

Elaine Mullin

From: Beverley Stevenson [REDACTED]
Sent: 19 April 2019 15:38
To: DevelopmentPlan@midulstercouncil.org
Cc: Beverley Clyde; [REDACTED]
Subject: National Trust Response to Mid Ulster Draft Plan Strategy
Attachments: Representation-Form.pdf; Mid Ulster Draft Plan Strategy Response_national trust_finalversion.docx

Dear Sir/Madam,

On behalf of the National Trust, please find enclosed a copy of our submission to the Draft Plan Strategy including the representation form.

We would be grateful if you could acknowledge receipt to [REDACTED]

Best wishes,

Beverley Clyde MRTPI
Planning Adviser (NI)
The National Trust
Rowallane Hub
Saintfield

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 4pm on 19th April 2019 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)

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.pdf>).

Soundness Test No.

Refer to Separate Attachment

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:

N/A

(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.

Refer to Separate Attachment

(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:

19/04/19



National
Trust

Mid Ulster District Council Draft Plan Strategy Response

This submission is prepared by the National Trust for Northern Ireland (NI). We are an independent conservation charity actively promoting the protection of natural, built and cultural heritage - for ever, for everyone.

We look after some of the most valued landscapes, stretches of coastline and built heritage in NI, Wales and England. In NI, this includes our only World Heritage Site (WHS) at the Giant's Causeway; our highest mountain, Slieve Donard; the internationally important and beautiful Strangford Lough, and houses and gardens including Mount Stewart and Rowallane in Co. Down, the Belfast Hills of Divis and Black Mountain and Florence Court in Co. Fermanagh.

We do this because places matter to people; our charity was first set up in order to ensure society didn't lose its much needed green open spaces in which to spend time and benefit from the outdoors, and that mission remains core to our work today.

We have a significant interest in the natural environment and built heritage within the Mid Ulster District Council area, owning and managing some very special places including Springhill and Wellbrook Beetling Mill.

Access to green spaces has been documented in recent years as being a significant factor in public health and wellbeing, and we believe the new local development plan alongside the community plan have an important role to play in this regard.

On the whole, we have serious concerns with this draft plan particularly around the environment and development in the countryside policies which are very weak and often incoherent while others are missing. At times, some policies appear in the justification and amplification section but the headnote is silent.

The overall approach to the countryside and our natural and built heritage significantly diverges from the RDS and SPPS. The draft plan also shows a clear lack of understanding of legislative provisions and strategic policy affecting heritage assets. It is also disappointing to see little emphasis on providing planning criteria around protecting human health and wellbeing to reflect the objectives of the SPPS.

The publication of this draft plan has clearly come to fruition prematurely. At times, we have had to re-write whole policies which is unfair considering we have much less resources and only a short 8 week window to respond. This plan should not be brought forward to public examination due to its fundamental flaws.

The Draft Plan Strategy is unsound as it fails the procedural tests, consistency tests, coherence and effectiveness tests.

We primarily focus in on the draft plan failing to take into account the Regional Development Strategy (RDS) and the Strategic Planning Policy Statement (SPPS) (Consistency tests C1 and C3 of Development Plan Practice Note 6: Soundness. Please see our comments below regarding individual policies.

Spatial Planning Framework (SPF) 1

Manage growth based on sustainable patterns of development with settlement limits defined for all settlements to provide compact urban forms and to protect the setting of individual settlements

SPF1 is unsound failing the consistency test (C1, C3, C4) and the coherence and effectiveness tests (CE2).

The overall policy approach taken for the countryside in being overly permissive of allowing housing developments (for carers of children etc.) and buildings (e.g. applicants with fishing licences) in numerous scenarios would conflict with the RDS 60:40 urban/rural split (para. 3.17 of the RDS). In fact, it would be at odds with achieving the above SPF1 in creating compact urban forms and have the opposite effect of furthering sustainable development which is at the heart of the SPPS and the planning system.

Whilst Strategic Planning Framework 1 (SPF1) refers to defining settlements and identifies Moneymore as a village, the draft plan should provide actual policy for defining settlements as well as a policy for protecting the setting of individual settlements in accordance with government advice.

Springhill house lies close to Moneymore and is currently outside the settlement limit in the extant Cookstown Area Plan 2010. Whilst Map 1A continues to show it and neighbouring land outwith the settlement limit, we understand the settlement boundary will be properly identified at the local policies plan stage. It may therefore be wise to clarify on the maps accompanying the draft plan strategy that these settlement boundaries are based on the extant plan and will be determined at the local policies plan to avoid confusion to the reader.

