

Sinead McEvoy

From: 2 Plan NI - Sheila Curtin <info@2planni.co.uk>
Sent: 19 April 2019 10:11
To: DevelopmentPlan@midulstercouncil.org
Subject: Plan representation on behalf of 2Plan NI
Attachments: 2Plan NI 17.04.19.pdf; Representation-Form 2Plan NI.pdf

Dear Area Plan Team,

Thank you for the opportunity to provide the attached representation on behalf of 2Plan NI in relation to the Mid Ulster Development Plan -Draft Plan Strategy.

Attached are two documents as follows:

- Completed Representation Form
- Accompanying Representation document

Kind Regards,

Sheila Curtin MRTPI

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RTPI
Chartered Town Planner

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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

Mid Ulster Development Plan 2030 -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)

Mrs.

Sheila

Curtin

Principal

2Plan NI

Address Line 1		47 Lough Fea Road Cookstown
Line 2		
Line 3		
Line 4		
Post Code		BT80 9QL
Telephone Number		028 8676 4492
E-mail Address	info@2planni.co.uk	

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 Please see attached document in relation to Q3-Q6
- (ii) Objective
- (iii) Growth Strategy/
Spatial Planning Framework
- (iv) Policy
- (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>).

Soundness Test No.

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:

(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.

(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: [REDACTED] Date:

Representation to the Mid Ulster District Council's
Local Development Plan 2030
Draft Plan Strategy

2Plan NI

April 2019

By Email

1. Introduction

2Plan NI wish to make the following submission in response to the Draft Plan Strategy (DPS). The representation considers the policies proposed within the Draft Plan and details areas where further work is considered necessary. The representation also provides a response as to whether various aspects of the draft plan meet the necessary soundness tests.

To ensure that this representation is set within the appropriate planning context, we have reviewed all legislative, regulative and policy requirements/guidance associated with preparing local development plans in Northern Ireland and all supporting documents associated with the DPS and the preferred Options Paper, which are relevant to the topics/policies which we make comment on.

The representation is structured as follows:

- Section 2- Legislative and Procedural Context
- Section 3 -Policy Soundness and remedy measures.

2. Legislative and Procedural Context

Sections 6 (1) and (2) of the Planning Act (Northern Ireland) 2011 (the 2011 Act) set out that in Northern Ireland, the local development plan (LDP) for each of the 11 local authorities comprises a plan strategy (PS) and a local policies plan (LPP).

The PS represents the first formal stage of the two stage LDP process and Section 8(1) of the 2011 Act requires all Councils in Northern Ireland to prepare a PS for their districts.

In preparing its 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').

The keystone of the local development plan system is the principle of 'soundness'. Section 10(6) of the 2011 Act provides that the purpose of the Independent Examination (IE) is to determine, in respect of the development plan document:

- whether it satisfies the requirements of sections 7 and 8 or, as the case may be, sections 7 and 9, and any regulations under section 22 relating to the preparation of development plan documents; and
- whether it is sound.

Although not legislation, Development Plan Practice Note 6 sets out 3 main tests of soundness for Local Development Plans, with each test having a number of criteria, as follows:

Procedural Tests

- P1 Has the DPD been prepared in accordance with the council's timetable and the Statement of Community Involvement?*
- P2 Has the council prepared its Preferred Options Paper and taken into account any representations made?*
- P3 Has the DPD been subject to sustainability appraisal including Strategic Environmental Assessment?*
- P4 Did the council comply with the regulations on the form and content of its DPD and procedure for preparing the DPD?*

Consistency Tests

- C1 Did the council take account of the Regional Development Strategy?*
- C2 Did the council take account of its Community Plan?*
- C3 Did the council take account of policy and guidance issued by the Department?*
- C4 Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?*

Coherence and Effectiveness Tests

- CE1 *The DPD sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant it is not in conflict with the DPDs of neighbouring councils;*
- CE2 *The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base;*
- CE3 *There are clear mechanisms for implementation and monitoring; and*
- CE4 *It is reasonably flexible to enable it to deal with changing circumstances.*

3. Policy soundness and remedy measures

SPF 6 - Accommodate development within the countryside that supports the vitality and viability of rural communities without compromising the landscape or environmental quality and whilst safeguarding our natural and built heritage;

Plan Para 4.33 states:

The countryside will not be subject to an allocation of the Districts HGI, however housing development will be monitored. At present 40% of our Districts households are located in the open countryside. Accordingly for review purposes if the number of houses being approved in the countryside exceeds 40% of the Districts HGI this will trigger the need to change policy at the Plan Review

Soundness Test

We submit that SPF6 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE2
- Fails the Coherence and Effective Test – CE3

Remedy

In terms of Plan monitoring. We recommend that the word 'approved' is changed to completed or commenced to give a more accurate reflection of what has happened on the ground in terms of the provision of actual housing during the plan period.

