



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council



**From:** Dermot Monaghan [REDACTED]  
**Sent:** 24 September 2020 12:53  
**To:** [DevelopmentPlan@midulstercouncil.org](mailto:DevelopmentPlan@midulstercouncil.org)  
**Subject:** Response to draft Plan Strategy on behalf of Lidl NI

Dear Sir/Madam,

Please find attached response to the draft Plan Strategy on behalf of Lidl Northern Ireland.

Regards,

Dermot Monaghan

**MBA Planning**  
Town Planning & Licensing Consultants

4 College House, Citylink Business Park, Belfast, BT12 4HQ

[REDACTED]  
[www.mbaplanning.com](http://www.mbaplanning.com)

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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 24<sup>th</sup> September 2020 to:**

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

Or by email to [developmentplan@midulstercouncil.org](mailto: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	Nutts Corner	4 College House
Line 2	Dundrod Road	Citylink Business Park
Line 3	Crumlin	Belfast
Line 4		
Post Code	BT29 4SR	BT12 4HQ
Telephone Number	[REDACTED]	[REDACTED]
E-mail Address	[REDACTED]	

**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 Policies RE3, RE5, HOU1, ECON3 & TRAN3
- (v) Proposals Map \_\_\_\_\_
- (vi) Site Location \_\_\_\_\_

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

Sound  Unsound

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](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.

See attached report

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:

See attached report

*(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.

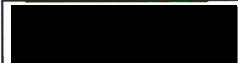
See attached report

*(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: 23 September 2020

For MBA Planning on behalf of Lidl Northern Ireland

# MBA Planning

Town Planning & Licensing Consultants


Mid Ulster District Council Local Development Plan 2030

## Response to Draft Plan Strategy

On behalf of Lidl Northern Ireland

September 2020

4 College House  
Citylink Business Park  
Belfast  
BT12 4HQ

  
E: [planning@mbaplanning.com](mailto:planning@mbaplanning.com)

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## 1. Introduction

1. This is a response to the draft Plan Strategy (dPS) of the Mid Ulster District Council Local Development Plan 2030 on behalf of Lidl Northern Ireland.
2. Lidl operate the principal chain of discount food stores in Northern Ireland. There are currently 39 but they anticipate opening 11 new stores in the next 5 years. Lidl also plan to redevelop 19 existing stores under their ambitious expansion and redevelopment programme which is anticipated to create 500 new direct jobs, 1500+ indirect jobs and involves investment of about £150 million in the local economy.
3. Lidl has 3 stores in the Mid Ulster District Council area – at John Street in Dungannon Town Centre, Molesworth Street in Cookstown Town Centre and at 38 Castledawson Road, Magherafelt (350m from the Town Centre boundary).
4. The Dungannon and Cookstown stores no longer meet requirements in that their sales and storage areas are too small, staff welfare facilities are inadequate while their design is not consistent with the specification of modern Lidl stores which have extensive glazing, wider aisles and bright and spacious shop floors.
5. Lidl recently invested c. £6m in redeveloping its Magherafelt site (see Figure 1 below) and wishes to construct modern new replacement stores in Dungannon and Cookstown. It is also interested in opportunities in other settlements with a need for improved convenience shopping provision including Coalisland and Ballygawley.

Figure 1: New Lidl store in Magherafelt





6. Lidl welcomes the preparation of a new LDP for Mid Ulster and is keen to ensure that it can accommodate new and improved retail facilities that will enhance shopping choice and convenience and that it will provide certainty for its investment proposals.
  
7. However, Lidl is concerned that a number of policies in the draft Plan Strategy are not sound and should be altered. This response sets out these concerns and a number of suggestions on how the relevant policies could be improved. It firstly identifies the relevant legislative and policy context and planning guidance issued by the Department.

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## 2. Legislative & Policy Context

