the coherence, consistency and effectiveness of the content of the DPD.
- 3.3 DPPN 6 advises that 'soundness' involves testing the principles, content and preparation process of the DPD against a list of key criteria. DPPN 6 then sets out the following tests which 'aim to provide a framework to assess the soundness of the DPD, whilst taking account of all relevant procedural, legislative and policy considerations':

Procedural tests

P1. Has the plan 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 plan been subject to sustainability appraisal including Strategic Environmental Assessment?

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

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 plan sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant is it in conflict with the plans 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. The plan is reasonably flexible to enable it to deal with changing circumstances.*

- 3.4 Although the tests of soundness are based upon these three categories – procedural, consistency, coherence and effectiveness, there is a degree of overlap in terms of the criteria used for each test. The purpose of the IE will be to examine how the dPS meets each test and determine whether the dPS is sound as a whole.
- 3.5 In accordance with Section 10(6) of the 2011 Act, the preceding sections seek to identify the issues associated with the 'soundness' of MUDC's dPS as the purpose of the Independent Examination will be to determine if the dPS is 'sound'.

Other Soundness Considerations

- 3.6 Section 10(6) of the 2011 Act also states that the purpose of the Independent Examination is to determine if the dPS satisfies the requirements of sections 7 and 8 of the 2011 Act.
- 3.7 So far as Section 8 of the 2011 Act is concerned, we note that it confirms that the Council must take account of any policy or advice contained in guidance issued by the Department.
- 3.8 It is considered that Development Plan Practice Note 07 (DPPN 07) entitled 'The Plan Strategy', which was issued by the Department in April 2015, can be regarded as 'guidance' for the purposes of Section 8(b) of the 2011 Act.
- 3.9 Indeed, this is reinforced by the Preamble section of DPPN 07 noting that it states the following:

- *'This Development Plan Practice Note is designed to **guide** planning officers and relevant users through the key requirements for the preparation of the Plan Strategy and deals primarily with procedures as well as good practice. It **forms part of a series of new practice notes stemming from the Planning Act (Northern Ireland) 2011**'*
- *'Where appropriate this practice note will therefore highlight... Procedural **guidance**'; and*
- *'**This guidance** is not intended to replace the need for judgement by planning officers in the local development plan making process'.*

3.10 In light of the above, we set out below some notable requirements identified in DPPN 07 with respect to the objectives of the dPS:

- *'...act as a basis for **rational and consistent decisions about the use and development of land**...' (our emphasis);*
- *'provide a **settlement hierarchy** which **identifies** settlements and **their role** within the hierarchy...' (our emphasis);*
- *'facilitate **sustainable patterns of growth and regeneration** whilst promoting **compact urban forms** and protecting and **maintaining** distinctive local character and **viability**' (our emphasis);*
- *'**promote the development** of sustainable tourism, **recreational and other community facilities** that will **positively contribute** to the **amenity and wellbeing** of the population' (our emphasis);*
- *'...aim to ensure that [the] PS is **both realistic and deliverable** taking into account the **resources available and any potential constraints** which may arise during the plan period' (our emphasis)*
- *'aim to incorporate **a degree of flexibility** within its PS **to ensure** that its objectives and strategic policies for its area can still be **delivered**' (our emphasis).*

3.11 In accordance with this guidance, the following sections of this representation seek to set out why aspects of the dPS are considered unsound.

4. Growth Strategy & Spatial Planning Framework

SPF2 – Focus growth within the three main towns/hubs of Cookstown, Dungannon and Magherafelt and strengthen their roles as the main administrative, trade, employment and residential centres within the District

Policy SPF2 is unsound as the policy fails the tests of C1 and CE2

The allocation to each settlement as set out in Appendix 1 does not take account of the direction set out in the RDS 2035

No evidence is provided to demonstrate the allocation is founded on a robust evidence base which supports Council's proposal