POLICY HOU2 – QUALITY RESIDENTIAL DEVELOPMENT

New Housing development within settlements, on zoned or unzoned land will accord with the Plan where it has been demonstrated that it will provide a quality residential environment where:

- i) It creates a sense of place and avoids town cramming;
- ii) It respects neighbouring development in terms of character, separation distance and amenity and provides a quality residential environment for the future occupiers of the unit;
- iii) Provision is made for a mixture of house types and tenures providing accommodation accessible to everyone including people with disabilities;
- iv) It provides access to modes of transport other than the car and provides linkages to community facilities;
- v) It provides adequate public and private open space; and
- vi) Provision is made for local infrastructure or local neighbourhood facilities where a need is identified.

Para 7.26 states:

In residential developments of 50 units or more or on sites of 2 hectares and over, social housing should be provided at a rate not less than 25% of the total number of units. This policy will apply where a need for social housing has been identified by the relevant strategic housing authority until such times that the Local Policies Plan brings forward sites with key site requirements addressing social housing needs. It is not possible to be definitive as to social housing need over a 15 year period as it changes as a consequence of economic factors and inward migration.

Soundness Test

We submit that HOU2 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE4

Remedy

Include an affordable housing allocation within this policy.

POLICY HOU2 – QUALITY RESIDENTIAL DEVELOPMENT

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- iv) It provides access to modes of transport other than the car and provides linkages to community facilities;
- v) It provides adequate public and private open space; and
- vi) Provision is made for local infrastructure or local neighbourhood facilities where a need is identified.

Para. 7.31 states:

'As a general rule for all residential developments over 25 units or sites of 1 hectare or more, a minimum of 10% of the site area should be allocated to public open space which is adequately equipped, landscaped and well-designed to form an integral part of the proposal'.

Soundness Test

We submit that HOU2 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE2
- Fails the Coherence and Effective Test – CE4

Remedy

Policy should include an exceptional circumstances case within the policy. When for example the developer has proposed larger individual plot sizes with the allocation of amenity space provided through private amenity space. Residents and developers are expressing a preference for this, less management fees and more control over amenity space. Residents take control of their own space and have larger private spaces -houses for life.

POLICY HOU3 – RESIDENTIAL EXTENSIONS

Extensions and Alterations to residential developments will accord to the plan where;

- the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- they are designed to be subordinate and ancillary to the main use of the existing building and do not result in significant adverse impact on the private amenity space, access and off street parking provision.
- the proposal does not unduly affect the privacy or amenity of neighbouring residents.

Regard will also be given to this policy when assessing extensions to dwellings in the countryside.

Para. 7.41 to 7.43 states:

'For many families the affordable way to provide for a growing family or to meet the needs of older members of the family is to erect an extension. Small single storey rear extensions of up to 3m in depth are unlikely to have a detrimental effect on neighbouring amenity, depending on the configuration of the property.

7.42 However, large extensions can be over dominant, detrimental to the street scene and lead to a loss of private open space or parking provision. They can also be harmful to neighbouring amenity by reason of loss of light, over-shadowing, overlooking and visual intrusion. When assessing such proposals careful consideration will be given to the height and position of the extension in relation to windows and habitable rooms.'

Soundness Test

We submit that HOU3 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE2
- Fails the Coherence and Effective Test – CE4

Remedy

We recommend that a separate policy for residential extensions in the countryside is provided within the plan. This policy as currently worded is too onerous and prescriptive for extensions within the countryside setting, where larger curtilages afford greater opportunities for extensions.

POLICY CT1 – GENERAL POLICY

All residential development in the Countryside shall be required to:

- Cluster, consolidate and group with existing buildings unless there are environmental or operational reasons as to why this is impracticable;
- Integrate with its setting by utilising existing vegetation and landform to provide a backdrop and soften visual impact and avoid unduly prominent or artificially created sites;
- Respect rural character by complementing settlement patterns in the locality and avoid creating or adding to ribbon development;
- Avoid contributing to urban sprawl or mar the distinction between a settlement and the surrounding countryside;
- Be of appropriate design in terms of height, size, scale, massing, architectural detail and finishes.

Care should be taken to ensure that any proposal is sensitive to environmental issues. Appropriate distances should be maintained between tree root systems and building foundations, so neither is compromised.

Development proposals should not lead to the destruction of woodlands and other important vegetation in an attempt to screen a dwelling.

Soundness Test

We submit therefore that CT1 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE2
- Fails the Coherence and Effective Test – CE4

Remedy

We strongly recommend that the word 'OR' is placed between bullet point one and two.

Also, integration can come in the form of vegetation and landform screening to the foreground of a proposal, the word backdrop is too prescriptive and should be removed.