At the local policies plan stage, consideration should be given to protecting the important setting and critical viewpoints of Springhill House and its ground when identifying Moneymore settlement limit.

Policy GP1

General Principles Planning Policy

GP1 is unsound and fails the consistency tests (C3) and coherence tests (CE1).

In paragraph 6.9 of the justification and amplification section, the criteria in Policy GP1 is considered not an exhaustive list of material considerations and a precautionary principle will apply in accordance with government advice. However, the policy headnote conflicts with this statement and in fact provides a defined list of material considerations and makes no reference to the precautionary principle.

In numerous appeal decisions, the Commission's view is that where there are conflicts or variations between the policy head note and its explanatory text, the content of the head note takes primacy (refer to Page 16 of the Planning Appeals Principles 4th Edition 2014).

To avoid any conflict, it would be more effective to exclude a defined list of criteria but amend the policy to reflect paragraph 5.72 of the SPPS that is:

"Sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance."

We also question the appropriateness of giving greater weight to the plan strategy as per paragraph 5.4 of the draft plan.

A variety of complex social, economic, environmental and other matters must be balanced in making a planning decision.

The amount of weight given to extant plans depends on how far along the new emerging plan is while local policies within a new plan stem from the adopted plan strategy – the reason for a two stage process.

It would therefore be remiss of the plan strategy to apply greater weight to it over and above the local policies plan and any extant plans.

Policy HOU2

Quality Residential Environments

Policy HOU2 is unsound and fails the consistency tests (C3).

Within established residential areas government advises that it is imperative to ensure that the proposed density of new housing development, together with its form, scale, massing and layout respect local character and environmental quality as well as safeguarding the amenity of existing residents. In residential areas of distinctive townscape character an increase in density should only be allowed in exceptional circumstances (paragraph 6.127 of the SPPS *our emphasis*).

To accord with the SPPS, the wording of Policy HOU2 should be revised:

For example, new housing development will only be permitted where all of the following criteria are met... e.g. retain or enhance the positive aspects of the character and appearance of the surrounding area; not result in unacceptable damage to the local character, environmental quality or residential amenity of established areas etc.

Open Space in Residential Developments

The draft plan is unsound as it fails the consistency tests (C3).

Whilst reference is made to open space in residential developments in the justification and amplification section (para. 7.31), no individual policy has been provided.

Policy HOU4

Conversion of Existing Buildings to Flats, Apartments or Houses in Multiple Occupation

Draft policy HOU4 fails the consistency test (C1, C3) and the coherence and effectiveness tests (CE1).

Although Policy HOU4 is prior to policies relating to housing in the countryside, this policy should explicitly clarify in the headnote that the flat conversion policy relates to buildings within the settlement only to avoid any potential ambiguity.

The flat conversion policy should also include additional criteria on such proposals having no adverse effect on:

- (i) The character of an established residential area including designated Areas of Townscape Character, Areas of Village Character and Conservation Areas; &
- (ii) The character, principal components, archaeological, historical and botanical interest of historic parks, gardens or demesnes and their settings.

Policy CT2

Dwellings in the Countryside

Policy CT2 fails the consistency tests (C3) and coherence and effectiveness test (CE2) and is therefore unsound.

Draft policy CTY2 would seriously undermine the protection of the countryside and its sensitive landscape while also conflicting with the intent of strategic policy on housing in the countryside and the RDS 60:40 urban/rural split.

Policy CT2 (d) fails to mention locally important buildings as per the requirement in the SPPS (page 53).

We have grave concerns with (f) which allows a dwelling on non-active and non-established farms. This bypasses the need for a farm to be active and established for at least 6 years as per government advice. It also undermines government's concept of working farms being passed from one generation to the next.

Criterion (h) also allows for a carer or someone availing of care to obtain a dwelling. The justification and amplification section also refers to care in relation to the elderly or children i.e. a registered childminder could get a house under this policy. Allowing someone with a valid commercial fishing licence to get a house in the identified policy area under (j) is also worrying and could lead to a proliferation of houses. Both criteria are clearly at odds with the intent of the SPPS and should be deleted.

Furthermore, the policy headnote fails to include any planning criteria for extensions of a converted building, replacements or new dwellings. Planning criteria should be applied to help protect the rural landscape from inappropriate development and badly designed properties, protect sensitive rural landscapes, ensure developments are visually integrated without any significant adverse impacts, safeguard landscape character, biodiversity, archaeology and built heritage assets and their settings. Also, criteria should be included to ensure individual and cumulative impacts cause no significant adverse impacts.

