

**ANNEX B – Response Pro-forma**

**Name: DERMOT MADDEN**

**Address: 9 Lanyon Place, Belfast, BT1 3LP**

NOTE :Dermot is not working in the LDP section of Historic Environment Division at the present time


**Original Representation Reference Number: MUDPS/77 (for administrative use only)**

**Please tick the applicable box below.**

- a) I confirm that I wish for my original representation to be considered as my representation.

- b) I confirm that I wish to amend or add to my original representation.

- c) I confirm that I wish for my original representation to be withdrawn and that I no longer wish to make a representation.

**Signature:** ..... 

Liam McQuillan MCIfA  
Senior Archaeologist  
Heritage Records and Designations Branch

**Date:** ..... 8th April 2020

If you require assistance when completing the above, please contact [developmentplan@midulstercouncil.org](mailto:developmentplan@midulstercouncil.org)

**Please ensure you return this completed Pro forma (along with any additional documents if you have ticked [b]) above) to Development Plan Team, Planning Department, Mid Ulster District Council, 50 Ballyronan Road, Magherafelt, BT45 6EN, by 5pm on 21st May 2020.**

**Michael McGibbon**

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**From:** [REDACTED]  
**Sent:** 18 April 2019 09:34  
**To:** DevelopmentPlan@midulstercouncil.org  
**Cc:** [REDACTED]  
**Subject:** Mid Ulster District Council - LDP - draft Plan Strategy & draft Sustainability Appraisal consultation - HED formal response  
**Attachments:** Mid Ulster - LDP - PS - Feb 2019 - draft Plan Strategy and SA-SEA questi....pdf; Mid Ulster - LDP - PS - Feb 2019 - draft Plan Strategy - HED formal resp....pdf; Mid Ulster - LDP - PS - Feb 2019 - up-dated SA & SEA - HED formal respon....pdf; ##Mid Ulster - LDP - Draft Plan Strategy & SA-SEA - HED comments 2018073....pdf

Dear Sir/Madam,

**HISTORIC ENVIRONMENT DIVISION response to draft PLAN STRATEGY and draft SUSTAINABILITY APPRAISAL incorporating the SEA**

Please find attached the Historic Environment Division formal responses to both the draft Plan Strategy and draft Sustainability Appraisal incorporating the SEA released for public consultation.

We have attached PDF versions of the following documents:

1. Mid Ulster – LDP – PS – Feb 2019 draft Plan Strategy & SA-SEA questionnaire – HED formal response 20190418 – 1 of 3
2. Mid Ulster – LDP – PS – Feb 2019 draft Plan Strategy – HED formal response 20190418 – 2 of 3
3. Mid Ulster – LDP – PS – Feb 2019 up-dated SA and SEA – HED formal response 20190418 – 3 of 3
4. Mid Ulster – LDP – draft Plan Strategy & SA-SEA – HED comments 20180730

HED consider the draft Plan Strategy to be **significantly unsound** around protection of the historic environment and their assessment in relation to effects on the historic environment. We advise that significant revision is required to increase soundness of the draft policies and to make the SA/SEA more robust. We reiterate that as articulated the historic environment policies on the whole weaken existing policy protections and do not take sufficient account of SPPS.

HED consider the draft policies does not demonstrate solid understanding of existing policies, strategic policy or of legislative provisions affecting heritage assets. We are concerned the draft policies appear not to be in alignment with the approach outlined for the Historic Environment in the councils Preferred Option Paper or take sufficient account of SPPS. HED must also advise that we previously provided detailed feedback when consulted about the policy content, and while we note some changes since that draft we do not consider that our concerns have been addressed.

We will continue to work with Mid Ulster District Council through the LDP process and should you wish to discuss any of our comments within the questionnaire or additional documents attached please contact us at the addresses below.

We request acknowledgement of receipt for this email.

NOTE: Consent to Public Response

Under planning legislation we consent to the publication of our responses received in relation to the Plan Strategy. However, we ask that the names, contact numbers and e-mail addresses of individuals named are redacted. We are content for the details of the Department/organisation to be published.

Yours Sincerely,

[Redacted]

[Redacted] Senior Architect [acting] | Heritage Records & Designation Branch

Historic Environment Division | Department for Communities

Building 71 | Ebrington Square | Derry ~ Londonderry | BT47 6FA

Headquarters: Ground Floor | 9 Lanyon Place | Town Parks | Belfast | BT1 3LP

Contact:  [Redacted]  Tel: [Redacted]  [Redacted]

**REALISING THE VALUE OF OUR HISTORIC ENVIRONMENT**

Love Heritage NI - <https://www.facebook.com/LoveHeritageNI/>

European Heritage Open Days - <https://www.facebook.com/ehodni> / <https://twitter.com/ehodni>

**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 (published Feb 2019) &  
Associated SA/SEA (published Feb 2019) &  
Additional evidence reports

**Representations must be submitted by 4pm on 19<sup>th</sup> April 2019 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

Name

Name

Job Title  
(where relevant)

Organisation  
(where relevant)

**2. Agent Details (if applicable)**

Senior archaeologist & architect

Historic Environment Division

Address Line 1		Department of Communities Historic Environment Division, Ground Floor, 9 Lanyon Place, BELFAST BT1 3LP
Line 2		
Line 3		
Line 4		
Post Code		
Telephone Number		
E-mail Address		

**SECTION B**

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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?

- |  |   |  |
|--|---|--|
| <ul style="list-style-type: none"> <li>(i) Paragraph</li> <li>(ii) Objective</li> <li>(iii) Growth Strategy/<br/>Spatial Planning Framework</li> <li>(iv) Policy</li> <li>(v) Proposals Map</li> <li>(vi) Site Location</li> </ul> | } | <p>HED have commented on various and multiple items (see attached response) with regard to items (i)–(v)</p> |
|--|---|--|

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 [www.planningni.gov.uk/index/advice/practice-notes](http://www.planningni.gov.uk/index/advice/practice-notes)).

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:

HED consider the draft Plan Strategy (dPS) to be **significantly unsound** around protection of the historic environment.

Our response relates to impact of the dPS on the Historic Environment (section 17.0) primarily draft policies HE1 to HE16.

However, where we have had the opportunity we have also framed responses around other policies as we deem appropriate to impacting the historic environment. As necessary we have made reference to the relevant policy.

The comments provided on the attached documents are reflective of our strong concerns with regards to how the dPS is approaching protection, conservation and, where appropriate, enhancement of the historic environment, particularly through the Historic Environment (section 17.0) policies. Our not having provided comment on other sections of the dPS document should not be considered as an endorsement of proposals and we would expect other consultees to provide detailed comment on their areas of expertise.

See attached HED documents for detailed comments:

1. Document 1 relates to the draft Plan Strategy (pub. 2019),
2. Document 2 relates to the SA/SEA (pub. 2019) and additional evidence reports,
3. Letter, dated 30.07.2018, reference: Mid Ulster-LDP-Draft PS SA/SEA

*(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 HED documents for detailed comments:

1. Document 1 relates to the draft Plan Strategy (pub. 2019),
2. Document 2 relates to the SA/SEA (pub. 2019) and additional evidence reports,
3. Letter, dated 30.07.2018, reference: Mid Ulster-LDP-Draft PS SA/SEA

*(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.

Statement acknowledged

Signature:

Date:

18.04.2019

**HISTORIC ENVIRONMENT DIVISION submission  
(Document 1 of 2)**

**This representation relates to the following Development Plan Document:  
Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy  
(Feb 2019)**

**In answer to Q4(b), Q5 and Q6 – continued information.**

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

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.

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

## **17.0 – The Historic Environment**

Historic Environment Division advise that we have significant concerns around the draft policies for the historic environment. On the whole we do not consider that they are sound or that they will successfully achieve the strategic objective or the objectives of the Regional Development Strategy (RDS) and the Strategic Planning Policy Statement (SPPS). We strongly oppose the direction being taken in the draft which in some cases reflects a significant divergence from policies in SPPS and which we consider will lead to reduced protection and significant adverse effects on the historic environment in the district. We advise of concerns with regard to the sequencing and structure of the policies and believe that the plan content and associated SA/SEA demonstrates a lack of understanding of historic environment issues. We consider that the policies as drafted would lend to failing to meet elements of our obligations in relation to International Conventions on Heritage to which the UK is a signatory (e.g. The Valletta Convention and The Granada convention).

The draft policies do not demonstrate a solid understanding of existing policies, strategic policy or of legislative provisions affecting heritage assets. Concerningly, they are not in



alignment with the approach outlined for the Historic Environment in the council's Preferred Option Paper (POP) to which we provided feedback on 20.12.2016. HED must also advise that we provided further comprehensive detailed feedback (30.07.2018) when consulted on informal draft policy content, and while we note some changes since that draft we do not consider that our concerns have been addressed. We advise that many of the concerns we express here have been expressed since our response at Preferred Options Stage.

Our comments in relation to sustainability appraisal incorporating strategic environmental assessment (SA/SEA) are composite with this response as we consider that the assessment of evidence in relation to the historic environment is not robust, and does not justify policy direction being taken by the council in relation to the historic environment. We consider this to be a significant soundness issue with a number of policies we have reviewed and have cited the appropriate Soundness test reference in each case.

HED Editorial note: We have used the following key when indicating suggested corrections and/or amendments to the text:

- Policies – Policy text is **emboldened**. Where we have suggested corrective text to make the policies sound this is **emboldened** and underlined.
- Justification and Amplification text – Justification text is in *italics*. Where we have suggested corrective text to make the justification text sound this is in *italics* and underlined.
- Within the justification and amplification text for clarity we have suggested amendments and/or corrections to the existing items in the first instance, with proposed new additional items inserted thereafter. However, this does not imply a preferred order of preference.

## Overview

Item 17.2 – HED welcome the acknowledgement that if development is not managed it can have an adverse impact on our historic environment and the heritage assets within. However, development in towns and villages must not be seen in isolation as needing managed. Development in the countryside and protection of our heritage assets, historic buildings landscapes and archaeology, requires careful management of development too.

Item 17.3 – HED acknowledge the aim that the historic built environment should be for the enjoyment and wellbeing of the public. However, we consider the use of the term 'sterile museum pieces' is very poor and misrepresents the vast number of heritage assets which are in continued occupation and use, and enjoyed by the private individual and the public across the council area. We would have concerns that this type of language reflects a lack of understanding of the historic environment evidence base.

In addition, an example of where the historic built environment is in use is given as the Seamus Heaney Centre in Bellaghy. It is important to highlight the Seamus Heaney Centre (Homeplace) does not re-use a historic building, and is not a heritage asset to which these policies would apply. The centre is a new build, constructed in the early 2010's. In addition, it would have been more meaningful to have given examples of historic buildings in use not limited to the hotel sector and to have given a wider coverage across the district council

area, e.g. 'McKenna's' thatch vernacular (privately owned) outside Bellaghy acknowledged as a local landmark; the Old Bridewell (Library), Magherafelt; Boyne Row (privately owned), Upperlands; Ranfurly House (former Bank of Ireland), Dungannon; Killymoon Castle, Cookstown, numerous properties along High Street, Draperstown and Moneymore. All of these heritage assets add to the local areas their own distinctive character, highlighting that not all heritage assets must be in public ownership or directly generate money into the local economy to be appreciated or valued.

17.4 – HED consider this item as limited, and a major opportunity have been missed not to highlight the importance of managing development in the historic landscape, which contributes to the local character of the council area. RDS, 3.30 (notably the 3<sup>rd</sup> bullet point).

17.5 – HED note that reference is made to Enabling Development, a policy requirement as set out in SPPS 6.25, however, no policy is within the Plan Strategy document. HED consider the lack of an Enabling Development policy fails the **Procedural Test (P2)** and **Consistency test (C3)** and therefore the approach within the draft Plan Strategy is not sound.

17.9 – HED has issue with the phrasing of the opening sentence, as it does not accurately represent the level of our engagement with Mid Ulster District Council: *Our strategy is to provide policy protection for archaeology; listed buildings; historic parks, gardens and demesnes; and registered industrial heritage, all of which have been identified working with the appropriate Central Government Departmental body.*

HED suggested correction:

*Our strategy is to provide policy protection for archaeology; listed buildings; historic parks, gardens and demesnes; and registered industrial heritage, all of which have been identified in the Local Development Plan by the council using evidence bases maintained and provided by the Historic Environment Division.*

This is an important point as it's vital that responsible authorities demonstrate how they use the baseline evidence to identify characteristics of their plan area.