POLICY CT2 - DWELLINGS IN THE COUNTRYSIDE

A Dwelling in the Countryside will conform with the plan where it comprises a:

- (a) Dwelling in an Existing Non-Farm Cluster - The cluster must comprise a group of four or more substantial buildings and be located at a focal point such as a cross roads or a social/community building and can be absorbed through rounding off or consolidation. The site must have existing buildings on at least two sides.
- (b) Dwelling Infilling a small Gap Site - In a small gap site capable of accommodating up to two dwellings. The gap must be located between three or more buildings, each fronting onto a road or laneway.

Exceptionally a single dwelling may be permitted on a smaller gap site, located between two dwellings, each with their own defined curtilage, fronting onto a road or laneway. All gap site proposals must respect the existing development pattern along the frontage in terms of size, scale, siting and plot size.
- (c) Replacement Dwelling - The building must exhibit the essential characteristics of a dwelling and as a minimum all external structural walls must be substantially intact. Replacement dwellings must be located within the curtilage of the original dwelling where practicable, or at an alternative position nearby where there are demonstrable benefits in doing so.
- (d) Conversion/re-use of Existing Buildings for Residential Use - The building must be of permanent construction and include buildings such as former school houses, churches and older traditional barns and outbuildings. This policy does not include "steel framed" buildings such as those used for the purposes of agriculture, industry or storage. Alterations should be sympathetic to the existing building and any extension should be minor. It may be possible to achieve more than one residential unit where the existing building is of such a size to accommodate more than one dwelling without the need for a significant extension.
- (e) Dwelling on a Farm - The dwelling must be on a farm which has been established for 6 years and is currently active and no permissions obtained under this criteria in the last 10 years from the date of the application. The dwelling should also be located next to or visually linked with a group of buildings on the farm. Where there are health and safety reasons relating to the efficient use of the farm or verifiable plans to expand the farm business at the existing building group(s), consideration will be given to an alternative site on the farm. This will also apply where the house is to provide for a retiring farmer to allow for the disposal of the farm or where significant environmental benefits have been demonstrated by the applicant.
- (f) Dwelling in a Farm Cluster - Exceptionally, on farms that are not active and/or established or where permission has been obtained in the past 10 years, a dwelling may be accommodated within a farm cluster on the agricultural unit. The cluster must comprise 3 or more substantial buildings on the farm (excluding domestic garages and small sheds) and the site be bounded by a building on at least 2 sides. This policy may only be used to facilitate one dwelling in an existing farm cluster.
- (g) Dwelling to meet Personal and Domestic Circumstances - Provided there are compelling and site specific reasons related to the persons personal or domestic

circumstances and where there are no practical solutions to meet the particular circumstances of the case, such as an extension or attached dwelling.

- (h) Dwelling for a Carer or someone availing of care - Provided the care is delivered by or received from an immediate family member and the dwelling is in the form of an extension to an existing dwelling to form a separate but attached residential unit, or change of use of an existing building within the curtilage to form a separate residential unit.
- (i) Dwelling for a Business Enterprise - Provided there is a site specific and operational requirement for an employee of the business to live next to the business and where the business has been established for at least 6 years and is operating from a building of not less than 150.sqm. The dwelling must be sited adjacent to the established business.
- (j) Dwelling for holder of commercial fishing licence – The applicant must hold a valid commercial fishing licence, either a boat owners licence to fish for eels or a boat owners licence to fish for scale fish, and at the time of the submission of a planning application must have been living and conducting their fishing operations from Mid Ulster for a minimum of the last 6 years and the applicant has not obtained permission for a dwelling in the last 10 years from the date of the application. Where these circumstances are demonstrated the proposed dwelling must be located within the area identified as a Policy Area for Holder of commercial fishing licence on the District Proposals Map.

In cases relating to dwellings within farm and non-farm clusters, infill sites or an attached dwelling (dwelling for a carer or someone availing of care) the key test is the impact on rural character. In assessing such applications regard will be given to the rural design guide, 'Building on Tradition', or any subsequent design guides. Substantial buildings include dwellings and large farm buildings but exclude domestic garages and sheds, porta-cabins and other temporary structures. Farm buildings must be on the farm holding related to the application site and relate to the operation of the farm.

A 5 year occupancy condition will be used where a personal and domestic circumstances case, a caring case, a business enterprise case or a holder of a commercial fishing licence case is presented. In all instances the onus will be on the applicant to demonstrate how they meet any of the criteria. In instances where a property is subject to an occupancy condition is re-possessed, the removal of this occupancy condition will be permitted to allow for the re-sale of the property.

Occupancy conditions will not be placed on a case for a retiring farmer.

Proposals for dwellings which do not meet the above criteria will be in conflict with the plan.