Policy CT3

Social and Affordable Housing in the Countryside

Policy CT3 fails the consistency test (C3) and is unsound.

Whilst the justification and amplification section refers to a small group in accordance with the SPPS, the policy headnote excludes this reference which weakens the policy test.

Policy UD1

Urban Design

Policy UD1 fails the consistency tests (C3) and the coherence and effectiveness tests (CE1).

No consideration has been given to the design of development within and close to sensitive heritage assets and their settings. Also, it relates to urban only. What about rural design?

Whilst we generally support a criteria-based policy for urban design, the following criterion should also be included:

- The design of a development should have no significant adverse effect on unlisted and listed buildings, monuments in state care and scheduled monuments, and on the character of areas recognised for their landscape or townscape value, such as Areas of Outstanding Natural Beauty, Conservation Areas, Areas of

Townscape Character and Areas of Special Archaeological Interest (as per paragraph 4.26 of the SPPS).

Policy OS1

Protection of Open Space

Policy OS1 fails the consistency tests (C3) and is unsound.

The policy headnote changes the emphasis of the intent of strategic policy on protecting open space.

Policy OS1 should explicitly state that there will be a general presumption against the loss of open space and any development resulting in the loss of open space will only be considered in exceptional circumstances to reflect para. 6.205 of the SPPS.

Policy OS3

Outdoor Sport & Recreation

Policy OS3 fails the consistency tests (C3).

Further planning criteria as follows should be applied to Policy OS3:

- There will be no significant adverse impact on features of importance to natural or built heritage.
- It will have no significant adverse impact on visual amenity and can integrate into the landscape.

Policy OS4

Indoor Sport & Intensive Outdoor Sports Facilities

Policy OS4 is unsound and fails the consistency tests (C3).

Paragraph 6.207 of the SPPS states that the precise location of intensive sports facilities can be contentious, and by their very nature and scale can give rise to particularly complex planning considerations such as impact on amenity, and sustainability issues. Such facilities shall be located within settlements in order to maximise the use of existing infrastructure. As an exception a sports stadium may be allowed outside of a settlement, but only where clear criteria is established, which can justify a departure from this approach. Government advice is therefore that sports stadiums are only allowed in exceptional cases. Policy OS4 weakens strategic policy.

Whilst the local plan provides policy criteria, the robustness of Policy OS4 should be strengthened to explicitly state that the applicant must demonstrate specific locational need for intensive sports proposals outside the settlement.

In addition, we suggest that the following criteria is added:

'there is no adverse impact on the setting of the settlement'.

This would enable Policy OS4 to take into account paragraph 6.71 of the SPPS which states that 'development in the countryside must not mar the distinction between a settlement and the surrounding countryside, or result in urban sprawl'.

Furthermore, there should be policy criteria to protect such facilities from having a significant adverse impact on heritage assets and their settings.

Policy ECON2

Farm Diversification

Policy ECON2 is unsound failing the consistency tests (C3) and the coherence and effectiveness tests (CE1).

Whilst we support farm diversification, Policy ECON2 is permissive of new buildings on farms whereas government advice is that such proposals must involve the re-use or adaptation of existing buildings with new buildings only being acceptable in exceptional circumstances (page 54 of the SPPS). The draft policy changes the emphasis of strategic policy.

Furthermore, the draft policy does not clarify that farm businesses must be currently active and established for a minimum of 6 years as per the SPPS. The policy is also inconsistent with Policy AFR2 of the local plan.

Policy ECON2 should be revised to be consistent with government advice and Policy AFR2.

Policy MIN2

Extraction and Processing of Hard Rock and Aggregates

Policy MIN1 is unsound and fails the consistency tests (C1, C3).

Policy MIN2 allows within an Areas of Constraint on Minerals Development (ACMD) for minor expansion of an existing mineral working or where the extraction and processing of hard rock and aggregates provides important benefits.

However, strategic policy states that local plans should identify areas which should be protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value (including natural, built and archaeological heritage). There should be a general presumption against minerals development in such areas (paragraph 6.155 of the SPPS).

The intent of strategic policy is therefore to protect areas of intrinsic landscape, amenity, scientific or heritage value from such development whereas the proposed policy accepts such workings in these important valued landscapes. The wording of the policy should

be strengthened to apply from the outset a presumption against minerals development in such identified areas.

Nevertheless, government advice does accept that exceptions within such areas may be justified, for example, 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. However, Policy MIN2 does not make any reference to short term extraction or avoiding processing of excavated material within such areas.