### **General comment on ASAI Policies**

HED welcome the inclusion of bespoke policies for each Area of Significant Archaeological Interest, in line with SPPS 6.29, however we advise that the policy content is unsound (**Consistency test -C3-** see comments on each ASAI policy below) and that in order to provide clear context for ASAI, these should be included after HE04, the policy that provides the context for the protection of remains of Regional importance. This re-ordering would improve soundness in line with **CE1** as it would provide a logical flow in the policies.

- **Policy HE1 – Beaghmore Stone Circles – Area of Significant**

**Archaeological Interest** including its **justification and amplification** text

HED consider the policy as worded to be unsound in that it fails **Consistency test (C3)**.

HED advise that the draft policy does not align with **SPPS** notably **6.29** in its specification of the rationale for the designation of the ASAI and that the rationale outlined makes the draft policy unsound.

We advise that our suggested amendments will enable the draft policy to become sound.

- **Beaghmore Stone Circles – Area of Significant Archaeological Interest**

HED suggested correction to make the policy sound: See SPPS 6.29 as to the rationale for designating ASAI. In order to align with the SPPS rationale first paragraph should be amended to read:

HED suggested policy correction(s): **An Area of Significant Archaeological Interest (ASAI) has been designated incorporating a wide area of distinctive historic landscape defining horizons around Beaghmore Stone Circles and containing a large number of prehistoric monuments with discrete and overlapping settings.**

HED advise that our Statement of Significance identified those types of development we consider are likely to adversely impact on the ASAI. We advise that the policy wording of the third paragraph before the bullets should be articulated as

HED suggested policy correction(s):

**Development that would have the potential to adversely impact the distinctive qualities of the archaeological remains and historic landscape include:**

We advise that the map referred to (Map 1.20) only shows that part of the ASAI in the Mid Ulster Council area and advise that for completion and context **the full extent of the ASAI should be indicated** as this landscape predates modern boundaries. We believe by not showing the wider context of this area the map fails soundness test **C4**. The cross council boundary elements of the ASAI will still have implications for this council area in terms of development management.

- **Policy HE2 – Creggandevosky – Area of Significant Archaeological Interest** including its **justification and amplification** text

HED consider the policy as worded to be unsound in that it fails **Consistency test (C3)**.

We advise that our suggested amendments will enable the draft policy to become sound.

HED advise that the policy does not align with **SPPS** notably **6.29** in its specification of the rationale for the designation of the ASAI, and that the rationale outlined makes the policy unsound.

➤ **Policy HE2 – Creggandevesky – Area of Significant Archaeological Interest**  
HED suggested correction to make the policy sound: See SPPS 6.29 as to the rationale for designating ASAI. In order to align with the SPPS rationale the first paragraph should be amended to read

HED suggested policy correction(s):

**An Area of Significant Archaeological Interest (ASAI) has been designated, incorporating the wider landscape around Creggandevesky court tomb, which contains a large group of prehistoric sites and monuments with discrete and overlapping settings.**

HED advise that our Statement of Significance identified those types of development we consider are likely to adversely impact on the ASAI. We advise that the policy wording of the third paragraph before the bullets should be articulated as

HED suggested policy correction(s):

**Development that would have the potential to adversely impact the distinctive qualities of the archaeological remains and historic landscape include:**

We advise that the map referred 1.21 to only shows that part of the ASAI in the Mid Ulster Council area. The context of the designation is very much lost in this depiction which we believe unsound in relation to **C4** and we advise that for completion **the full extent of the ASAI should be indicated** as this landscape predates modern boundaries. It would demonstrate a clearer understanding of transboundary issues with the Fermanagh and Omagh council area.

- **Policy HE3 Tullaghoge Area of Significant Archaeological Interest including its justification and amplification text**

HED consider the policy as worded to be unsound in that it fails **Consistency text (C3)**.

We advise that our suggested amendments will enable the draft policy to become sound.

HED advise that the policy does not align with **SPPS**, notably **6.29** in its specification of the rationale for the designation of the ASAI, and that the rationale outlined makes the policy unsound.

Note: There are several different spellings of Tullaghoge being used in the policy text, which is not useful in terms of clarity and consistency. We recommend adhering to one spelling, - in relation to the ASAI HED advise that this should be "**Tullaghoge**" to accord with the Statement of Significance and the State Care monument. It is also the spelling used on the

Council's website in relation to tourism promotion, and the spelling which HED have previously agreed with the council in relation to the promotion of the State Care monument.

➤ **Policy HE3 Tullaghoge Area of Significant Archaeological Interest**

HED suggested correction to make the policy sound. See SPPS 6.29 as to the rationale for designating ASAI. In order to align with SPPS rationale and make the policy sound the first paragraph should be amended to read.

HED suggested policy correction(s):

**An Area of Significant Archaeological Interest (ASAI) has been designated incorporating a particularly distinctive area of historic landscape around Tullaghoge Fort, containing a number of sites and monuments with discrete and overlapping settings.**

HED advise that our Statement of Significance identified those types of development we consider are likely to adversely impact on the ASAI. We advise that the policy wording of the third paragraph, before the bullets should be articulated as:

HED suggested policy correction(s):

**Development that would have the potential to adversely impact the distinctive qualities of the archaeological remains and historic landscape include:**

- **Policy HE4 –Archaeological Remains of Regional Importance and their Settings including its Justification and Amplification text**

HED consider that the policy and justification text as worded is unsound and fails the **Procedural test (P2), Consistency test (C3) and Coherence and effectiveness test (CE2)**. This policy is not sound.

There is no consideration in the policy text as to what actually constitute Archaeological Remains of Regional Importance as per **SPPS** notably **6.8**. The draft policy also implies in the second sentence that all "archaeological remains and their settings (of all types, both identified and unidentified) will be preserved in situ". The focus of this policy should specifically be on remains of Regional Importance. See also our comments on SA/SEA. The amplification doesn't take sufficient account of relevant evidence in PPS6 and legislative provisions in relation to scheduled monument consent.

➤ **Policy HE4 –Archaeological Remains of Regional Importance and their Settings**

HED advise that the policy should be worded as follows to make it sound.

HED suggested policy correction(s):

**Development proposals which would adversely impact upon archaeological remains of regional importance or the integrity of their settings will conflict with the Plan. These sites (or constituent parts of them) benefit from statutory protection.**

Development will only be permitted in exceptional circumstances where it is demonstrated that the proposal is of overriding importance to Northern Ireland.

➤ **Policy HE 4 – Justification and Amplification (hereafter referred to as justification text)**

We advise that the justification text also be amended

Item 17.21 – Should be amended to take account of ASAI as per SPPS 6.8. HED advise amending the second sentence to read.

*Item 17.21 - ...Regionally important remains include state care and scheduled monuments, Areas of Significant Archaeological Interest, and other important sites and monuments which would merit scheduling.*

Item 17.24 - HED advise to improve the clarity of the policy that reference should be made to the need to discuss proposals affecting scheduled monuments with DfC Historic Environment Division, and that a footnote should be inserted after Scheduled Monument Consent to indicate the relevant legislative context which is entirely separate to the Planning Act. There is in no presumption in favour of sustainable development with regard to Scheduled Monument Consent. A development affecting a scheduled monument may not proceed lawfully without first having this consent in place.

HED advise that the paragraph should be re worded as follows.

*17.24 - Development which would affect a scheduled monument requires Scheduled Monument Consent<sup>1</sup>. In the first instance, applicants considering proposals that may require Scheduled Monument Consent should contact DfC Historic Environment Division to establish if scheduled monument consent will be achievable. Evidence of a grant of scheduled monument consent will be required to allow determination of planning permission.*

- **Policy HE5 - Archaeological Remains of Local Importance and their Settings, including its Justification and Amplification text**

HED advise that the Justification and amplification text for this policy is unsound in that it fails to meet **Consistency test (C3)** and **Coherence and Effectiveness test (CE2)**

While the actual policy wording for HE5 is sound the associated justification and amplification text is not and demonstrates a poor understanding of the policy and the evidence base. See also our comments in relation to SA/SEA which highlight problems in consideration of evidence base.

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<sup>1</sup> Scheduled Monument Consent is required under the provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995

Item 17.26 - The examples given of monuments of local importance include three State Care Monuments - This is very concerning and displays a very apparent lack of understanding of the policy application and the historic environment evidence base. These are sites of regional importance, not local. HED advise that in order to make this paragraph sound the references to these monuments should be removed.

- **Policy HE 6 – Areas of Archaeological Potential, including its Justification and Amplification text**

HED advise that the policy wording here while sound is very rigid could be made more flexible in line with soundness test CE4. We also have concerns that it fails to meet **Procedural Test (P2) and Coherence and Effectiveness test (CE2).**

HED are uncertain at this point as to why the council have opted to frame a specific policy around Areas of Archaeological Potential. This wasn't put forward at preferred options and is a new policy approach. Please see also our comments in relation to the poor understanding of AAPs which is demonstrated in the SA/SEA. We advise that the proposal to require all developers in these areas to submit an archaeological assessment or evaluation would have the potential to stifle development. The need for such work should always be determined through liaison with the statutory consultees in HED as it may not always be necessary.

- **Policy HE 6 – Areas of Archaeological Potential**

If the council are minded to include a policy on AAPs it should be worded as follows to achieve soundness. In terms of running order we advise that this policy would sit most logically after our suggested amended Amplification text for Assessment and Evaluation.

HED suggested policy correction(s):

**Areas of Archaeological Potential (AAP) are highlighted within the historic cores of our towns and villages where it is likely, on the basis of current knowledge, that archaeological remains will be encountered in the course of continuing development and change.**

- **Policy HE 6 – Justification and amplification text**

Item 17.28 – This should be dropped as it would basically repeat the above policy text,

Item 17.29 - Should be reworded to name **DfC Historic Environment Division** as the relevant central government Department. This amplification text might be actually better used within the policy content. We consider that it would align better with requirements of CE4

Note: HED is aware of the recent movement and name change of the Division within Departments, and as an alternative council may wish to use **statutory body** in-lieu of 'central government Department'

- **Policy HE 7 - Archaeological Assessment, Evaluation and Mitigation, including its Justification and Amplification text**

HED advise that this policy and amplification text is unsound in that it fails to meet the **Procedural test (P2), Consistency test (C3 and C4) and Coherence and Effectiveness test (CE2).**

HED must advise that we have repeatedly communicated our significant concerns about the council's approach to amalgamating these strategic policies since Preferred Options Stage and most recently in correspondence dated 30.07.2018, attached. We are very concerned that our expert input does not appear to have been sufficiently taken into account in evidence and highlight that the drafted policy, the amplification text and the sustainability appraisal continue to highlight a lack of understanding and expertise as to what these strategic policies are for, and how they operate. The draft policy does not take sufficient account of strategic policies **SPPS** notably **6.10** and **6.11**, or of relevant policies and amplification text in PPS6 BH3 & BH4, and therefore does not align with the preferred option of retaining the policies. The Sustainability Appraisal for the draft Plan Strategy (See our separate comments) implies a misinterpretation of the policies in their assessment in that it articulates that Evaluation and Assessment will be required by way of planning conditions, and it fails to take sufficient account of our comprehensive comments on the problems of this policy approach. The SA/SEA is not sufficiently robust and does not justify the policy direction taken.

HED advise that the existing policy text should be removed and amended to frame two distinct policies, as per **SPPS 6.10** and **6.11**. SPPS 6.10 aims to seek further information to inform a planning decision. SPPS 6.11 is about mitigating the impacts of a planning decision through conditions (One is a policy to enable the decision making and one is a policy for post-decision conditions). The impression given in amalgamation in the draft approach is that the understanding of those drafting the policy is that both items simply relate to excavation work and should therefore should be treated as one. This would be a very worrying interpretation of strategic policy and HED would question what archaeological expertise has been utilised in proceeding on this policy line, against comprehensive advice from the statutory consultee

- **Policy HE 7 - Archaeological Assessment, Evaluation and Mitigation**

In order to achieve soundness HED advise that the draft policy should be framed as follows. There must be clarity and distinction between the two elements as per SPPS 6.10 and 6.11 and the text must align with Strategic Policy to ensure adequate protection and mitigation. If the Council insist on having both items within one policy box there should be clear item distinction as follows.

HED suggested policy correction(s):



**a)** Where the impact of a development proposal on archaeological remains is unclear, or the significance of such remains is uncertain, applicants will be required to provide **further information by way of an archaeological assessment or evaluation**. If an applicant fails to provide the necessary information planning permission will be refused.