Soundness Test

We submit that CT2 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE4

Remedy

Include employment centre/building as an additional focal point within (a) Dwelling in an Existing Non-Farm Cluster. It is a sustainable method of housing allocation and would reflect rural historic settlement patterns.

In response to (c) Replacement Dwelling, we recommend that this policy should apply when at least 3 external walls are intact. It is very often the case that old dwellings have one gable wall fallen in, either due to the instability of the chimney caving in, or aggressive vegetation taking over the building, resulting in a dwelling which very obviously contain the essential characteristics of a dwelling but just don't have part of one wall.

Policy wording relating to CT2(b), should correspond with the accompanying amplification text. We recommend that the word dwelling is replaced by building as per amplification text.

POLICY ECON 2 – ECONOMIC DEVELOPMENT IN THE COUNTRYSIDE

Proposals for economic development in the countryside will conform with the Plan where they represent firm and not speculative proposals consisting of one of the following scenarios and where they do not harm or undermine the character of the countryside or the amenity of nearby residents:

- a) Provision of small workshop accommodation of no more than 100 sq. metres floor space for self-employment, forming part of the existing curtilage of a dwelling which is inhabited by the operator of the workshop.
- b) Development of a small gap site with an appropriate economic development proposal such as light industry.
- c) Development within Tullyvannon and Desertcreat Rural Industrial Policy Areas or a designated Rural Industrial Policy Area in the Local Policies Plan providing it accords with any uses and requirements identified in the Local Development Plan.
- d) Expansion within the existing curtilage of an established economic development use which is of an appropriate scale and nature.
- e) Expansion outside of the existing curtilage of an economic development use where it has been demonstrated that relocation is not possible for operational or employment reasons and where the economic use makes a significant contribution to the local economy.
- f) Redevelopment of an established economic development use or re use of an existing redundant non-residential rural building
- g) A new building as part of a farm diversification scheme where a redundant farm building is not available or there is no suitable building available on the farm.
- h) Major industrial proposals where it is demonstrated that the development will make a significant contribution to the regional economy and where it is demonstrated that due to its size or site specific requirements it needs a countryside location. Where there are no site specific reasons, an edge of town location will be favoured.
- i) Development of a small community enterprise park/centre or a small rural industrial enterprise outside of a village or small settlement where the use will be associated with the settlement. Where practical, edge of settlement location will be favoured.
- j) Where there are existing quarries, outside of areas designated for their nature conservation, heritage or landscape value, favourable consideration can be given to a directly related industry e.g. cement / concrete works or glass manufacture.

Economic development in the countryside has the potential to impact on rural amenity and movement contrary to regional strategic policy. Therefore, where a proposal does not meet this policy it will conflict with the Plan.

Soundness Test

We welcome Policy ECON2, however we submit that ECON 2 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE2
- Fails the Coherence and Effective Test – CE4

Remedy

In response to policy (a) we recommend that the word self employment is removed from the policy, or a definition is provided for self employment. If the workshop owner is a small limited company(as defined by HMRC) does this eliminate compliance with policy (a)?

POLICY AFR1 - AGRICULTURE AND FORESTRY DEVELOPMENT AND DEVELOPMENT ANCILLARY TO COMMERCIAL FISHING

Development ancillary to the operations of an active and established agricultural/forestry holding will conform with the plan where it is to be located next to existing farm or forestry buildings on the holding and where it does not appear incongruous to its rural setting.

In exceptional circumstances an alternative site away from existing farm or forestry buildings may be considered where there are demonstrable environmental, business, or health and safety reasons or a need to protect the amenity of nearby residents. An exception may also apply to new farm enterprises. In such cases the applicant will be required to demonstrate why a new building is required and is of the scale proposed.

Proposals for intensive farming and animal husbandry are required to demonstrate that they will not have a significant adverse environmental impact, particularly in relation to ammonia production.

The development of a building ancillary to commercial fishing will conform with the plan where the building is located within the area identified as Policy Area for holder of commercial fishing licence on the District Proposals Map. The applicant must hold a valid commercial fishing licence, either a boat owners licence to fish eels or a boat owners licence to fish for scale fish and at the time of the submission of the planning application must have been living and conducting their fishing operations from Mid Ulster for a minimum of the last 6 years.

Para. 16.14 states:

'We recognise that on occasion, a new farm may start up and there may be a need for a new building. In such cases it is important that the building is limited to a size that is in keeping with the scale of the farm. This is important as the District has experienced pressures for non-agricultural related business in the countryside.'

Soundness Test

We submit that AFR1 is unsound as it fails the following soundness test:

- Fails the Coherence and Effective Test – CE4

Remedy

Recognition should also be given to the need for a new building on an out farm away from the existing group of farm buildings. Reflecting the pattern of farm land composition within the district.

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