It is also unclear if the listed criteria relates to proposals within the ACMD or elsewhere?

In light of government advice, suggest that Policy MIN2 be re-worded to set a clear presumption against mineral development in ACMD and only in exceptional circumstances should such proposals be allowed.

Policy MIN3

Valuable Minerals and Hydrocarbons

Policy MIN3 is unsound and fails the consistency tests (C1, C3) and the coherence and effectiveness test (CE1).

The above draft policy sets a general presumption in favour of the exploration and extraction of valuable minerals including hydrocarbons and metalliferous minerals across the plan.

This would conflict with the intent of strategic policy in protecting areas from such development works (.e.g. ACMD).

Government advice is that unconventional hydrocarbon and gas extraction proposals will not be an exception to the presumption against the granting of planning permission within protected areas from minerals development until there is sufficient and robust evidence on all environmental impacts (page 79 of the SPPS).

Whilst the second part of the policy refers to sufficient and robust evidence on all environmental impacts, the wording 'shall not accord with the plan' is weak and should be strengthened to set a clear presumption against such development proposals.

The justification and amplification section at Paragraph 4.22 of the draft plan states that '... in relation to unconventional hydrocarbon extraction or chemical extraction of precious metals, proposals for such development will be contrary to the plan, unless it can be definitely proven that there will be no negative impacts on human health or human safety.'

This would conflict with strategic policy where sufficient and robust evidence must be available on all environmental impacts not only human health or human safety.

Policy TOU1

Protection of Tourism Assets & Tourist Accommodation

Policy TOU01 is unsound and fails the consistency tests (C1, C3) and the coherence and effectiveness tests (CE1).

We welcome policy to protect tourism assets and the first sentence generally reflects the intent of strategic policy in not granting planning permission 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. However, we would prefer it strengthened to explicitly state that planning permission would not be granted rather than 'shall conflict with the plan'. We find this terminology weakens the policy.

The second part of the policy is confusing and lacks flow. It would be more appropriate to provide separate policy for tourism conservation zones. We also don't understand the thinking behind criterion (b) and how it fits with the ethos of having a tourism conservation zone and separate policy for unlisted and listed vernacular buildings as a heritage asset.

Policy TOU2

Resort Destination Development

Policy TOU2 is unsound and fails the consistency tests (C3).

In the countryside, planning authorities must carefully manage tourism development. Policies for major tourism development in the countryside may be provided for in exceptional circumstances (paragraph 6.261 of the SPPS).

Policy TOU2 should be reworded at the beginning to be more consistent with government advice:

"Proposals for major tourist development in the countryside will only be permitted outside of Special Countryside Areas and Tourism Conservation Zones where it can be demonstrated that..."

The Department's strategic policy is for such proposals to demonstrate exceptional benefit to the tourism industry; and sustainable benefit to the locality; and that a countryside location is required by reasons of its size or site specific or functional requirements (6.261). The intent of strategic policy is therefore to apply a site-specific need for major tourism development proposed in the countryside.

Policy TOU2 currently fails to apply a site-specific need test as per government advice. Policy TOU2 should be revised accordingly.

We also note that Council has introduced 'regional' tourism industry whereas strategic policy refers to tourism industry only in this regard.

The reference to adverse impacts on the wider environment should be strengthened to make it clear that such a proposal should have no significant adverse effect on the environment. It would be more appropriate to list applicable planning criteria as per strategic policy (paragraph 6.266 of the SPPS) e.g. there should be no significant adverse effects on natural heritage, biodiversity, landscape character and quality, built heritage, archaeology, visual amenity, human health, traffic etc.

Whilst the policy refers to a Design and Access Statement having to accompany all major tourist development, the policy should include a criterion on the nature, scale and design of the proposal being appropriate to its site context in order to promote high quality forms of development. As per strategic policy, design is a particularly important consideration within the countryside, particularly within areas designated for their landscape, natural or cultural heritage properties (paragraph 6.265 of the SPPS).

This policy should also be cross-referenced with Policy TOU1 in relation to safeguarding tourism assets from unnecessary, inappropriate or excessive development in 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.

Whilst the justification and amplification section implies that the above policy will apply only once, this statement would be given little weight in an appeal scenario as it's omitted from the policy headnote which would likely be given greater weight.

Policy TOU3

Tourism Accommodation

Policy TOU3 fails the consistency tests (C3) and is unsound.

For tourism accommodation permitted under Policy TOU3, the policy fails to apply criteria to assess the impacts on access arrangements, design, environmental and residential amenity.