**b)** Where the council grant planning permission for development of sites **known or likely to contain archaeological remains, it will ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development. Where appropriate this may involve preservation of remains in situ, or a licensed excavation<sup>2</sup>, recording, examination and archiving of the archaeology by way of planning conditions**.

HED advise that these corrections are essential to make the policy approach sound, and to align with the requirements of distinctive strategic policy as per SPPS.

- **Policy HE 7 – Justification and Amplification (hereafter referred to as justification text)**

#### **Assessment**

Items 17.31 - 17.35 - HED advise that the text of these paragraphs is unsound, confusing and contains inaccuracies around its explanation of excavation licensing and an implication that the council will require to see an excavation licence. A completed excavation report might be more useful in ensuring that planning conditions have been met. The text really misses the key point that the strategic policy on evaluation and assessment is about resolving uncertainty. To make it sound it should be removed and clarification paragraphs should be added in along the following lines.

*New Item - Prospective applicants need to take into account archaeological considerations and should deal with them from the beginning of the development management process. It is in the developers interests to establish whether a site is known or likely to contain archaeological remains as part of their assessment of its development potential, prior to submitting a development application. A good first step is to visit the DfC Historic Environment Division website, which provides online mapping in relation to the historic environment. Informal discussion with HED will also help provide advice in relation to the archaeological sensitivity of a site.*

*New Item - In certain cases the council may use its powers under the Planning Act (NI) 2011 to request further information in the form of an archaeological assessment or evaluation. These can help determine the importance, character and extent of any archaeological remains that may exist in the area of a proposed development and indicate the weight which should be attached to their preservation. They will also provide information that may be*

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<sup>2</sup> Archaeological excavations may only be carried out under the provision of a licence granted by the Department for Communities, Historic Environment Division, under the provision of the Historic Monuments and Archaeological Objects (NI) Order 1995

useful in developing options for minimising or avoiding damage. Such information will enable the council to make an informed and reasonable planning decision.

### **Mitigation**

HED advise that the justification text for *Mitigation* demonstrates a poor understanding of the application of this policy. It is muddled and unclear and is unsound as per the reasons highlighted in our introductory discussion of this draft policy.

e.g. 17.36 implies mitigation only to be considered after assessment carried out?

HED advise that wording amplification text along the following lines would be sound clarification and amplification to policy for archaeological mitigation. Delete current text for 17.36 and replace as follows with additional item.

item 17.36 - In some cases it will be possible to permit development proposals which affect archaeological remains, provided appropriate mitigation measures are in place which preserve the remains in situ in the final development, or ensure excavation, recording and archiving, prior to their destruction. Mitigation may involve design alterations to ensure preservation of remains, which is always the preferred option (e.g. open space). Alternatively there will be occasions where archaeological remains are of lesser importance, where the value of the remains is not sufficient when weighed against all other material considerations, including the importance of the development, to justify preservation in situ. In these cases developers will be required to prepare and carry out a programme of archaeological works, working to a brief detailed in HED statutory consultation responses and advice.

Insert New Item - Offers of facilitation of excavation by developers will not justify a grant of planning permission for a development which would damage or destroy archaeological remains whose physical preservation is desirable because of their importance, and feasible.

### **Unexpected Archaeological Discoveries**

HED welcome that this matter is being addressed in the policy suite but would suggest the following corrections to make the policy text sound, and to facilitate and clarify the reporting process for these discoveries.

17.38 - Discovery of previously unknown archaeological remains can result in a material change which could affect the nature of the development permitted. Occasionally archaeological remains are only discovered once development commences. In such circumstances it is a statutory requirement that these are reported to HED<sup>3</sup>.

17.39 - On rare occasions the importance of such remains may merit scheduling, in which case the developer would need to seek separate scheduled monument consent before they continue work. In most cases it should prove possible for differences to be resolved through voluntary discussion toward agreement of a mitigation strategy for a satisfactory compromise

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<sup>3</sup> The Historic Monuments and Archaeological Objects (NI) Order 1995 requires the reporting of the discovery of any archaeological object.

*to be reached. Applicants should consider the potential need for a contingency plan to deal with unexpected archaeological discoveries.*

HED recognise that we have drafted significant suggested corrections to the draft plan strategy policies on archaeology above, but we must emphasise that our concerns are significant and that we have articulated these changes in order to make the policies sound.

- **Policy HE 8 – Registered Historic Parks, Gardens and Demesnes**  
including its **Justification and Amplification** text

HED consider the policy fails the **Consistency test (C1 and C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **RDS RG11**, notably **3.30** and **SPPS**, notably **6.17**, and representations made by HED from the evidence base provided to date.

HED consider the suggested amendments will enable the draft policies to become sound.

- **Policy HE 8 – Justification and Amplification text**

Editorial error: Item 17.43 – there is an unnecessary bullet point adjacent to the word *character* (4<sup>th</sup> bullet not required).

HED suggested correction(s):

*Item 17.45 – Where a decision is taken to permit development....we will require developers to carry out accurate recording of distinctive features that will be lost as a result of the development by way of planning conditions. The developers will work to a brief agreed by Council, in liaison with Historic Environment Division.*

- **Policy HE 9 – Change of Use, Alteration or Extension of a listed Building**, including its **Justification and Amplification** text.

HED consider the policy fails the **Procedural test (P2)**, **Consistency test (C1 and C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **RDS RG11**, notably **3.30**, **SPPS**, notably **4.26**, **5.9**, **5.16**, **6.4 (first bullet)** **6.12** **6.13** and **6.21**, and representations made by HED from the evidence base we have provided to date.

HED consider the suggested amendments will enable the draft policies to become sound.

➤ **Policy HE 9 – Change of Use, Alteration or Extension of a listed Building**

The policy, acknowledged by its title, only consider works directly attached to a listed building. This is reinforced by the two paragraphs. Notably the second paragraph could be argued to be referring to extensions to a listed building only, as any new development, i.e. extension, even when guided by the policy criteria of scale, massing, and alignment, impacts the setting of a listed building.

Setting of listed buildings would be given little weight in an appeal scenario as reference to it has been omitted from the policy heading (headnote) which would likely be given greater weight.

The wording '**accord with the plan**' is weak and should be strengthened to set a clear presumption for policy decision making, e.g. permission shall not be granted.

HED suggested policy correction:

(new policy title) **Policy HE 9 - Listed Buildings and their Setting**

Policy text: Policy wording lacks significant detail or clarity and is likely to cause confusion and uncertainty in relation to proposal affecting listed buildings. HED deem it vague and open to wide misinterpretation, providing weaker protection than currently afforded under SPPS and PPS6 and not in alignment with RDS. HED consider this policy does not adhere to the council's strategy statement in relation to the Historic Environment (pg.144). Nor does the policy adhere to the preferred option given in the POP.

HED consider the policy wording must include the wording protect, conserve and enhance the listed building, rather than limiting its inclusion to the justification and amplification section.

The policy merges a number of different and differing policies expressed separately within both SPPS and PPS6. While HED acknowledge the direction of SPPS towards amalgamation of policies (from PPS6) within 6.13, i.e. BH8 – alterations or extension, BH11 – setting issues and BH7 – changes of use, we have serious concerns around the potential this has to change emphasis and create significant confusion in the approach to the protection of listed buildings. Leading to contravention of legislative protections and failure to meet obligations under international conventions on the protection of archaeology and built heritage.

We highlight the existing policies within PPS6 as outlined below for listed buildings have a structure which is important in their application and reflects the different levels of protection which, heritage assets are afforded, examples as are set out below:

- Policy BH7 is concerned with the type of use of a listed building only, which encompasses a principle of conservation – sustainability. Applications for Listed Building Consent may not be required for this type of application unless the proposal required material changes to the buildings fabric. In which case the requirements of BH8 must be met.

- Policy BH8 is concerned with the proposed extension and/or alternation of a listed building and may have an effect on the buildings essential character and significance and therefore listing status. Any alteration to the historic fabric and/or spatial layout of the building requires Listed Building Consent (LBC).
- Policy BH11 is concerned with development affecting the setting of a listed building. This normally involves new build, its detailed design and its proximity/juxtaposition to the listed building. The consideration of BH11 complement but are different to those of BH8. An application for LBC may not be required for this type of application.

Should merging policies, in acknowledged alignment with SPPS, be considered HED consider it necessary to express the differences as set out above within a policy hierarchy structure.

HED is concerned there is no use of the words 'special', 'height' or 'detailing' of any development impacting the listed building. HED consider inclusion of such wording as critical to enable a policy test to be established. We strongly advise their inclusion here, especially as we can see no reason for their exclusion, as they are noted in other policies within the document over and above annotation in GP1, e.g. CT1 and UD1.

HED is concerned with the use of the phrase 'loss of key views'. While, HED acknowledge that the loss of keys views is an appropriate consideration. In relation to heritage assets, notably designated heritage assets, the setting it not limited to an impact on a view or views. This is a limited interpretation of the important development of how our heritage assets relate to their setting in terms of how the heritage asset is seen, understood, experienced or enjoyed. This is a stronger policy test than currently proposed within this policy. (HED document - Guidance on Setting and the Historic Environment).

Term use within policy text:

See comments above regarding inclusion of necessary wording to aid clarity around proposals meeting a policy test.

HED consider the use of the term 'development' in the policy text as inappropriate, as not all change of use or alterations to a listed building result in 'development'. Suggested change: omit **development** add in-lieu **proposal**

HED suggested corrections to policy text:

HED's preferred option would be to have separate sub-sections for the following criteria/topics and lettered/numbered for clarity;

**(a) Change of use; (b) Alterations and extensions; and (c) Development in the setting of a listed building**

Such an approach would provide soundness to the policy approach.

HED suggested policy correction(s):

**Policy HE 9 – Listed Buildings and their Setting**

**Works will only accord with the plan where the proposal protects, conserves and where possible enhances the listed building and its setting.**

- a) Change of use:
  - i. Change of use of a listed building will only accord with the plan where the proposal secures the upkeep and survival and the essential character and special architectural or historical interest of the building; and
  - ii. Proposals for a change of use should incorporate details of all intended alterations to the building and its curtilage to demonstrate their effect on its appearance, character and setting; and
  
- b) Alterations and extensions:
  - i. Alterations and extension of a listed building will only accord with the plan where the proposal protects, conserves and where possible enhances the building and its setting; and
  - ii. The essential character and setting of the existing building are retained and its special features or special interest remain intact and unimpaired; and
  - iii. The architectural details use quality materials and techniques (traditional and/or sympathetic) which are in keeping with the building; and
  
- c) Development in the setting of a listed building:
  - i. Development affecting the setting of a listed building will only accord with the plan where it is sympathetic to the essential character of the listed building in terms of scale, massing, height, proportion and alignment; and
  - ii. The proposal will not result in the loss of how the listed building is understood, seen, experienced or enjoyed; and;
  - iii. The nature of the use proposed respects the character of the setting.

➤ **Policy HE 9 – Justification and Amplification (hereafter referred to as justification text)**

HED consider the justification text is unsound, as it does not assist in clarifying the meaning of the policy or the decision making process in relation to works impacting a listed building or its setting. As stated above, 'development in the setting of a listed building' is not protected under the current policy text or test.

HED suggest the following corrections and/or additional text to make the policy and its clarification text to take sufficient account of the evidence base, notably SPPS and PPS6.

HED suggested additional and/or correction text:

Item 17.46 – Last sentence, the word *maintained and secured* should be omitted and changed to protected and conserved. *Maintained* is a word associated with Areas of Townscape Character (SPPS 6.21), and therefore a lesser policy test for works affecting listed buildings.

HED suggested correction: "...*Encouraging use of buildings is a key means of securing its upkeep/retaining the building thereby ensuring that it is protected and conserved.*

Item 17.47 – HED welcome the inclusion of the last sentence of this item.

Item 17.48 – The word ‘*encouragement*’ should be omitted. The word ‘*encouragement*’ is emotive and not a policy test nor does it aid or clarify the decision making process for applicants, agents or other 3<sup>rd</sup> parties. The word *consideration* should be used in-lieu as this word has significant clarity and understanding in the determination of planning policies. In addition, the structure of the opening statement does not clarify the importance of the subsequent bullet points.

1<sup>st</sup> bullet; is out of step with sound conservation principles, from which the 1<sup>st</sup> and 2<sup>nd</sup> bullet points appear to have derived from, e.g. minimum intervention, maximum retention, clarity, reversibility and sustainability .