8. The legislative context is provided by the Planning Act (NI) 2011 (“the 2011 Act”) and The Planning (Local Development Plan) Regulations (NI) 2015 (“the LDP Regulations”). It is not necessary to set out all of their requirements here, although a number are particularly relevant to the issues set out in Section 3.
9. One of these is Regulation 12(2) of the LDP Regulations. It requires that development plan documents (“DPDs”) – defined as the PS and the local policies plan (“LPP”) – must provide a reasoned justification of the policies contained within them.
10. Section 8(5) of the 2011 Act is also relevant. It states that in preparing a PS, the Council must take account of the RDS and any policy or advice contained in guidance issued by the Department.
11. The RDS and SPPS are policies issued by the Department and DPPNs are guidance documents that set out planning advice.
12. **DPPN7** provides advice on the Plan Strategy. Paragraphs 1.2 & 1.3 states that the PS should:
  - establish the strategic direction early in the plan process in order to provide a level of certainty on which to base key development decisions in the area as well as the necessary framework for the preparation of the local policies plan;
  - ensure that its objectives are integrated with, add value to and assist in the delivery of regional policy.
13. DPDs including the Plan Strategy must be tested to ascertain whether they are ‘sound’. The term sound is not defined in legislation however **DPPN6** states that in the context of assessing DPDs, it may be considered within its ordinary meaning of ‘showing good judgement’ and ‘able to be trusted’ (paragraph 5.1).
14. **DPPN6** states that the tests of soundness are based upon three categories: how the 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.

15. **The RDS** is an overarching planning framework that provides the strategic context for where development should take place. Among other things, it sets out regional guidance (RG) that applies to all parts of NI.
16. **RG7** of the RDS is to support urban and rural renaissance. It acknowledges that many places do not offer the quality of facilities required to meet the needs of local people and indicates that regeneration is necessary to offer people more local choice for shopping and other activities and meet their needs.
17. **The SPSS** is a statement of the Department's policy on important planning matters that should be addressed across NI. It was agreed by the NI Executive and was judged to be in general conformity with the RDS.
18. Its key aim in terms of town centres and retailing is to support and sustain vibrant town centres across NI through the promotion of established town centres as the appropriate first choice location of retailing and related functions. Regional strategic objectives for town centres and retailing include:
  - secure a town centres first approach for the location of future retailing and other main town centre uses;
  - adopt a sequential approach to the identification of retail and main town centre uses in LDPs and when decision-taking;
  - ensure LDPs and decisions are informed by robust and up to date evidence in relation to need and capacity.

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### 3. Comments on the Draft Plan Strategy

19. Lidl's main interest in the dPS is Section 13.0 Retailing, Offices and Town Centres. It is unclear whether this has been informed by robust and up-to-date evidence in relation to capacity in accordance with the SPPS.

#### **Policy RE 3 – Retail and Main Town Centre Uses Outside of Town Centres**

20. **Policy RE 3** states, among other things, that *“development will only be permitted outside a town centre where there will be no significant impact on an existing centre and in the case of a retail use, where a need has been established”*.
21. In relation to need, the relevant SPPS guidance (at paragraph 6.282) is that Councils should require applicants to prepare an assessment of need *“in the absence of a current and up-to-date LDP”*.
22. Policy RE 3 is inconsistent with this in that it will form part of an up-to-date LDP yet it would still require an assessment of need.
23. The Barker Review of Land Use Planning in 2006 (commissioned by the Department for Communities and Local Government in England) concluded that development proposals should not be subject to a need test as this is anti-competitive, impairs growth and leads to more limited choice and higher prices of goods. It concluded that *“requiring the demonstration of need can therefore be removed without weakening the overall policy of seeking to promote the vitality and viability of town centres”*.
24. The need test was dropped in English national planning policy as long ago as 2009 with the publication of PPS4. Even though it is mentioned in the SPPS, it is not mandatory given that it states Councils ‘should’ require an assessment of need. Furthermore, the SPPS does not actually state that proposals will be refused if need cannot be met.
25. The key focus of regional policy is to protect town centres. Policy RE 3 can achieve that without a need test, which (as Barker concluded) would be anti-competitive, impair growth and would lead to more limited choice and higher prices of goods.

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26. Policy RE 3 also requires demonstration that there are no suitable sites available within the town centre. The policy should confirm that site suitability encompasses viability as per paragraph 6.289 of the SPPS. It should also confirm that the requirement relates to the suitability of the site for accommodating the proposed development rather than an alternative form of development.
27. Policy RE 3 as currently drafted is not sound in that:
- it does not properly reflect the SPPS in relation to need and the test applicable to the consideration of alternative sites, thereby failing consistency test C3 of DPPN6;
  - there is no robust evidence base to support the proposed need test and so it fails test CE2 of DPPN6.
28. We suggest that the need test be omitted and that the policy be altered as per our recommendation at paragraph 26 above.