Whilst reference is made for tourism accommodation within Tourism Opportunity Zones to give special attention to the integration of the site and any natural or built heritage features including the landscape character of the area, contrary to government advice, the policy headnote fails to include appropriate planning criteria for tourism accommodation within and outside settlements.

Furthermore, as many of the Tourism Opportunity Zones are on the shore of Lough Neagh and therefore environmentally sensitive locations, care must be taken to ensure that any proposed development does not have an adverse impact on the setting of the lough, aquatic and terrestrial ecology, and water quality.

Applicable planning criteria as per strategic policy (paragraph 6.266 of the SPPS) should be included e.g. there should be no significant adverse effects on natural heritage, biodiversity, landscape character and quality, built heritage, archaeology, visual amenity, human health, traffic etc.

As per strategic policy, design is a particularly important consideration for tourism development within the countryside, particularly within areas designated for their landscape, natural or cultural heritage properties (paragraph 6.265 of the SPPS). The policy headnote should also include a criterion on the nature, scale and design of the proposal being appropriate to its site context in order to promote high quality forms of development.

In terms of tourism accommodation in the countryside, the draft plan states that such a proposal will accord with the plan where it fall within one of the categories listed (a) – (h).

Government advice is that the guiding principle should be to ensure policies facilitate appropriate tourism development in the countryside (such as appropriate farm diversification schemes, the re-use of rural buildings and appropriate redevelopment and expansion proposals for tourism purposes) where this supports rural communities and promotes a healthy rural economy and tourism sector.

Paragraph 6.260 of the SPPS then focuses in on self-catering accommodation stating that other acceptable tourist development in the countryside *may* include appropriate self-catering accommodation, particularly in areas where tourist amenities and accommodation have become established or likely to be provided as a result of tourism initiatives.

However, Policy TOU3 allows self-catering accommodation in the countryside in many circumstances:

- (b) re-use/conversion of suitable buildings; or
- (c) replacement of a suitable building; or
- (d) farm diversification scheme (with no restriction to an existing suitable building); or
- (e) Accommodation run in conjunction with existing tourism facility or located within the grounds of a hotel, guesthouse or holiday park (with no restriction to an existing suitable building).

No explanation is given in the draft plan as to what is a suitable building.

This weak policy would also conflict with protecting tourism assets from unnecessary, inappropriate or excessive development is a vital element in maintaining a healthy tourism industry. As per paragraph 6.262 of the SPPS, 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.

Policy TOU3 is plainly inconsistent with the intent of the SPPS.

Policy TOU4

Other Tourism Facilities / Amenities and Attractions

Policy TOU4 is unsound and fails the consistency tests (C3) and the coherence and effectiveness tests (CE1, CE2).

There is no logical flow with this policy and others throughout the plan.

Allowing tourist amenity facilities generally in the countryside defeats the purpose of having a Tourism Opportunity Zone and also would result in a proliferation of developments in the countryside.

The policy also conflicts with safeguarding tourism assets.

The policy fails to consider the impact of such proposals on habitats in general both within a Tourism Opportunity or Conservation Zone and in the countryside.

Planning criteria akin to the above suggestions for Policy TOU1 and Policy TOU2 above should be applied.

Policy AFR1

Agriculture and Forestry Development and Development Ancillary to Commercial Fishing

Policy AFR1 is unsound and fails the consistency tests (C3) and the coherence and effectiveness tests (CE1 and CE2).

We welcome that Policy AFR1 relates to established active agricultural/forestry holdings in accordance with strategic policy. However, to align with the SPPS, such proposals must be necessary for the sufficient operation of the holding or enterprise.

Policy AFR1 states that an exception may apply to allowing new buildings for new farm enterprises. The justification and amplification section then states that a new farm may start up and there may be a need for a new building and such a building should be limited to a size in keeping with the scale of the farm. However, no policy criteria on visual amenity or any other individual environmental matters are applied within the policy headnote.

Policy that allows buildings for new farm enterprises would conflict with the SPPS which states that farms have to be established for at least 6 years and active.

This part of the policy would not be consistent with the intent of strategic policy which is to cluster, consolidate and group new development with existing established buildings in the countryside.

Policy allowing a new building within an identified countryside area for local residents holding a valid commercial fishing licence for at least 6 years would be inconsistent with the policy objectives of the SPPS, in particular, it would not protect the countryside from

excessive, inappropriate or obtrusive development. In fact, the draft policy would lead to one-off sporadic development contrary to paragraph 6.69 of the SPPS. The policy should include planning criteria that such development should not have an adverse impact, individually or cumulatively on visual amenity, landscape and biodiversity; nor have an adverse impact on heritage assets or their settings. Furthermore, the draft policy should include criterion to promote high standards in the design, siting and landscaping of development and respect rural character.