Clarity is required as to what is meant by the term ‘*minimum intervention techniques for repair.*’ HED suggest this phrase should be omitted. Sound conservation works would seek to ensure that ‘appropriate techniques’ are used in the repair of heritage assets. The word *renovation* is to be omitted. The word ‘renovation’ has a particular connotation in the field of conservation practice, renovation refers to making something look like new and is inappropriate in the policy context.

HED suggested correction: “*In assessing development proposals positive consideration will be given where proposals indicate the following:*

- *minimum intervention and maximum retention of the historic fabric is retained; and*
- *reversibility and appropriate adaptability.*

Item 17.49 – HED welcome the inclusion of this item. For clarity HED consider it may be prudent to state that Design and Access Statements (DAS) are required to be submitted with all Listed Building consent applications.

HED suggested additional and/or correction text for considering change of use to a listed building:

*Insert new item - The impact of the proposed new use to the established character of the building and the surrounding area will be assessed. The aim should be to identify the best viable use that is compatible with the fabric, setting and character of the building.*

HED suggested additional and/or correction text for considering extensions and/or alterations to a listed building:

*Insert new item - Many listed buildings can tolerate some degree of thoughtful alteration or extension to accommodate continuing or new uses. However, some listed buildings are subject to successive applications for alteration or extension. In such cases council will be mindful that minor works, which may seem individually of little significance, can cumulatively reduce a listed building’s special interest.*

*Insert new item – In determining the effect of any alternation or extension the council, with the statutory consultee, will assess the elements that make up the special interest of the listed building and its setting. This may comprise not only the obvious visual features such as decorative facades and its setting or, internally, staircases or decorative plaster ceilings,*

but also the spatial layout of the building, the archaeological or technological interest of the surviving structure and the use of materials.

Insert new item - Where a building forms part of an architectural group, for example part of a terrace, then it may not be possible to make even minor external alterations without disrupting the architectural unity of the group.

HED suggested additional and/or correction text for considering the setting of a listed building:

Insert new item – The setting of a listed building is often an essential part of a buildings' significant character. Therefore, the design of the new buildings to stand alongside heritage assets is particularly critical. The extent to which proposals will be required to comply with the criteria will be influenced by a variety of factors: the character and quality of the listed building; the proximity of the proposal to it; the character and quality of the setting; and the extent to which the proposed development and the listed building will be experienced in juxtaposition; and how the setting of the heritage asset is understood, seen, experienced and enjoyed and the impact of the proposal on it.

HED consider the inclusion of the new items above will ensure greater clarity is provided for the intention of the policy and provide appropriate policy tests in determining an application.

- **Policy HE 10 – Demolition of a listed Building, including its Justification and Amplification text.**

HED consider the policy fails the **Procedural test (P2), Consistency test (C1 and C3) and Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **RDS RG11**, notably **2.10 (notably 6<sup>th</sup> bullet), 3.30, SPPS**, notably, **5.16, 6.4, 6.12 and 6.15**, and representations made by HED from the evidence base we have provided to date.

HED consider the suggested amendments will enable the draft policies to become sound.

- **Policy HE 10 – Demolition of a listed Building**

HED has a major concern with this policy and we deem it to be unsound.

The policy must enshrine there will be a presumption in favour of retaining listed buildings over their demolition. The policy also must state where listed buildings cannot be retained, in exceptional circumstances, consent to demolish will only be granted on condition with prior agreement for the redevelopment of the site. The wording of the current policy also fails to acknowledge the requirement for recording the listed building prior to any demolition, part and/or whole.



The second half of the first sentence is worded in such a way that the “**exceptional reasons**” for retaining a listed building can be superseded by the inclusion of the word “**or**” thereby enabling “**structural integrity**” to be used to enable demolition. Demolition of listed buildings is seldom necessary for sound planning reasons, rather it is often the result of neglect for an owner(s). If reference to structural integrity is sought by council, it should be set with the justification text.

There are opportunities to provide a strong and clear policy around demolition of listed buildings by removing the word ‘normally’ as set out in SPPS 6.15.

HED consider the last sentence of the policy should be omitted, as it could be argued that the policy would favour partial demolition arguments.

HED suggested policy correction:

**There will be a presumption in favour of retaining listed buildings. Proposals involving the total demolition of a listed buildings, ...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 for the recording of the building prior to demolition.**

➤ **Policy HE 10 – Justification and Amplification (hereafter referred to as justification text)**

HED consider the justification text is unsound, as it does not assist in clarifying the meaning of the policy or the decision making process in relation to works impacting a listed building or its setting.

Editorial error: items 17.50 to 17.52 are missing the sub heading ‘justification and amplification’

Item 17.50 – to ensure soundness with SPPS this item must be included in the main policy text, see comments above.

Item 17.51 – there is an opportunity to provide greater clarify around the determining of demolition of listed buildings within the bullet points provided.

HED suggested additional and/or corrective text:

1<sup>st</sup> bullet – a structural engineer report to ascertain structural soundness. Evidence will be required to indicate alternative options for stabilisation of the existing structure have been considered in efforts to retain the listed building. Reports submitted for consideration on the integrity of the building, including structural integrity, must be submitted by suitably experienced engineers, architects, building surveyors and so on, e.g. in conservation. Structural issues will not be given substantive weight when making a case of demolition where these have arisen due to neglect of a listed building through lack of maintenance or failure to secure by current or previous owners.

3<sup>rd</sup> bullet – A detailed Economic Report on costings of schedule of repair work. Consent will not be given simply because redevelopment is economically more attractive to the applicant than repair and re-use of the listed building. In rare cases where it is clear that a listed building has been deliberately neglected in the hope of obtaining consent for demolition, less weight will be given to the costs of repair.

Item 17.52 – HED welcome the inclusion of this item. However, due to the (current) limited number of formal accredited conservation engineers council may wish to expand this item.

HED suggested additional and/or correction text:

Applicants are advised in carrying out structural assessments to employ the service of an accredited conservation engineer or structural engineer or building surveyor with suitable experience in working with heritage assets.

Insert new item – Demolition of a listed building will not be considered in isolation from proposals for subsequent redevelopment. The council will request applicants to submit detailed drawings illustrating the proposed redevelopment of the site to accompany a listed building consent application for demolition.

Insert new item – The onus will be on the applicant to demonstrate and justify the need for demolition. (as per inclusion within item 17.65)

HED recognise that we have drafted significant suggested corrections to the current draft policy, almost a complete rewrite in places, but we advise we have articulated these changes in order to make the policy sound.

- **Policy HE 11 – Advertisement on a Listed Building or Structure including its Justification and Amplification text**

HED consider the opening sentence of the policy fails the **Consistency test (C3)** and **Coherence and effectiveness test (CE2)**. The policy is not sound.

HED consider the policy to be unclear as it does not take sufficient account of **SPPS** notably **4.26** and **6.14**, and representations made by HED from the evidence base provided to date.

- **Policy HE 11 – Advertisements and the Historic Environment**

**Policy** – HED seek minor amendments to the wording within this policy to make it sound. The wording ‘**accord with the plan**’ is weak and should be strengthened to set a clear presumption for policy decision making, e.g. permission shall not be granted.

HED suggested policy corrections:

“Proposals which preserve the retention, reuse and repair of authentic historic fabric associated with an original advertisement, signage or shopfront will accord with the plan”.

Note: HED consider the text ‘struck through’ can be omitted from the text as its inclusion is not required to create a stronger policy test and/or policy clarity.

➤ **Policy HE 11 – Justification and Amplification (hereafter referred to as justification text)**

Item 17.54 – HED consider this item could be removed from this justification text as it does not assist in clarifying the meaning of the policy or the decision making process. This items might be better placed in the Overview section (17.1 – 17.4)

Item 17.58 – HED suggest wording change to the opening sentence of this item.

HED suggested correction:

*New advertisement or signage must meet the following criteria:*

(Subsequent bullet points amended accordingly)

*1<sup>st</sup> bullet point – (unaltered).*

*2<sup>nd</sup> bullet point – to be omitted, as it refers to the retention and repair of historic fabric – the sub-heading of the item is for new signage.*

*3<sup>rd</sup> bullet point – the advertisement must respect the character, appearance and historic fabric; particularly with regard to scale, size, complement the age, architectural style, use quality materials*

*4<sup>th</sup> bullet point – to be omitted, as it is covered by, pending HED suggested corrections to, item 17.48.*

*5<sup>th</sup> bullet point – The cumulative impact of new advertisements will not have an adverse impact on existing historic advertisements.*

*Insert new item – Many heritage assets are in commercial use and already display signs or advertisements of some sort. These in themselves may be of historic interest or of some artistic quality, and where this is the case the council will not normally permit their removal or significant alteration*

*Insert new item – Advertisement and/or signage should also be carefully located and should not obscure, overlap or cut into any architectural detailing or structural divisions of the building. These considerations will to a large extent dictate the scale of any signage*

*Insert new item - In most situations advertisement and/or signage displayed on listed buildings should not be illuminated. Where illumination is justified it should be achieved unobtrusively: light fittings mounted above and projecting forward of the sign will not normally be acceptable.*

*Insert new item – Projecting signs can often adversely affect the appearance and character of heritage assets and will therefore require very careful consideration. Where their presence*

is considered acceptable particular attention will be paid to size, design and materials.  
Signage on upper floors of buildings will not normally be acceptable.

Insert new item – Council refer to the legislative requirement for a Listed Building Consent application for any works to listed building which would affect its character as a building of special architectural and/or historic interest.

HED recognise that we have drafted significant suggested corrections to the current draft justification text, but we advise we have articulated these changes in order to make the policy sound.

- **Policy HE 12 – Designated Conservation Areas and their historic setting, including its Justification and amplification text.**

HED consider the policy fails the **Consistency test (C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **SPPS**, notably **4.26, 5.9, 5.16, 6.18** and **6.19**, and representations made by HED from the evidence base provided to date.

HED consider the suggested amendments will enable the draft policies to become sound.

➤ **Policy HE 12 – Designated Conservation Areas and their historic setting  
Development**

The opening sentence states “**Development which preserves and, where an opportunity to do so exists enhances, the historic character...**” SPPS states that managing development in a CA is to enhance its character, only preserving its character where the opportunity to enhance does not exist. The current policy wording is a lesser policy test than required under SPPS.

The wording ‘**accord with the plan**’ is weak and should be strengthened to set a clear presumption for policy decision making, e.g. permission shall not be granted.

The word **designated** can be omitted, as by legislation a conservation area is designated.

The policy text around **Development** lacks significant detail which relates to the now new development; alterations, extensions, change of use, new development in the setting and so on, can be integrated into a conservation area.

The policy text around **Demolition** lack significant detail which relates to what criteria will be required by any new development replacing the demolished unlisted building.

The policy text around **Advertisement and Signage** have missed an opportunity to create a stronger policy test in alignment with SPPS.

HED suggested policy correction(s):

**(a) “Development; including alterations, extensions, change of use and new buildings:**

**Development which enhances the historic character, appearance and heritage values of the conservation area and its historic setting, or preserves it where an opportunity to enhance does not exist, will accord with the Plan where all the following criteria are met:**

- i. The development respects the overall character and appearance of the conservation area by way of its scale, form, height, materials and detailing;**
- ii. Be sympathetic to the characteristic built form of the area;**
- iii. Does not result in environmental problems such as noise, nuisance or disturbance;**
- iv. Protects important views within, into and out of the area; and**
- v. Protects trees and other landscape features contributing to the character or appearance of the area.**

(Items i-v have been moved and edited from item 17.63)

**(b) Demolition**

- i. There is a presumption against demolition... and appearance of the conservation area; and where it is demonstrated that the new building enhances the character or appearance of the area**
- ii. Where consent for the total or part demolition of an unlisted building is granted, 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.**
- iii. Demolition Consent applications must... requested by the Planning Department.**

**(c) Advertisement and Signage**

- i. Consent for the display of advertisements in or close to a conservation area will only accord with the Plan where it would adversely affect the historic character, appearance, setting or which would be detrimental to public safety.**

HED recognise that we have drafted significant suggested corrections to the current draft policy, almost a complete rewrite in places, but we advise we have articulated these changes in order to make the policy sound.

➤ **Policy HE 12 – Justification and Amplification (hereafter referred to as justification text)**

HED consider the justification text is unsound as they do not consider the text as drafted does not assist in clarifying the meaning of the policy or the decision making process in relation to works impacting a conservation area.

HED welcome the inclusion of naming the current CAs within the council area. However, we consider their inclusion may be better placed in the 'overview' section rather than within the policy text as the list is subject to change due to potential additions and/or removals.