Full Response

- 4.1 The supporting text to policy SPF2 references the requirement for 11,000 new homes across the plan area¹ and is supported by Appendix 1 which provides a breakdown of the allocation to each settlement within the plan area.
- 4.2 The information presented in Appendix 1 can be summarised as:
- An allocation of 11,000 new homes based on providing:
 - (i) between 30% to 60% to main hubs;
 - (ii) 30% to local towns, villages and small settlements; and
 - (iii) 40% to countryside.
- 4.3 Council has taken the approach of setting a housing range for new homes within main hubs, however when this figure is considered in the context of other settlements it is unclear what level of housing will be allocated to each settlement tier. We appreciate that new Local Development Plans are required to be '*reasonably flexible to enable it to deal with changing circumstances*'² in line with soundness test CE4 this should be balanced against the direction set out in the Regional Development Strategy (RDS) 2035 to focus growth to main hubs.
- 4.4 Policy SFG12 of the RDS specifically directs that the population base within hubs and clusters of hubs should be increased by providing additional housing at these locations in order to address the imbalance of residential development to smaller settlements and the countryside. The suggestion of allocating a minimum of 30% of the dPS's housing allocation to main hubs, but 40% to the open countryside is at odds with this policy direction. It also jars with Council's own policy for villages (Policy SPF4) which

¹ Paragraph 4.15, Mid Ulster Draft Plan Strategy

² Test from Soundness Test CE4

seeks to develop villages as local service centres. If villages are to fulfil a service centre function they require a critical population mass to sustain services and facilities.

Recommendation

- Council should review its Strategic Housing Allocation (SHA) having considered the strategic direction set out in the RDS 2030, together with any new data sets which may be available. Rather than identifying a range for main hubs, an indication should be given of the number of new homes required for the duration of the plan period within each settlement. Having had the opportunity to review Representations submitted to the first consultation exercise, we note that the Department of Infrastructure also took issue with this aspect of the dPS.
- Having set an indicator for each settlement, we suggest that Council should review the wording of draft plan policies SPF3 to 6 to ensure that they are consistent with the SHA and support its delivery.

SPF 4 – Maintain and consolidate the role of the villages as local service centres providing opportunities for housing, employment and leisure activities in keeping with the scale and character of individual settlements

Policy SPF 4 is unsound as the policy fails the tests of C1 and CE2

The draft policy is inconsistent with the RDS, and is not supported by an up to date evidence base

Full Response

- 4.5 SPF 4 focuses on *maintaining and consolidating* growth within villages, relative to their size and current level of services. JHT Upperlands supports sustainable growth and recognises the value and importance of this principle in determining the location for future development. We note that the spirit of the policy jars with the language and intent set out in the RDS 2035. Policy SFG13³ refers to *sustaining* rural communities within small settlements and the open countryside and providing opportunities to revitalise and regenerate villages together with opportunities for rural employment.
- 4.6 As currently drafted, the policy does not provide sufficient scope to realise the intent and ambition of policy SFG13. Paragraph 3. 101 of the RDS acknowledges that ‘*a strong network of smaller towns supported by villages helps to sustain and service the rural community*’. Having reviewed the baseline information which supports the dPS we note that the Strategic Settlement Evaluation (SSE) was undertaken in July 2015 for each settlement. The assessment, while outdated failed to identify pending regeneration initiatives or local employment opportunities that could contribute to sustaining the community and supporting policy SFG13.
- 4.1 In its current format, policy SPF 4 fails soundness tests C1 and CE2. The policy fails to reflect the strategic direction set out in the RDS, the evidence base contained within the SSE is outdated and incomplete, and fails to consider the opportunity the dPS could provide in supporting village regeneration opportunities.

Recommendation

- Suggest that the policy is reworded to reflect the positive stance set out in the RDS through the removal of the words *maintain* and *consolidate*.
- The supporting text should be amended to reflect the criteria set out RDS at page 77 which identifies the importance of village regeneration proposals and proposals which seek to support and enhance rural enterprise.
- We would encourage Council to prepare an up to date SSE which provides an accurate understanding of the baseline position within settlements, and identifies whether there are specific locational needs which need to be met.