#### **Policy RE 5 – Retail and Related Uses in Villages and Small Settlements**

29. **Policy RE 5** indicates that new retail development within villages and small settlements should not have a significant negative impact on retailing within the village/ small settlement or a neighbouring settlement. Paragraph 13.37 confirms that this policy is seeking to protect “the viability or future existence of an existing viable retail outlet”.
30. Neither the RDS nor the SPPS seek to protect single retail businesses. RG7 of the RDS supports rural renaissance which entails ensuring that settlements have facilities to meet the needs of the communities they serve. However, a proposed shop may be better equipped to meet the needs of a settlement than an existing shop – so why protect the existing shop at the expense of a superior alternative that could have a wider range of goods and lower prices.
31. The approach of this policy would restrict competition, lead to a more limited choice of goods and higher prices. There is also no justification for the proposed threshold of 100sqm for village shops.
32. This policy is not sound as it is out of step with the RDS and SPPS and fails consistency tests C1 and C3 of DPPN6. It should be amended so that it does not restrict competition and afford

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undue protection to existing retail businesses within villages and small settlements. The 100sqm threshold should also be removed.

#### **Boundaries of Town Centres**

33. As noted above, Lidl wish to construct modern replacement stores in Dungannon and Cookstown and are also interested in opportunities in Coalisland. We would encourage the Council to have the boundaries of town centres sufficiently large so that there is a range of sites available for retail development which provides retailers / developers with options, taking account of the possibility that not all sites will be made available.

#### **Policy HOU1 – Protection of Land Zoned for Housing**

34. This states that the development of non-residential uses on land zoned for housing will conflict with the plan unless they are ancillary to the housing development and provide community or recreational uses such as health, education or a neighbourhood shop.
35. The SPPS encourages flexibility and the ability to adapt to changing circumstances (see paragraphs 5.36 and 5.39). Housing zonings have generally not been protected in previous NI development plans and this has provided the flexibility to consider alternative uses.
36. Policy HOU1 is too inflexible and is not consistent with the SPPS, thereby failing soundness test C3. It should be amended so that non-residential uses are not precluded on either Phase 1 or 2 housing land unless this would lead to a shortfall of housing land over the Plan period.

#### **Policy ECON 3 – Protection of Zoned Land and Existing Economic Development Sites**

37. This Policy states:
- “Proposals which will result in the loss of land zoned for economic development (existing or proposed) will not accord with the Plan unless it is demonstrated that there are important community and employment benefits. Elsewhere within the settlement, change of use of existing economic development land, or land last used for these purposes, may be permitted where there is no need to protect it for employment purposes and redevelopment of the land would result in environmental benefits.*”

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38. As noted above, the SPPS encourages flexibility, particularly in the context of economic development policy (see paragraphs 6.86 and 6.89). We agree that alternative uses on unzoned economic development land should not be precluded in circumstances where there is no need to protect it but are concerned that the requirement that redevelopment must “result in environmental benefits” is an unreasonable and unnecessary test. If there is no need to protect such land, its redevelopment should only be precluded if it would cause material planning harm – the more onerous test proposed could prejudice the regeneration of brownfield sites, contrary to RG7 of the RDS.
39. A similar approach should be taken with zoned employment land. Policy ECON 3 should be altered to state that proposals that result in the loss of land zoned for economic development will be permitted unless this would result in a shortfall of such land over the Plan Period.

#### **Policy TRAN 3 – Car Parking**

40. This states that *‘development of existing public car parks in town centres will conflict with the Plan unless it can be demonstrated that these can be replaced in a convenient location, in terms of accessibility and of similar scale within the town centre’*.
41. This policy is inconsistent with the thrust of transport policy set out in the RDS (e.g. RG9) and the SPPS which seeks to reduce the need to use the car. In particular a key regional strategic objective of the SPPS (as per paragraph 6.297) is to *‘promote parking policies that will assist in reducing reliance on the private car and help tackle growing congestion’*.
42. The dPS acknowledges that Mid Ulster’s town centres including Cookstown and Dungannon suffer from congestion (e.g. see para 4.54) and adoption of Policy TRAN 3 would only ensure that this continues by encouraging cars to the town centre.
43. This policy should be deleted and a review of alternative transport modes should be undertaken. For example, congestion can be reduced and town centres supported through the development of park and ride schemes.
44. Without prejudice to the above, if a parking policy is to be included in the Plan Strategy, it should not be a requirement that existing car parks must be replaced and that replacement car parks

must have the same number of spaces. The policy should allow for the consideration of a number of factors including the level and nature of the use of the existing car park and the benefits of a particular redevelopment proposal.