Items 17.59, 17.60, 17.61 and 17.62 all fall under the sub-heading of 'Development', which would suggest alignment with the sub-heading in the policy text. However, HED consider this section of text reads more of a pre-ambule about the conservation areas, rather than providing clarity or meaning to the policy text. HED therefore deem these items of text should be removed from under the sub-heading of 'Development'.

Item 17.60 – Opening sentence places the incorrect emphasis on the words *preserve* and *enhance* as set out in SPPS.

HED suggested correction: *"In order to conform with the Plan.....conservation areas must enhance, or preserve where the opportunity to enhance does not arise the historic character and appearance of the conservation area..."*

Item 17.60 – HED acknowledges that this 2<sup>nd</sup> sentence sets the tone of the character of a conservation area. However, we are unclear as to how the full sentence in its current format adds to clarity of the policy decision making process.

Item 17.61 – This item reads as a clear continuation of item 17.60, and therefore HED consider is not a stand-alone item.

Item 17.62 – HED consider this items is contradictory, i.e. outline planning applications will only be considered with detailed scaled plans. HED consider a clearer statement would be for council to specify only Full planning application submissions will be acceptable in conservation areas.

Item 17.63 – HED consider the bullet points are policy items, and should not be within the justification section of the text. Refer to our suggested amended draft policy HE 12.

Item 17.64 – HED welcome the inclusion of this item. HED note that more detail will be sought within the DAS for buildings within a conservation area than proposed for DAS relating to listed buildings. HED has concern with this approach as they are providing a greater policy test than required under SPPS and in addition, why seek a stronger policy test than currently required under draft policy HE 9. This has potential to create significant confusion in the hierarchy approach to the protection of our heritage assets. HED advise caution in retaining this approach under the conservation area policy without, as minimum, equivalent tests applied to the listed building policy HE 9.

*Insert new item – Designation as a conservation area puts the onus on prospective applicants to produce a very high standard of design, which respects the particular qualities of the conservation area.*

*Insert new item – Assessing development proposals in a conservation area include the appropriateness of the overall massing of the development, its scale (the expression of size*

indicated by the windows, doors, floor heights, and other identifiable units), its proportions and its relationship with its context. Development should be in harmony with, or complimentary to, its neighbours having regard to the adjoining architectural styles. It should also, as far as possible, fit into the “grain” of the conservation area, e.g. by respecting historic layout, street patterns or existing land form.

Insert new item – The use of materials generally matching those which are historically dominant in the area is important, as is the need for the development not to have a visually disruptive impact on the existing townscape.

Insert new item – Where new uses are proposed that these respect the unique character and general ambience of a conservation area, for example certain developments may adversely affect the character of a conservation area through noise, nuisance and general disturbance.

Insert new item – The development of new buildings and/or extensions in a conservation area should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. What is important is not that new buildings should directly imitate earlier styles, rather that they should be designed with respect for their context.

Insert new item - Where trees make an important visual, historic or amenity contribution to the area they should be retained.

Demolition:

Item 17.65 – HED welcome the inclusion of the last sentence within this items, i.e. *the onus will be on the applicant to demonstrate and justify the need for demolition*. HED query why such statement was not included in the justification text for demolition of listed buildings? HED suggest such a statement is included within the justification text of draft policy HE 10.

Item 17.67 – HED consider the opening sentence to this item should be placed under item 17.66.

Item 17.67 – HED query why within this section council is recommending applicants consider seeking PAD applications and to contact HED, for demolition of non-listed buildings in a CA, when the same recommendation has not been advised when an applicant is proposing to demolish a listed building? HED suggest this item is omitted or provided under both sets of policies for works impacting listed buildings and conservation areas for policy balance. Otherwise there is potential to create significant confusion in the hierarchy approach to the protection of our heritage assets.

Note: HED query if engaging in a pre-application discussion (PAD) process would be relevant in every instance in relation to the nature and scale of the application within a conservation area. HED also highlight reference to PADs are not mentioned elsewhere within any other policy suite, i.e. outside The Historic Environment, within the draft Plan Strategy document.

Advertisement:

Item 17.69 – wording emphasis of *preserve and, where possible, enhance*. SPPS states that managing development in a CA is to enhance its character, only preserving its character where the opportunity to enhance does not exist.

Reference to *listed buildings* can be omitted from this item as the policy relates to non-listed buildings in a conservation area.

HED suggested corrections:

*Item 17.69 – Mid Ulster's Council acknowledges that appropriate and sensitively designed outdoor advertisement and signage can be essential to commercial activity. However, it is important to enhance, and to preserve (only when the opportunity to enhance does not exist) the historic character and appearance of unlisted buildings and structures within or adjoining conservation areas. Consideration will be paid....*

*Insert new item - Particular regard will be paid to the scale and proportions of the sign, the materials used and whether it is illuminated. Signage on the upper floors of buildings and the internal illumination of signs will not normally be acceptable. Proposals for large advertisement hoardings or which would result in a proliferation of signs can seriously harm the character and appearance of a conservation area and will therefore normally be refused consent.*

HED recognise that we have drafted significant suggested corrections to the current draft justification text, but we advise we have articulated these changes in order to make the policy sound.

- **Policy HE 13 – Non-listed Historic Vernacular Buildings**, including its **Justification and amplification** text.

HED consider the opening sentence of the policy fails the **Consistency test (C1 and C3)**. The policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **RDS RG11**, notably **3.30** and **SPPS**, notably **4.26, 5.9, 5.16, 6.24** and **6.67**.

HED consider the suggested amendments will enable the draft policies to become sound.

- **Policy HE 13 – Non-listed Historic Vernacular Buildings**

HED consider this current text of the policy is unsound and fails to take sufficient account of the requirement to ensure no significance harm or loss is caused to the non-designated heritage asset.

The wording '**accord with the plan**' is weak and should be strengthened to set a clear presumption for policy decision making, e.g. permission shall not be granted.



HED consider the overall policy wording as confused, and open to misinterpretation. HED acknowledge the opening statement (1<sup>st</sup> paragraph) aims to set the bar for retaining non-listed historic vernacular buildings. However, we question the need for the sub-title **Conversion**. HED consider it could be omitted without a negative impact to the policy test.

3<sup>rd</sup> paragraph – HED suggest the word **proportionate** is omitted, as in the context of the policy text is emotive.

4<sup>th</sup> bullet point - HED consider further text is required to clarify the policy intent of this item.

Clarification is required as to what is meant by 'consultation with the appropriate competent body' (Final sentence/item within the policy text).

HED suggested policy correction(s):

**Development which seeks the preservation and, where possible, enhancement, through retention and appropriate conversion of an existing historic vernacular building of structure it will accord with the Plan.**

**Proposals which ensure the sustainable conversion, active reuse and repair of non-listed vernacular buildings or structures, will accord with the Plan.**

**Appropriate adaption of non-listed vernacular buildings or structures will be considered on the basis of the harm or loss to the significant heritage asset provided the following criteria are met:**

- i. **Maximise the retention of original historic fabric; through repairs, renovation or reinstatement;**
- ii. **Utilise minimum intervention work;**
- iii. **Proposed works use traditional and/or sympathetic building materials, craft skills and techniques;**
- iv. **Be appropriate and sympathetic to the historic vernacular character and appearance of the existing building, its curtilage and wider historic setting.**
- v. **Any new extension are sympathetic to the scale, massing and architectural style of the existing building and its setting.**

- **Policy HE 13 – Justification and Amplification (hereafter referred to as justification text)**

Item 17.72 – HED is concerned of the wording of this item and the potential for misunderstanding.

HED suggested correction:

*Where appropriate, council will engage with the Department of Communities, Historic Environment Division regarding applications impacting non-listed historic vernacular buildings.*

Insert new item – Council may give consideration to serving a Building Preservation Notice (BPN) where the nature of the building, its architectural or historic merit, is at risk of demolition or significant alteration.

Note: HED have major concerns that reference to Building Preservation Notices is only noted in the policy context for non-listed vernacular buildings. It is a discretionary power and not necessarily associated with a planning application.

From 1st April 2015, councils may serve a Building Preservation Notice (BPN), where it appears to a council that a building is of architectural or historic merit and is at risk of demolition or significant alteration. Therefore, HED recommend reference to BPNs should be removed from under this policy justification text, and inserted into the opening sections of the Historic Environment policy suite. The following link provides further details on BPNs. This guidance notice was published and made available to all councils from June 2017: [https://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/practice\\_guide\\_-\\_building\\_preservation\\_notice\\_complete-2.pdf](https://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/practice_guide_-_building_preservation_notice_complete-2.pdf)

Item 17.73 – HED welcome the inclusion of this item. The following link provides further details on Historic Buildings of Local Importance. This guidance notice was published and made available to all councils from June 2017: <https://www.communities-ni.gov.uk/publications/guidance-councils-historic-buildings-local-importance>

Insert new item – Proposals for conversion can be detrimental to the fabric and character of certain buildings. Therefore, the overall scale of the proposal and intensity of use must be appropriate to the architectural or historic interest of the building.

Insert new item – schemes which involve substantial demolition or extensions which significantly alter the appearance or character of the building will not accord with the Plan.

HED recognise that we have drafted significant suggested corrections to the current draft justification text, but we advise we have articulated these changes in order to make the policy sound.

- **Policy HE 14 – Areas of Townscape / Village Character** including its justification and amplification text.

HED consider the policy fails the **Consistency test (C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **SPPS**, notably **5.9** and **6.21**.

HED seek minor amendments to the wording within this policy to make it sound.

➤ **Policy HE 14 – Areas of Townscape / Village Character**

The wording 'accord with the plan' is weak and should be strengthened to set a clear presumption for policy decision making, e.g. permission shall not be granted.

HED suggested policy correction:

HED consider the sub-headings and the paragraphs within each sub-heading should be lettered and/or numbered for clarity. (See HED suggestions within draft policy HE 9 or HE 12 for reference)

HED consider the inclusion of the word **should** is a lesser policy test than words such as **must, shall, will** and so on. HED acknowledge that the word **should** is used with SPPS item 6.23. However we consider there is an opportunity to create a stronger policy text.

HED suggested policy correction(s):

**b) Demolition**

- i. There will be a presumption in favour of retaining an unlisted historic building or structures, including streetscape details, which makes a material contribution to the distinctive character of the ATC/AVC.
- ii. Demolition of an unlisted historic building or structure, including streetscape details, will only be considered where it makes no contribution to the distinctive character or appearance or local historic interest. In such cases, demolition consent will only be considered if a full planning application is submitted.

**c) Advertisement and Signage**

- i. Consent for the display of an advertisement in an ATC/AVC shall only be granted where the overall character and appearance of the area will be maintained or enhanced.

➤ **Policy HE 14 – Justification and Amplification (hereafter referred to as justification text)**

*Item 17.74 – areas of townscape and village character are identified in the local policies plan (LPP). The LLP will provide appropriate local topic based policy guidance in relation to the design matters which must be taken into account when formulating any development proposal type, i.e. alterations, extensions or new development.*

*Insert new item – The design, scale, massing and finishes of any development proposal shall maintain or enhance the distinctive character of the ATC/AVC.*

• **Policy HE 15 – Industrial Heritage Assets including its Justification and Amplification text.**

HED welcome the provision of a policy around protecting industrial heritage assets. However, HED consider both the policy and justification text lacks significant detail which

relates to how development; alterations, extensions, change of use of the heritage asset or new development in their setting, will be considered against the protection of the heritage asset. HED deem it vague and open to wide misinterpretation.

- **Policy HE 16 – Local Landscape Policy Areas including its Justification and Amplification text.**

HED consider the opening sentence of the policy fails the **Consistency test (C3)**. The policy must be made sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **SPPS**, notably **6.29**.

- **Policy HE 16 – Local Landscape Policy Area**

HED have concern with the terminology used within the policy text, notably **environmental and heritage values**. HED suggest changes to ensure consistency of terms across the overall draft Plan strategy document, e.g. HED consider the referral to “**visual amenity**”, and this is not sound as it is focused on the visual appearance only.

The wording ‘**accord with the plan**’ is weak and should be strengthened to set a clear presumption for policy decision making, e.g. permission shall not be granted.

HED suggested correction: **Development within LLPAs will accord with the plan providing it does not adversely impact the intrinsic environmental and heritage assets and amenity value, and historic landscape character within it.**

- **Policy HE 16 – Justification and Amplification (hereafter referred to as justification text)**

Item 17.79 – The focus of this text relates to the *visual* significance of areas of LLPAs. Refer to our comments around HE 9 (setting) and how the character of LLPAs also includes how it is understood, experienced and enjoyed. In addition, the current wording does not allow for the protection of underground archaeological sites and monuments. HED consider the word *visually* must be removed.