³ Page 76, Regional Development Strategy (RDS) 2035

5. General Principles Planning Policy

Policy GP1 – General Principles Planning Policy

Policy GP1 is unsound as the policy fails the tests of CE1 and CE4

The policy is incoherent and has the potential to give rise to confusion as design policies are referenced within both GP1 and UD 1 : Urban Design, with a restriction on height noted within the policy justification and amplification of UD 1 and not in the main policy or GP1

We respectfully seek that design policies are contained within one overarching policy in order that the plan strategy can be read and interpreted in a logical manner

Full Response

- 5.1 GP1 is a criterion based policy which applies to all future planning applications, irrespective of type. The policy sets out a positive presumption to granting planning permission for development proposals which accord with the Local Development Plan and can demonstrate that there is no demonstrable harm to 10 policy criterions.
- 5.2 JHT Upperlands welcomes this positive planning policy; however we consider criterion (c) to be unsound. The criterion fails soundness tests CE 1 and CE4.
- 5.3 Criterion (c) Siting, Design and External Appearance sets out prescriptive requirements to be met which largely mirror that presented in UD1. An extract of criterion (c) is presented below together with our assessment of the policy against the wording of UD1.

(c) Siting, Design and External Appearance

New development should respect its surroundings and be of an appropriate design for the site and its locality. It should be sited having regard to its relationship with existing buildings and the visual effects of the development on the surrounding area and where applicable, the landscape. *[This largely reflects the wording within the first bullet of UD1].*

Development should:

- in the urban setting have regard to the street scene and pattern of development *[Largely reflects the wording and spirit of the first bullet point in UD1]*
- in the countryside, have regard to the character of the area, the local landscape and not rely primarily on new landscaping for integration. *[Not applicable]*

Where relevant, consideration will be given to:

- the size, scale, form, massing, height, and density of the development and
- the external appearance which should have regard to the locality in terms of style, fenestration, materials and colours. *[These two aspects reflect the wording of the third bullet point in UD1].*

5.4 The starting premise of UD1 is that developers will be expected to demonstrate through a Design and Access Statement how a development proposal meets the policy requirements. There is no reference to this within GP1 nor does UD1 acknowledge that within the Planning Act (Northern Ireland) 2011 the requirement to provide a Design & Access only applies to major development proposals, or applications within designation or sensitive locations.

5.5 Within the policy justification and amplification to UD1 (on page 101) reference is made that new development *must* respect the prevailing building height within the settlement which is mainly 2- 3 storey. The text references that exceptionally consideration may be given to taller buildings if this is demonstrated through the provision of a Design & Access Statement.

Recommendation

5.6 JHT Upperlands fully supports the intent behind GP1 and how it seeks to embrace the core planning principles set out in the Strategy Planning Policy Statement (SPPS).

5.7 We support the deletion of UD 1 on the basis that criterion (c) of GP1 is redrafted to improve the coherence of the draft plan strategy; inserted text has been underlined to assist the reader.

New development should respect its surroundings and be of an appropriate design for the site and its locality. It should be sited having regard to its relationship with existing buildings and the visual effects of the development on the surrounding area and where applicable, the landscape.

Development should:

- *in the urban setting have regard to the street scene and pattern of development*
- *in the countryside, have regard to the character of the area, the local landscape and not rely primarily on new landscaping for integration.*

Where relevant, consideration will be given to;

- *the size, scale, form, massing, height, and density of the development and*
- *the external appearance which should have regard to the locality in terms of style, fenestration, materials and colours.*

All planning applications for residential development should be accompanied by a Design Concept Statement unless the proposal is a major development proposal. All major development proposals must be accompanied by a Design & Access Statement

- 5.8 This text should be detailed within the text box and any reference to the building height of new developments being limited to 2- 3 removed from the policy justification. Council has provided no evidence of a building height assessment within the Council area to support this.
- 5.9 All application should be assessed on their individual merits, and the removal of such wording provides flexibility to respond to any change in circumstances in accordance with soundness test CE4.