Policy ARF2

Farm Diversification

Policy ARF2 is unsound and fails the consistency tests (C3) and the coherence and effectiveness tests (CE1).

Policy ARF2 should include planning criteria that such proposals should have no adverse impact on the character or quality of sensitive rural landscapes, biodiversity, built or natural heritage assets and their settings etc.

Other policies throughout the plan should also be consistent with Policy ARF2.

Enabling Development

The draft plan is unsound as it fails the consistency test (C1, C3).

The plan has omitted to include policy for enabling development.

Whilst the Council cites that the aim of the plan is not to create sterile museums (para. 17.3), the draft plan fails to provide an individual policy for Enabling Development contrary to government's recommendation (see para. 6.27 of the SPPS) therefore failing the consistency test.

In line with para. 6.25-6.27 of the SPPS, we recommend that such a policy is provided and to help achieve the objective in para. 6.4 of the SPPS to deliver economic and community benefit through conservation that facilitates productive use of built heritage assets and opportunities for investment, whilst safeguarding their historic or architectural integrity.

Policy HE8

Historic Parks, Gardens and Demesnes

Policy HE8 is unsound and fails the consistency tests (C3).

Paragraph 6.16 of the SPPS sets out a clear presumption against development that would lead to the loss of or cause harm to, the overall character, or principal components or setting of historic parks, gardens and demesnes.

Whilst the draft policy sets out that such development proposals would be in conflict with the plan, it would be more robust of Policy HE8 to explicitly state that planning permission will not be granted.

The bullet points listed in paragraph 17.43 of the justification and amplification section give a different emphasis than paragraph 6.17 of the SPPS, for example, there is no mention of the integrity of an historic park, garden and demesne.

Furthermore, it would be more effective to list planning criteria within the policy headnote and cover the points raised in paragraph 6.17 of the SPPS.

The following criteria should be included:

- Development should have no adverse impact on the archaeological, historical and botanical interest of the Historic Park, Garden or Demesne.
- Development should have no adverse impact on the integrity and overall quality and setting of the Historic Park, Garden or Demesne.

Policy HE9

Change of Use, Alteration or Extension of a Listed Building

Policy HE9 is unsound and fails the consistency tests (C3).

Whilst Policy HE9 refers to development affecting the setting of a listed building in the second part of the headnote, the draft policy title fails to include setting.

The overall title Policy HE9 should be amended to 'Change of Use, Alteration, Extension and/or Development Affecting the Setting of a Listed Building.' Alternatively, it could be divided into two separate policies.

Section 80(7) of the Planning Act (NI) 2011 states that "In this Act "listed building" means a building which is for the time being included in a list compiled under this section; and for, the purposes of the provisions of this Act relating to listed buildings, the following shall be treated as part of the building –

- (a) any object or structure within the curtilage of the building and fixed to the building;
- (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st October 1973."

Hence, objects or structures fixed to the listed building or standalone but within the curtilage fall within the definition of a listed building. Furthermore, the impact of such objects/structures on the setting of the listed building is a key material consideration.

Section 91 (2) of the Planning Act (NI) 2011 states that in considering whether to grant planning permission for development which affects a listed building or its setting, and in considering whether to grant listed building consent for any works, a Council or, as the case may be, the Department must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is therefore enshrined in planning legislation that the test is to preserve the listed building, its special features or its setting.

Furthermore, para. 6.13 of the SPPS states that development involving a change of use and/or works of extension / alteration may be permitted, particularly where this will secure the ongoing viability and upkeep of the building. It is important that such development respects the essential character and architectural or historic interest of the building and its setting, and that features of special interest remain intact and unimpaired.

In light of the provisions in planning legislation and strategic government advice, we suggest that the following revisions are made to Policy HE9:

Development involving a change of use, extension or alteration to a listed building will only accord with the plan where:

- (i) the development secures the ongoing viability and upkeep of the listed building;
- (ii) it preserves or enhances the listed building and its setting;
- (iii) retains the essential character and setting of the listed building in terms of its scale, massing, height, use of quality materials, proportion and alignment;
- (iv) it will not result in the loss of how the listed building is understood, seen, experienced or enjoyed; and
- (v) its features of special architectural or historic interest remain intact and unimpaired.