HED suggested correction:

*Item 17.79 - Most of our settlements or features adjoining settlements have defining natural and man-made landscape features worthy of protection from inappropriate or insensitive development...*

- **(Missing) Policy – Enabling Development including its Policy Justification and Amplification text.**

HED consider the lack of an Enabling Development policy is a significant major concern and fails the **Procedural Test (P2)** and **Consistency test (C3)**.

The approach within the draft Plan Strategy is not sound.

HED consider the lack of a policy does not take account of **SPPS**, notably **5.9, 5.16, 6.25** and **6.26**.

HED suggested correction:

Council must provide an Enabling Development policy, refer to SPPS, item 6.25 and PPS23 for guidance.

### **General comment around the consistency of terms:**

HED highlight the importance of ensuring consistency of terms around the historic environment. Within the document there is reference to terms such as; 'built conservation' (item 15.6), 'built heritage assets' (15.17), 'historic assets' (15.21, 15.31) and 'cultural heritage' (15.24, 17.26, 18.31). HED highlight terminology consistency is critical to ensure alignment with national, regional and local guidance. The term "Historic Environment" is more meaningful in relation to these existing and future policies as it reflects the full suite of heritage assets, including for example archaeology, listed buildings and designed landscapes. Whereas as the terminology "built heritage assets" has a much wider array of meanings and interpretations.

HED recommend the following terms are omitted with proposed appropriate terms;

<u>Omit</u>	<u>add in-lieu</u>
Built conservation	historic environment
Cultural heritage	historic environment
Built heritage assets	heritage assets
Historic assets	heritage assets

Refer to our comments of the Glossary of Terms in relation to the definition of Historic Environment and Heritage Asset.

## **4.0 – Growth Strategy and Spatial Planning Framework**

Page 47-53. Maps 1.2, 1.3, 1.4, 1.5 and 1.6 HED have concerns around the soundness (CE2) of the approach to zoning these areas for development. While we note reference to some of our site specific comments in SA we do not clearly see evidence which clearly illustrates the landscape assessment methodology by which the zones were defined/refined and how the historic environment bases were used in such a process. See our comments in the relation to Sustainability Appraisal. We consider in the absence of such evidence that the zonings are unsound.

## **6.0 – General Principles Planning Policy**

Item 6.9 – the 3<sup>rd</sup> sentence states the criteria of the Policy GP1 is not an exhaustive list of material considerations. However, the policy headnote conflicts with this statement, and HED consider does in fact provide a defined list of material considerations as it make no reference to the precautionary principle within the policy text.

## **8.0 – Housing in the Countryside**

HED is significantly concerned with the policy for development in the open countryside and the significant potential the policies could have to enable inappropriate development with limited options for ensuring inappropriate development is not granted.

The landscape and natural heritage are inseparable from the historic environment and forms the immediate and wider rural setting of heritage assets. The historic environment and the setting of heritage assets often shares common pressures and strengths with landscape and natural heritage with regard to sensitivity to development, and conversely, providing important habitats and biodiversity. The potential for negative impact to the historic environment will impact the local identity and distinctive character of an area.

We are concerned at the large number of available options for seeking to gain approval, notably for dwellings, in the council area.

HED is significantly concerned that the historic environment will suffer under the proposed draft Plan Strategy approach, and that the draft Plan Strategy is unsound when reviewed against the RDS and SPPS objectives of social, economic and environmental. Notably environmental;

Environmental: respecting, maintaining and strengthening local identity, distinctive character and authentic places.

- **Policy CT2 – Dwellings in the Countryside** including its **justification and amplification** text.

HED consider the policy fails the **Consistency test (C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the policy to be unclear as is does not take sufficient account of **RDS RG11** notably **3.30** and **SPPS**, notably **6.24** and **6.73** (bullet points)

- **CT2 – Dwellings in the Countryside**

**Policy item (c)** – There is no guidance in this policy on the scale, massing, height for a replacement dwelling, i.e. a small dwelling could be replaced with a dwelling of an inappropriate scale for the character of the site or its setting. The policy also allows a dwelling to be re-located outside the original site boundary within minimal policy test required without careful consideration to the impact on the character of the area.

**Policy item (d)** – At present with the provision of both HE 13 and CT 2 there is significant potential for confusion and conflict between the two policies. HED consider there is an opportunity to omit this policy item as it is covered by the draft policy HE 13 (Non-listed Historic Vernacular Buildings). Especially in consideration of HED comments around HE 13. Should the wording in this item remain HED has major concern with the inclusion of the last sentence as it has potential to significantly impact the character of the setting and character of vernacular dwellings.

**Policy item (f)** – the wording of this policy item enables the by-passing of item (e) to obtain a dwelling on a farm in all cases. When one considers items (e) and (f) together it is difficult to consider when a dwelling on a farm (whether an active farm business or not) not eligible for approval. If a farm business is no longer in active use then HED query the need any further dwellings on the land, as traditionally, the purpose of enabling a dwelling on an active farm business was to ensure the continued working of the farm as it passed from one generation to the next.

**Policy item (h)** – There is no precautionary principle within the policy, and open to misinterpretation as no definition and/or clarity has been provided as to what defines someone who requires ‘**availing of care**’

➤ **Policy CT2 – Justification and Amplification (hereafter referred to as justification text)**

HED consider the justification text is unsound, as it does not assist in clarifying the meaning of the policy or the decision making process.

Item 8.35 – HED consider it extremely disappointing that the image used in association with the replacement dwelling justification text has used a vernacular farm house. These are the type of buildings which are becoming exceptionally rare within the district council. These are the historic farm houses which give the district council its distinctive character and local identity. The image shown, HED argue, this is the type of dwelling image which should have been used alongside the draft policy HE 13 (non-listed historic vernacular buildings) for its retention and conversion opportunities.

Item 8.40 – HED consider the reference to *listed* (building) in the opening sentence can be removed as the re-use of listed buildings is covered in draft policy.

Item 8.42 – HED has major concern regarding the inclusion within this item of the term ‘bad neighbour’. HED has concern that such a comment could potentially create a situation where buildings are wilfully neglected historic buildings (as set out in item 8.40) to enable their replacement with a dwelling. There is a significant crossover between this proposed

draft policy and draft Policy HE 13. Please refer to HED previous comments for draft Policy HE 13.

Item 8.53 – There is no precautionary principle within the policy or this text to define exceptional circumstances when this policy will be enacted, e.g. the wording of both policy and justification text could allow a parent/guardian in obtaining approval for a dwelling to look after fit, healthy and abled bodied elderly family member or children.

Items 8.60 – HED consider this justification text is unsound, as it does not assist in clarifying the meaning of the policy or the decision making process.

## **15.0 – Tourism**

- **Policy TOU 1 – Protection of Tourism Assets and Tourist Accommodation** including its **justification and amplification** text.

HED consider the opening sentence of the policy fails the **Procedural Test (P3)**, **Consistency test (C1 and C3)** **Coherence and effectiveness test (CE2)**. The policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it not sound. It does not take sufficient account of **RDS RG11**, notably **3.30**, and **SPPS**, notably **3.9, 3.101** (fifth bullet point), **6.9, 6.10, 6.12, 6.16, 6.18, 6.21, 6.24, 6.67, 6.69, 6.73** and **6.262**.

- **Policy TOU 1 – justification and amplification**

HED has major concern regarding policy item ‘b’) and the potential it has to have a detrimental impact to heritage assets and their setting. This is practically concerning as at present the draft policies around heritage assets do not account for proposals impacting the setting of heritage assets. (See HED comments within the Historic Environment section of this response, notably the lack of a policy around ‘Setting of a Listed Building’).

HED suggested correction:

*New Item - Where tourism development is being sought due to association with a heritage asset any proposal must be in line with the appropriate Historic Environment policy suite and adopt a heritage-led approach.*

## **14.0 – Minerals**

- **Policy MIN 2 – Extraction and processing of hard rock and aggregates** including its **justification and amplification** text.

and;



- **Policy MIN 3 – Valuable Minerals and Hydrocarbons** including its **justification and amplification** text.

HED consider these policies fails the **Consistency test (C3)**. The policies is not sound.

HED consider the policy to be unclear as is does not take sufficient account of **SPPS** notably **6.152** (second bullet)

- **Policy MIN 2 and MIN 3 – Justification and Amplification (hereafter referred to as justification text)**

HED consider the use of the term ‘environmental’ within the policy text needs to be given significant clarity. At present this policy does not protect landscape quality, the historic environment or the water environment (SPPS 6.152).

In relation to section 14.17 we note the comment that council will review the approach to extraction in light of the outcome of the regionally significant application. HED would welcome consideration of the freshwater archaeology of Lough Neagh in any review.

## **22.0 – Renewable Energy**

- **Policy RNW 1 – Renewable Energy** including its **justification and amplification** text.

HED consider the opening sentence of the policy fails the **Consistency test (C3)**. The policy is not sound.

HED consider the policy to be unclear as is does not take sufficient account of **SPPS** notably **6.219** (second bullet), **6.223** and **6.224**

- **Policy RE01 – Renewable and Low Carbon Energy Generation**

HED note that no reference is made to the protection of the district council’s heritage assets within the policy text. Even though such a requirement is acknowledged within items 22.6, 22.7 and 22.10 (preamble text to policy)

HED suggested correction:

**New policy item/paragraph – Development that generates energy from renewable resources must not result in unacceptable adverse impact to heritage assets;**

## **24.0 - Monitoring of Our Plan**

HED consider the policy fails the **Coherence and effectiveness test (CE3)**. We believe that this monitoring is not sound enough to meaningfully demonstrate the effects of the plan policies with regard to the historic environment.

HED suggest the draft Plan Strategy needs to have stronger meaningful monitoring 'indicators' and 'measures' to review the impact of the plan. HED has concerns how the means of the indicators and measures within the 'Enhancing the environment and improving infrastructure' table (pg. 252) will show how success towards the environment, notably the historic environment will be achieved. HED are concerned that no 'indicators' or 'measures' include for the protection, conservation or enhancement of the historic environment.

HED consider it appropriate for indicators and/or measures should include, for example:

- (a) Planning decisions which go against consultee advice and/or recommendations throughout the Plan period;
- (b) Number and extent of developments with "key site requirements" to protect, conserve and enhance heritage assets.
- (c) Monitoring of number of permissions with archaeological conditions across the district;
- (d) The number of Scheduled Monument Consents related to planning applications;
- (e) Monitoring of applications in the AAP to which archaeological conditions applied;
- (f) The number of Conservation Areas and/or Areas of Townscape Character designated or removed; and
- (g) The number of non-designated heritage (in CA, ATC or the countryside) assets re-used/enhanced, demolished or replaced.
- (h) Monitoring of dwellings approvals in the countryside.

## **Glossary of Terms**

HED advise that the section is not consistent with **Coherence and effectiveness test (CE3)** needs to be more sound.

HED consider the definition of the below terms within the dPS are too narrow and not in line with **SPPS**. This is problematic and could lead to adverse effects through narrow implementation of policy. In order to increase soundness HED recommend a clearer definition which better reflects the intentions of SPPS, the intended application of policy within the Plan Strategy and consistency of term use within the Plan Strategy.

HED suggested correction: Areas of Archaeological Potential (AAP) – Areas within settlement limits where on the basis of current knowledge it is likely that archaeological remains will be encountered in the course of continuing development and change. An historic environment record maintained by HED, these are identified in the plan for information for prospective developers.

HED suggested correction: Areas of Significant Archaeological Interest (ASAI) – Areas of particularly distinctive historic landscape. They contain a number of individual and related sites and monuments and may be distinguished by their landscape character and topography. They are designated through the plan.

HED suggested insertion: (new item): Heritage Asset – A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest.

HED suggested insertion: (new item): Historic Environment – All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

HED suggested insertion: (new item): Listed Building – A listed building is a structure which the Department for Communities has included in a statutory list of buildings of special architectural and/or historic Interest.

**CONCLUSIONS**

HED highlight our serious concern over the draft Historic Environment Policies and their assessment in relation to effects on the historic environment. We advise that significant revision is required to increase soundness of the policies and to make the SA/SEA more robust. We reiterate that as articulated the historic environment policies on the whole weaken existing policy protections and do not take sufficient account of SPPS.