6. Social Policies

Policy HOU 2 – Quality Residential Development

Policy HOU2 is unsound as the policy fails the tests of C3, CE1, CE2, and CE4

The policy is not founded on a robust evidence base which explains the rationale behind the first 3 criterion and the policy triggers associated with criterion 3. There is a tension between the policy criterion and the text detailed within the justification and amplification

JHT Upperlands requests that Council reconsiders its evidence base to support HOU 2 and its associated criterion

Policy Summary

- 6.1 HOU2 is a criterion based policy which encompasses 6 criterions to be addressed in respect of planning applications for residential development.

Criterion (i) & (ii)

- 6.2 These criterions relate to density levels within new developments and the separation distance between residential properties.
- 6.3 Both criterions read as single statements with no details provided on the policy requirements or test to be met; this information is set out within the supporting justification and amplification text. The lack of substantive detail within the policy text box gives raise to confusion and tension regarding the weight to be afforded to the information contained in the justification and amplification text.
- 6.4 Planning case law directs that policy should be clearly set out within the policy text box. The text detailed under the justification and amplification is a narrative to support the operation of the principal policy. In its current format the policy is unsound and fails soundness test CE1.
- 6.5 Criterion (i) is not founded on evidence which demonstrates that the density range set out in paragraph 7.20 is realistic and achievable having taking account of criterion (ii). We note the absence of evidence such as an urban capacity assessment which would have assisted in informing these two criterions. Criterion (i) and (ii) fail soundness test CE2.

Recommendation

- 6.6 JHT Upperlands fully supports the intent behind criterion (i) and (ii) and acknowledges that the Strategic Planning Policy Statement (SPPS) advocates the need for a housing strategy which provides for increased housing density without cramming in town and city centres and in other locations that benefit from high accessibility to public transport facilities (paragraph 6.137).
- 6.7 We would support criterion (i) being reworded to read:

'An increase in the density of housing and mixed use developments will be promoted within town centres and other locations which benefit from accessibility to public transport facilities'.

- 6.8 In the absence of evidence to support the density bands the supporting text for criterion (i) – paragraph 7.20 should be moved to the Local Policies Plan (LPP) and clearly identified as a guide.
- 6.9 Criterion (ii) should be deleted and associated text at paragraph 7.24 moved to the Local Policies Plan (LPP) and clearly identified as a guide.

Criterion (iii)

- 6.10 This criterion relates to the provision of a mixture of house types and tenures. No policy requirements or thresholds are set out within the criterion; this detail is noted in the policy justification and amplification.
- 6.11 Planning case law directs that policy should be clearly set out within the policy text box. The text detailed under the justification and amplification is a narrative to support the operation of the principal policy. In its current format the policy is unsound and fails soundness test CE1.
- 6.12 Further analysis and commentary on both aspects of this criterion are addressed separately under the respective titles of Mixture of House Types and Tenure.

Mixture of House Types

- 6.13 The supporting justification and amplification sets out a threshold requiring that on sites of 25 units of more or on sites of 1 hectare and over, that a mix of residential units should be provided.
- 6.14 JHT Upperlands supports the intent of this policy which flows from the RDS 2035 and the SPPS. However, in its current format the policy does not meet the tests of Soundness for the following reasons:
- Reference is made within criterion (iii) to providing a mixture of housing types and paragraph 7.27 refers to *'catering for the needs of all families and small households, providing access for all'*. We note that no evidence base has been provided to support this criterion in the form of an assessment which analysed future household *size* and *type* (i.e age group) across the District; accordingly the policy fails soundness test CE2.
 - It has not been demonstrated that the policy is coherent with aspects of the Spatial Strategy (policy SPF 2) and other proposed residential and design policies; the policy fails soundness test CE1.
 - The policy is not founded on evidence which demonstrates how Council has tested the viability implications arising from the policy; the policy fails soundness test CE2.