Development affecting the setting of a listed building will only accord with the plan where it complies with (ii) – (v) above.

Policy HE10

Demolition of a Listed Building

Policy HE10 is unsound and fails the consistency tests (C3).

There is clearly a presumption in favour of the retention of listed buildings. Government advice is that proposals for the total demolition of a listed building or any significant part of it must not be permitted unless there are exceptional reasons why it cannot be retained in its original or a reasonably modified form (para. 6.15 of the SPPS).

Draft policy introduces a third exceptional case scenario that is not applied in the SPPS i.e. when the structural integrity of the building is dangerous and beyond repair. We suggest that this statement is deleted to align with strategic policy.

We also recommend that the last sentence in the policy headnote is deleted too as it implies that the policy favours partial demolition.

The following revised wording for Policy HE10 is proposed:

There will be a presumption in favour of retaining listed buildings. Proposals involving the total demolition of a listed building... retained in its original or reasonably modified form. Where consent for the total or part demolition of a listed building is granted, this will be conditional and prohibited until planning permission has been obtained for the

redevelopment of the site, and appropriate arrangements made for the recording of the building prior to demolition.

Policy HE11

Advertisement on a Listed Building or Structure

Policy HE11 fails the consistency test (C3) and is unsound.

We suggest that the word 'authentic' is removed from the draft policy and an additional criterion is applied 'proposals for the display of an advertisement will not have an adverse individual or cumulative visual impact on the listed building or its setting' to align with strategic policy.

Policy HE12

Conservation Areas

Policy HE12 is unsound and fails the consistency tests (C1, C3).

Section 104 (11) of the Planning (NI) Act 2011 requires that where any area is for the time being designated as a conservation area, 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.

The SPPS contains a policy direction reflecting Section 104 of the Planning Act. Paragraph 6.18 advises that in managing development within a designated conservation area 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.

Draft Policy HE12 applies a lesser test as it states that development which preserves and where, an opportunity to do so exists, enhances whereas proposals must enhance the conservation area unless no opportunity to do so arises then the preserve test applies. This lesser policy test is not in accordance with government advice.

Planning criteria listed in paragraph 6.19 of the SPPS should be included within the policy headnote plus criterion to protect the setting of the Conservation Area (as per para.6.18).

We suggest the policy headnote is revised to:

"There is a general presumption against new development within a Conservation Area where a development proposal does not enhance the character or appearance of the area where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise.

New development which enhances the character or appearance of the Conservation Area, or preserves it where an opportunity to enhance does not exist, will accord with the plan where all the following criteria are met:

- be sympathetic to the characteristic built form of the area;
- respect the characteristics of adjoining buildings in the area by way of its scale, form, massing, legibility, height, materials and detailing;
- not result in environmental problems such as noise, nuisance or disturbance;
- protect important views within, into and out of the area;
- protect trees and other landscape features contributing to the character or appearance of the area;
- protects the setting of the Conservation Area; and
- conform with the guidance set out in any published Conservation Area design guides.”

With respect to demolition in a Conservation Area, we welcome the presumption against demolition of unlisted buildings within a Conservation Area but the draft policy applies a different emphasis than the SPPS.

Para. 6.18 of the SPPS refers to there being a general presumption against the demolition of unlisted buildings within Conservation Areas other than in ‘exceptional circumstances’, and this is not clearly stated within the draft policy. The exceptional circumstances are considered to be ‘material considerations grounded in the public interest’.

Where consent for the total or part demolition of an unlisted building is granted, the policy headnote should highlight that this will be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for the recording of the building prior to demolition.

Presumably where the draft policy refers to ‘demolition consent applications’, the Council means ‘conservation area consent applications’. The latter aligns with the terminology in the Planning Act and should therefore be used.

Policy HE13

Non-Listed Historic Vernacular Buildings

Policy HE13 of the plan is unsound and the consistency tests (C3).

The justification and amplification section of draft Policy HE13 mentions historic buildings of local importance (para. 17.73) but fails to provide explicit policy for such buildings within the headnote. The omission of such policy conflicts with government advice (Para. 6.24 of the SPPS).

The language applied in the draft policy is clumsy, ambiguous and open to misinterpretation.

It focuses in on conversion of such buildings but fails to explicitly set out policy for extensions, alterations or modifications to a locally important and/or vernacular building. This policy should be re-written to ensure such development proposals have no adverse impact on locally important/vernacular buildings.

The last sentence in the policy headnote 'seeking consultation with the appropriate competent body' should be deleted. It reads as if consultation should take place with some government organisation other than the local Council...