Yours sincerely,

[Redacted]

Senior Archaeologist:

[Redacted]

Senior Architect (acting):

**Heritage Records and Designations Branch**

Cc

[Redacted]

**HISTORIC ENVIRONMENT DIVISION submission  
(Document 2 of 2)**

**This representation relates to the following Development Plan Documents:  
Sustainability Appraisal incorporating Strategic Environmental Assessment Report  
(Environmental Report) of Draft Local Development Plan Strategy 2030 (Feb 2019)  
and comments on additional evidence reports.**

**In answer to Q4(b), Q5 and Q6 – continued information.**

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

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.

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

Historic Environment Division (HED) have significant concerns around the robustness of the Sustainability Appraisal (SA) in relation to assessing effects on and in relation to the Historic Environment. We consider that that the SA does not provide robust evidence to support the policies articulated in the draft Plan Strategy (dPS) in relation to the historic environment, which we believe do not carry forward existing policies as per the preferred option highlighted in the POP, and which are not in line with strategic policy in the SPPS. We ask that our comments are considered and that the historic environment receive due consideration through amendment to the policies as per our dPS response and a more robust assessment in Sustainability Appraisal.

HED has significant concerns over the content of the Local Development Plan dPS. **We believe that the historic environment is not receiving appropriate strategic policy consideration** as set out in RG11 of the RDS and the SPPS toward its protection, conservation and enhancement. Nor do we consider that the document shows due attention of the Development Plan Practice 7, Section 7.0 Archaeology and Built Heritage and notably item 7.3. We disagree with the statement in 3.25 of the SA/SEA that “there will be no significant negative effects from the plan, either individually or cumulatively” as we believe the policy approach taken with regard to the historic environment will lead to negative effects, and sometimes significant negative effects on the resource

HED maintain an independent role in relation to the Local Development Plan process, and operate a Service Level Agreement with DAERA in relation to SEA, whereby we provide advice and comment in relation to matters of cultural heritage, including architectural and archaeological heritage. As a consultee on SEA we do not undertake the actual process of assessment and scoring and consider that it is important that the appropriate expertise is used in assessment in relation to impacts and effects with regard to the historic environment.

The following comments relate to both the Sustainability Appraisal of the LDP draft Plan Strategy and additional evidence documentation supplied through the Mid Ulster Plan Strategy Web Page.  
<https://www.midulstercouncil.org/Planning/Mid-Ulster-Development-Plan/Local-Development-Plan-2030-Draft-Plan-Strategy>

## **SA/SEA**

### **Chapter 3. APPRAISAL METHODOLOGY**

#### **SA/SEA Framework**

Pages 26-27: HED would consider that additional suitable decision making criteria in relation to the Historic Environment should include a question along the lines of:

***Will it offer a degree of protection to the historic environment consistent with SPPS and the PPS6?***

We consider that a more meaningful indicator than many of those framed would be:

***Number of consultations where decision has gone against the advice of statutory consultees?***

(See also our comments in relation to Chapter 6)

3.46 As per our comments within this response HED do not believe that the information and comment we have supplied since Preferred Options Stage has been used sufficiently in the assessment.

3.49-50 As per our introductory comments, as a consultee on SEA, our role in this process has been advisory, and not to undertake scoring and assessment of the plan. We therefore did not participate in meetings where the actual process of scoring the SA was undertaken. This position was reaffirmed by the letter from DfI Strategic Planning Division to **all** councils dated 24.01.2018.

## **Chapter 4 SUSTAINABILITY OBJECTIVES, BASELINE AND CONTEXT (and associated appendices 2, 3 & 4)**

### **DESCRIPTION OF THE SOCIAL, ENVIRONMENTAL AND ECONOMIC BASELINE CHARACTERISTICS AND THE PREDICTED FUTURE BASELINE.**

#### Summary of Environmental Characteristics – Page 42

HED are very concerned that the summary of environmental characteristics has been limited to biodiversity, flora and fauna. We would question why the historic environment has not been considered here as cultural and archaeological heritage, including architectural heritage is a key consideration within the process of SEA. We are concerned that this reflects a lack of robustness or expertise in relation to assessing effects on the historic environment. Consequently no issues are explored in relation to the historic environment.

#### Sustainability Issues for Cultural Heritage – Page 53

HED do not view the statistical information outlined, reading for the most part as a list of site types, as a critical enough analysis of sustainability issues in relation to the historic environment. Mid Ulster has specific historic environment characteristics which are worthy of recognition here, including its various associations with the O'Neill, and its wealth of prehistoric upland archaeology. It also has particular pressures on the historic environment, such as loss of heritage assets, loss of historic landscape character, abandonment and replacement of historic vernacular buildings etc. These types of issues should be considered more succinctly here.

### **THE RELEVANT ASPECTS OF THE CURRENT STATE OF THE ENVIRONMENT AND THE LIKELY EVOLUTION THEREOF WITHOUT IMPLEMENTATION OF THE PLAN OR PROGRAMME**

#### Evolution of Issues without the Plan – Cultural Heritage – Page 55

4.72 HED cannot agree with the analysis here. At present, given much of the historic environment policy wording in the dPS HED consider that the protection for the historic environment will be weakened, e.g. for archaeology, particularly in relation to assessment and evaluation, and mitigation, and for listed buildings around setting. We advise that if the plan did not go ahead in its present form the protection of the historic environment via the existing PPS 6 policies would have a more neutral or potentially beneficial effect.

### **ASSESSMENT OF EFFECTS**

#### 4.100 The likely significant effects on the environment of implementing the plan

Table 4.2 HED strongly disagree with the plan impact envisaged for cultural heritage. The evidence base does not support this assumption, the policies are unsound and do not take sufficient account of those in the SPPS and we advise that our comments, which have been consistent, have not been sufficiently taken into account during the process or in assessment. We believe the impacts on the plan for the historic environment will be negative.

## APPENDIX 2 - PLANS, POLICIES, PROGRAMMES AND STRATEGIES

HED consider that this section contains gaps and some inaccuracies in relation to review of content on those plans, policies and programmes which relate to the historic environment, and how they relate to the plan and sustainability objectives.

### International and European Level

Page 889. The Valetta Convention is a revision of the London Convention of 1969, not Granada as articulated in your text. The table should refer to Article 5 (parts i and ii) of the Convention regarding implications as regards Local Development Plans. We consider that the implication as presently articulated in the paper demonstrates a weak understanding of the evidence base. In summary, member states signed up to the convention undertake to ensure integrated conservation of the Archaeological Heritage through ensuring its meaningful consideration in the preparation of LDPs and the creation of planning policies designed to ensure well-balanced strategies for the protection, conservation and enhancement of sites of archaeological interest.

We advise that the Granada Convention 1985 on the Protection of the Architectural Heritage of Europe, as a standalone document, (Preferred Options Paper feedback 20.12.2016) should be referred to in your table but is not. Implications of this convention for your plan could be focused around Article 10 which in summary articulates that member states who are signed to the Convention should adopt integrated conservation policies to ensure inclusion of the protection of the architectural heritage as an essential town and country planning objective and ensure that this requirement is taken into account at all stages, both in the drawing up of development plans and in the procedures for authorising work.

At the Northern Ireland level the objectives of these conventions are articulated through our Regional Development Strategy and the Strategic Planning Policy Statement.

The following evidence bases are also deserving of inclusion at International and European Level:

- UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001)
- Rules annexed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001)
- The Convention concerning the Protection of the World Cultural and Natural Heritage (1972)
- The Xi'an Declaration on Conservation and Setting of Heritage Structures, Sites and Areas 2005

### Northern Ireland Level

Page 896 SPPS Preserving and Improving the Built and Natural Environment.

HED would concur that the objective outlined in the implications should be reworded. We also advise that the objective outlined in relation to the SA for the historic environment should include the word "protect" as well as conserve and enhance to achieve consistence with the SPPS strategic objectives.

As per previous correspondence (20.12.2016) we advise that you need to make reference to the Historic Monuments and Archaeological Objects (NI) Order 1995. Implications for your LDP from this legislation relate how policy wording addresses the statutory protection of archaeological sites and monuments, the need for scheduled monument consent (distinct and separate from planning



permission), excavation licensing, and the reporting of archaeological objects encountered during the course of development.

#### Local Level

We advise that the Conservation Plan for Castle Hill Dungannon will be a relevant inclusion, particularly as the plan moves forward to local policies stage.

Page 932 Planning Policy Statement 6. Given the articulation in the Preferred Options Paper (POP) that the policies would be retained HED consider that the implication articulated in this table should reflect this, i.e. "these policies will be retained in the plan strategy". Unfortunately the policies in the dPS as worded constitute fundamental changes and weakening of existing policy in several cases.

HED advise that we have produced Guidance documentation which has relevance to the Local Development Plan process.

We consider that our Guidance on Setting would an appropriate inclusion, particularly at local policies stage, published February 2018:

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/guidance-on-setting-and-the-historic-environment.pdf>

Our Guidance on Sustainability Appraisal and Strategic Environmental Assessment is available on line and was published and forwarded on July 2018:

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/heritage-guidance-on-sustainability-appraisal-and-strategic-environmental-assessment-for-the-historic-environment.pdf>

### **APPENDIX 3 – STATE OF THE ENVIRONMENT**

Baseline evidence outlined in Appendix 3. HED advise that Defence Heritage is not included in the evidence outlined in the table, which forms a part of the suite of HED dataset evidence previously recommended to the council. We consider that the scoping report would have merited update in the interim period to reflect update of evidence from us including an expanded list of Areas of Archaeological Potential and the Statements of Significance for the candidate ASAI. (See Development Plan Guidance Note 4, section 7.2 and section 7.3 (b) (x)).

HED advise that the SA does not incorporate the additional evidence we have supplied, and some of the implications of it, for example that Beaghmore and Creggandevsky have trans- council boundary implications with regard to the Fermanagh and Omagh council area – in these cases the extent of the ASAI zones in that authority area should have been illustrated in the strategy and taken into account as well in the process of appraisal, being part of the heritage asset.

The number of recorded Areas of Archaeological Potential for the district is now 48 as per information sent to the authority on 15.01.2018, these categorised following a programme of research on historic nucleated urban settlements. We reinforce that these are a dataset developed and maintained by us which can be identified, (not designated) through the Local Development Plan

Page 957. We advise that the information in relation to World Heritage is incorrect. Northern Ireland has only one World Heritage site at the Giants Causeway. The Marble Arch caves are part of a global geopark. They are not designated as a World Heritage Site.

We further point out, as per previous feedback, that Historic Environment Division has not been part of NIEA since 2015 (e.g. Assessment of Alternatives in Appendix 1– Housing Allocation Strategy, item 13, p 309, Assessment of Alternatives – Environmental Protection, Strategic Approach p.344)

In summary we consider the appraisal of the historic environment characteristics appear to be too narrow and to be out of date. In addition, we advise that the historic environment includes the evidence of human interaction with the environment in your district, and that assessment of its characteristics should recognise its intertwining with the natural environment and landscape and consider aspects such as historic landscape character.

## **Chapter 5 SA/SEA APPRAISAL OF PREFERRED OPTIONS AND REASONABLE ALTERNATIVES (with cross reference to Appendix 1 matrices)**

HED would question what historic environment expertise was engaged in carrying out the assessment. We disagree with some of the scoring afforded and the language used within the Sustainability Appraisal to justify and describe mitigation. In order to make it more robust in relation to assessing and scoring potential effects on the historic environment we advise that review will be necessary. We welcome that effects on the historic environment of new developments or zonings for development are often scored as uncertain but highlight that, rather than using the language in some cases (pages 613, 653, 660, 664 & 669) intimating that “any new (retail development/tourism facility etc) is **likely** have impacts on historic and cultural assets”, it would be more accurate and factually correct to state that it has **potential** for these types of impacts.

## **THE HISTORIC ENVIRONMENT**

Historic Environment Division consider the significant changes in policy, articulated in the Mid Ulster dPS do not take sufficient account of the SPPS. We cannot see robust assessment or justification evidence apparent for the policy direction that has been taken which we advise deviates from both the SPPS and the POP.

Viewed against the existing situation we advise that the policies overall will have negative outcomes for the historic environment and a failure to meet the SA objective and regional strategic objectives.

Our comments here can be read against our comments provided on the soundness of the policy approach in the dPS. We advise that the appraisal demonstrates a lack of understanding of the policy suite in PPS6 and of the strategic policies in SPPS which relate to Archaeology and Built Heritage. We also advise that in scoring, the relationship between the natural landscape and historic environment needs better recognition.

As per our previous text HED highlight that we have provided expert advice in relation to the formation of these policies when in draft and we cannot see that this advice and evidence has been taken into sufficient account.