Tenure

- 6.15 The supporting justification and amplification sets out thresholds relating to the provision of social housing requiring that any development of 50 units or more or on sites of 2 hectares and over that social housing should be provided at a rate not less than 25% of the total number of units.
- 6.16 The requirements apply in locations where there is an identified social housing need identified by the relevant strategic housing authority until such times that the LLP bring forward sites with key site requirements addressing social housing needs.
- 6.17 JHT Upperlands fully supports and welcomes the intent of the policy which flows from the Regional Development Strategy 2035 and the SPPS. However, in its current format the policy does not meet the tests of Soundness for the following reasons:
- We note from the Public Consultation Report that discussions were held with the Northern Ireland Housing Executive (NIHE), however, Council has no evidence base to support the proposed threshold of 25% - the policy fails soundness test CE2;
 - There is a tension between the header within the justification and amplification and the associated text. The header associated with paragraphs 7.26 and 7.27 references '*Meeting the Needs of All – Provision of a Mixture of House Types and Tenures*' (underlining our emphasis), yet the paragraph only refers to social housing. This is at odds with the definition within the SPPS of affordable housing which pertains to social rented housing and intermediate housing – the policy fails soundness test C3;
 - No information has been provided to demonstrate how this criterion can respond to changing circumstances – the policy fails soundness test CE4 ;
 - It has not been demonstrated that the policy is coherent with other policies proposed, principally the other aspect of criterion (iii) and criterions (i) and (ii) – the policy fails the soundness test CE1.

Recommendation

- 6.18 JHT Upperlands fully supports the intent behind criterion (iii) and acknowledges that the Strategic Planning Policy Statement (SPPS) advocates the need for a variety of house types and sizes and tenure to meet different needs in order to support balanced communities (page 70, SPPS).
- 6.19 We disagree however with Council's approach on this aspect and contend that the issue of housing type and size should only apply to affordable housing (as defined within the SPPS) and not all future residential development proposals.
- 6.20 Criterion (iii) should be redrafted on this basis and focus solely on the promotion of a variety of housing tenures across the District, underpinned by a robust evidence base.

Criterion (v)

- 6.21 Relates to the provision of open space within residential developments of 25 units or more. As with other criterion the requirements or test to be met are not detailed in the policy criterion rather in the supporting justification. In its current format the policy is unsound and fails soundness test CE1.
- 6.22 We would recommend that Criterion (v) is redrafted that the policy test is contained within the criterion and information which is intended to be a guide moved to the Local Policies Plan (LPP) and clearly identified as such.

7. Policy Lacuna

Enabling Development

The dPS fails test C3 as it has failed to provide any operational policy to assess enabling development proposals

- 7.1 Having reviewed the dPS there is a policy lacuna with respect to the policy context used to assess an enabling development proposal. Currently, operational policy is set out in Planning Policy Statement (PPS23): Enabling Development for the Conservation of Significant Places was published in April 2013.
- 7.2 When the SPPS was published in April 2015, the policy provisions of PPS23 were not transposed. Under the transitional arrangements set out in the SPPS, once Council's dPS is adopted, the existing suite of Planning Policy Statements will be cancelled resulting in a policy vacuum for any proposals centring on enabling development.

Recommendation

- 7.3 We respectfully seek that the dPS be amended to include an enabling policy similar to that currently set out in PPS23.

8. Conclusion

- 8.1 We support the ambition and drive of MUDC in terms of its vision for the Council area but having reviewed and considered the dPS as issued, we consider the Plan to be unsound.
- 8.2 The legal compliance tests have not been met, and policies SPF 2 & 4, GP1 and HOU2 should be supported with robust up to date evidence in order to address the tests of Soundness. We have also identified that there is a policy launca which should be addressed by way of operational policy for enabling development proposals.
- 8.3 JHT Upperlands thanks Council for this opportunity to respond and contribute to the dPS, and welcomes the chance to discuss our response with the Local Development Plan team.

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