Policy HE14

Areas of Townscape/Village Character (ATC/AVC)

Policy HE14 is unsounds and fails the consistency tests (C3).

This draft policy is incoherent and should be re-examined in its entirety as well the use of the sub-headings.

For new developments, the following sub-headings could be applied (i) new or replacement buildings (2) alterations and extensions. A comprehensive list of planning criteria should be applied for each e.g.

- The overall character of the ATC/AVC is maintained and enhanced and built form is respected by way of height, scale, form, massing, materials and detailing;
- No detrimental impact on the setting of the area and there is no significant loss of key views within, into and out of the ATC/AVC;
- Trees and other landscape features contributing to the character or appearance of the area are safeguarded and/or integrated in an appropriate manner; and
- The development has regard to relevant supplementary guidance.

The draft policy does not reflect the intent of strategic policy when it comes to the assessment of the demolition of an unlisted building in an Area of Townscape or Village Character.

This part of the draft policy should be deleted and replaced with para. 6.22 of the SPPS to avoid any ambiguity and misinterpretation.

Policy HE15

Industrial Heritage Assets

We welcome the provision of policy for protecting our industrial heritage assets.

However, draft policy HE15 lacks detail and is very weak.

It should include a list of planning criteria to protect industrial heritage assets and their settings from inappropriate development.

Separate policy should also be provided for development works to grounds affecting built heritage assets. It would be worth referring to Policy BH4 of Belfast City Council's Draft Plan Strategy.

Policy HE16

Local Landscape Policy Areas (LLPAs)

Policy HE16 is weak in its current form and is therefore unsound failing the consistency tests (C3).

It requires a re-write to provide robust policy, for example:

Development proposals that will have a significant adverse impact on the amenity, character, environmental quality or natural, built and cultural heritage features (including their settings and views) of LLPAs will not be permitted.

Policy NH6

Areas of Outstanding Natural Beauty

Policy NH6 is unsound failing the consistency tests (C3) and coherence and effectiveness tests.

Policy NH6 should provide a presumption against developments that would negatively impact the distinctiveness of the Sperrins AONB and the recognition of individual and cumulative impacts.

The policy headnote fails to recognise that AONBs are designated not only for their distinctive landscape character but also for their wildlife importance and rich cultural and architectural heritage (para. 6.186 of the SPPS).

The SPPS states that development proposals in AONBs must be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. Only character, quality and visual amenity are reflected in the draft policy. Heritage and wildlife are also important factors and should be included in the policy.

The policy should be expanded upon to apply a series of robust policy test for the Sperrin AONB to cover its special distinctive character, quality of landscape, heritage and wildlife, for example (i) openness of the landscape and its sensitivity to development; (ii) maintain a sense of remoteness, wildness and tranquillity; (iii) interdependency between the 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;(iv) Maintain the significance of archaeological and built heritage assets and their settings within the AONB.

The policy fails to mention proposals having to take account of the relevant Landscape Character Assessment and the Sperrin AONB Management Plan and/or local design guide (Para. 6.188 of the SPPS). This should be included within the policy headnote to provide consistency with the SPPS.

The policy also does not align with the neighbouring Council's policy for the Sperrins AONB which cuts across both Council areas.

Policy RNW1 Renewable Energy

Policy RNW1 is unsound and fails the consistency tests (C3).

The draft policy fails to protect heritage assets from inappropriate renewable energy development albeit it is acknowledged in para. 22.6, 22.7 and 22.10 of the local plan. Planning criteria should be applied to protect heritage assets and their settings from inappropriate development i.e. no significant adverse impact on heritage assets and their settings.

Rigorous policy tests on heritage and landscape considerations should also be applied to wind turbine proposals, for example:

No unacceptable adverse effects on long and medium range views to and from sensitive landscapes such as Sperrins AONB; &

No unacceptable adverse effects on important recognised outlooks and views from or to heritage assets where these are predominantly unaffected by harmful visual intrusion, taking into account the significance of the heritage asset and its setting.

As an important local stakeholder we welcome the opportunity to provide this response to the Mid Ulster Draft Plan Strategy. Whilst we have raised significant concerns with the draft plan, we hope our comments are fully considered and the plan modified to align with government direction. We are willing to attend the independent public examination should one proceed.

For further information, please contact:

Beverley Clyde MRTPI

Planning Adviser (Northern Ireland)

[REDACTED]

The National Trust NI

Rowallane Hub

Saintfield

Ballynahinch

BT24 7LH

M: [REDACTED]