Page 22. The title should read **Areas of Significant Archaeological Interest**

In our review of the plan strategy we have highlighted a soundness issue with the wording of all of the ASAI policies, with regard to the rationale outlined in the policies for the designation. We are surprised that there is no reference with in the SA to the cross council boundary implications of both Beaghmore and Creggandevsky. Understanding and conveying the importance of the cross boundary elements of these ASAI and the implications in decision making across council boundaries is vital toward their protection, conservation and enhancement.

5.457 The text in the final paragraph is incorrect. Mid Ulster currently has one ASAI at Beaghmore, which was designated through the Cookstown Area Plan 2010. HED have identified an extension to this ASAI, and two further ASAI at Tullaghoge (please use consistent spelling in relation to this area –see comments on the Plan Strategy) and Creggandevsky. These areas identified by HED are to be designated through the Plan Strategy.

Beaghmore Stone Circles Area of Significant Archaeological Interest

5.458 HED would highlight that a bespoke policy had already been drafted for the Beaghmore ASAI in the Cookstown Area Plan and that an alternate option in relation to scoring here could have been to utilise the existing policy and apply across the extended area. There is no reference to the existing policy (Policy Con 4) and its consideration would demonstrate a more robust approach to assessment.

### **Archaeological Remains of Regional Importance and their Settings**

5.468 and 5.469. HED have consistently strongly advised the authority to maintain wording in SPPS as suggested wordings seen to date have weakened the policy and reduced clarification around it. We consider that this advice is evidence, that it has not been taken into sufficient account and that the draft policy wording has the potential to weaken existing protections for the historic environment. We believe the scoring should be adjusted accordingly to negative in terms of its effects on the historic environment and view the amendments to the policy text in the plan strategy as being fundamental changes. We advise that the approach is not in line with the Preferred Option of retaining policy specified in the POP.

The discussion in 5.472 does not provide a robust argument for the changes to policy against advice, and the mitigation measures discussed should consider aspects such as zoning or designation as LLPAs as well as archaeological mitigations. .

Assessment of Alternatives (HE4) and Associated table – from Page 719

Headings – Option 2 heading specifically should be relating to SPPS 6.8. HED consider that the comments in relation to option 2 for effects of the policy on the SA objective 13 are not robust or justifiable, and we would question what the “defined areas” in the comments refer to. Neither the draft policy nor its clarification text refer to such, and setting of monuments is considered on a case by case

basis. We advise that the short, medium and long term effects of Option 2 on the historic environment would most likely be negative as the policy is not consistent with the SPPS.

Page 721. HED must strongly advise that the text provided in the table as Background indicated on this page is not relevant or appropriate. This review is not in the public domain at present and any legislative changes referred to will not be under the Planning Act and are not relevant to this LDP. They would be relevant to the conduct of archaeological matters, governed under separate legislative provisions. HED advise that this section should have made reference to the SPPS 6.9. We also highlight that the mitigation text here should be considering how to mitigate any negative effects of the policy on other SA objectives. It does not do this.

We highlight these as further evidence of a flawed approach to the assessment of policies and effects in relation to the historic environment.

### **Archaeological Remains of Local Importance and Their Settings**

We note that the retention of this policy and the policy wording are consistent with SPPS and with the preferred option of retaining existing policy as expressed at POP. The changes to text here do not reduce the meaning, or clarity or weight of the policy. However the present clarification text for the policy demonstrates a weak understanding and could lead to poor implementation, with potential negative outcomes for the historic environment and scoring should reflect this.

We advise that 5.477 should consider utilising the historic environment evidence base in zoning (important to demonstrate how this has been done) of both development areas, and designation of areas such as LLPA.

Associated table page 723, table headings for Option 2 should refer specifically to SPPS 6.9 – It also refers to PPS6 BH1 – this should be BH2. HED consider that the comments in relation to option 2 for effects of the policy on the SA objective 13 are not robust or justifiable, and we would question what the “defined areas” in the comments refer to. Neither the draft policy nor its clarification text refer to “defined areas”, and we point out that setting of monuments is considered on a case by case basis. We advise that the short, medium and long term effects of Option 2 on the historic environment would most likely be negative due to the wording of policy clarification text.

We also highlight that the mitigation text on 726 should be considering how to mitigate any negative effects of the policy on other SA objectives.

### **Areas of Archaeological Potential**

HED advise that we consider the explanatory text utilised in relation to AAPs in both PPS6 and in the SPPS is important in relation to how these areas are treated within Local Development Plans. Section 6.478 of the SA discusses AAPs as designations – this is not correct. They are advisory areas which are identified in plans, but are not designated in the same way as ASAI.

We have provided comment that we consider would make this policy more sound in our comments on the draft Plan Strategy.

Page 728. The comments in Option 1 regarding Beaghmore demonstrate a lack of understanding as to the purpose of AAPs. They relate to urban areas and a policy on AAP would not be of benefit in relation to Beaghmore, which is open countryside. Furthermore we advise that changes to the policy wording as we have suggested could reduce the potential for unnecessary excavations.

### **Archaeological Assessment, Evaluation and Mitigation**

5.483. HED must advise that our advice as a statutory consultee in relation to the council's approach here has been consistent, and that we have repeatedly, in multiple correspondences, expressed strong concerns over the amalgamation of these policies, which is inconsistent with the approach of SPPS 6.10 and 6.11 and of PPS 6 BH3 and BH4 before that. Both these documents recognised the important distinction between these two policies which are part of a four tier hierarchical approach to the treatment of archaeological remains. We advise that changes to the draft policy following our most recent comments of 30.07.2018 have not addressed our concerns and that we believe the policy to be fundamentally unsound as drafted.

5.484 We advise that the policy approach does not retain existing policy as per the Preferred Option at POP stage and that the reconfiguration and amalgamation of the policies constitute fundamental changes against the advice of the statutory consultee, which have the effect of weakening existing protections for the historic environment.

We disagree with the scoring for the preferred approach (the policy in the draft plan strategy) in relation to the historic environment and would advise that this should be scored as double negative.

5.485. HED fundamentally disagree with the first sentence here. We do not consider it robust to say that the policies are "similar" to those in PPS 6. It is our expert view that they are not similar, and that they are not consistent with the strategic policy outlined in the SPPS.

5.487 The consideration of mitigation demonstrates clearly here the confused understanding and approach to these policies. Archaeological Assessment and Evaluation are items of work requested as further information to inform planning decisions. They are not ever "normally required by planning conditions" as articulated in this SA text. Planning conditions relate to mitigation to be attached to a decision notice. The reasoning for the adopted policy approach here is flawed, does not demonstrate robust consideration of the evidence, or the current application of policies, and is not in line with the preferred option which was to retain existing policies. HED have provided advice in relation to the wording in the draft plan strategy toward achieving clarity, robustness and consistency with the policies in the SPPS.

### Assessment of Alternatives (HE7) and Associated table – from Page 731

HED advise that the heading text for option 2 which includes the text "amalgamation of existing archaeological assets" and for "all identified archaeological remains" (– SPPS 6.10 is about where there is uncertainty) demonstrates a clear of understanding and lack of consideration as to the development of a policy consistent with the SPPS 6.10 and 6.11, which contains important changes to wording,

distinct from PPS6 BH3 and BH4. Policy development should be taking the lead from and be consistent with the SPPS.

Page 732 HED consider that the comments in relation to option 2 for effects of the policy on the SA objective 13 are not robust or justifiable. The comments for option 1 relate to remains of regional importance. That is not what these policies are about and salient aspects, such as the identification of remains where there is uncertainty, and mitigation by way of archaeological excavation are not mentioned. Option 2 again describes how remains will be protected within these “defined areas”. HED consider that these comments demonstrate fundamental flaws in the approach to the policy development for archaeology and furthermore are that they not supportive of the policy direction taken. We advise that the short, medium and long term effects of Option 2 on the historic environment would most likely be significant negative.

Page 734 – The mitigation does not consider the effects of the policies on other SA objectives.

### **Historic Parks Gardens and Demesnes**

Page 739. Text states sites which have not yet been designated. HED highlight that sites on the Register are identified (SPPS 6.29) in Local Development Plans rather than designated through them.

### **Change of Use, Alternation or Extension of a Listed Building**

5.492 and 5.493 HED has consistently advised the authority to maintain wording in SPPS, and where possible use PPS6 as guidance to understand the nuances between the existing policy protections, most recently in our last engagement within council at the end of July 2017. The suggested wordings have weakened the policy protection and reduced clarification around it. We consider that our advice is evidence, that it has not been taken into sufficient account and that the draft policy wording has the potential to weaken existing protections for the historic environment. The discussion in 5.492 and 5.493 do not provide a robust argument for the changes to policy against advice.

5.492 This item confirms, in line with our comments on the draft Plan Strategy, the existing policy protection afforded by PPS6, BH11 (setting of a listed building) is not covered by the proposed policy, as expressly covered in SPPS 6.12.

Table: HED disagree with the scoring and consider that the policy as worded will have a significant negative outcome in relation to the historic environment.

We believe the scoring should be adjusted accordingly to significant negative in terms of the effects on the listed buildings for the option to ‘Reconfigure existing policy (PA)’. HED view the amendments to the policy text in the draft Plan Strategy as fundamental changes and will not offer robust protection of our heritage assets.

Editorial: The sub-title in the table states ‘Changes of use of Listed Buildings’ and is not consistent with the proposed policy approach, i.e. Change of Use, Alteration or Extension of a Listed Building.

5.494 HED fundamental disagree that the PA policy has the same ‘thrust and substance’ of the exiting policy. We do not consider it robust to say that the policies are “largely the same” to those in PPS 6,

notably BH7 and BH8. It is our expert view that they are not similar, and that they are also not consistent with the strategic policy outlined in the SPPS 6.15.

5.495 HED advise that the use of the term 'mitigation measures' is inappropriate in the context of the statement. Planning conditions relate to mitigation measures to be attached to a planning decision. In the context of the statement by ensuring a Design and Access Statement (DAS) is provided by applicants at proposal (application) stage the DAS will be used to inform a planning decision. HED highlight the inappropriate use of the terminology here as this misinterpretation feeds into the policy text and policy justification text.

#### Assessment of Alternatives (HE9) and Associated table – from Page 740

HED note that Option 1, adopting the existing PPS6 policies (BH7 and BH8) scores '*significant positive*' as does Option 2, the preferred option, to reconfiguration and amalgamate of existing policies PPS6 BH7, BH8 and SPPS 6.12 and 6.13 with the introduction of Design and Access Statements (DAS). Therefore, HED query why the decision to **significantly** re-write the policies has been undertaken. Note: provision of a DAS is required under planning legislation and is not something significantly new being proposed by Mid Ulster District Council.

SA/SEA objective 12 – HED disagree that the proposed wording of the draft policy will '*make it clearer for developers (applicants) to understand the policy*'. See HED concerns on the **soundness** of the proposed draft policy in the consultation response titled 'Submission of a Representation to Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy'

### **Demolition of a Listed Building**

5.496 HED has consistently advised the authority to maintain wording in SPPS, and where possible use PPS6 as guidance to understand the nuances between the existing policy protections, most recently in our last engagement within council at the end of July 2017. The suggested wordings seen to date have weakened the policy protection and reduced clarification around it. We consider that this advice is evidence, that it has not been taken into sufficient account and that the draft policy wording has the potential to weaken existing protections for the historic environment. The discussion in 5.496 and 5.497 do not provide a robust argument for the changes to policy against advice.

Table: HED disagree with the scoring and consider that the policy as worded will have a significant negative outcome in relation to the historic environment.

We believe the scoring should be adjusted accordingly to significantly negative in terms of the effects on the listed buildings for the option to 'Reconfigure existing policy (PA)' HED view the amendments to the policy text in the draft Plan Strategy as fundamental changes and will not offer robust protection of our heritage assets.

Editorial: The sub-title in the table states 'Changes of use of Listed Buildings' and is not consistent with the proposed policy approach, i.e. Demolition of a Listed Building.

5.498 HED fundamentally disagree that the PA policy has the same 'thrust and substance' of the exiting policy. We do not consider it robust to say that the policies are "largely the same" to those in PPS 6,

notably BH10. It is our expert view that they are not similar, and that they are also not consistent with the strategic policy outlined in the SPPS 6.15.

5.499 HED advise that the use of the term 'mitigation measures' is inappropriate in the context of the statement. Planning conditions relate to mitigation measures to be attached to a planning decision. In the context of the statement by ensuring receipt of detailed structural engineer's report and so on is provided by applicants at proposal (application) stage will be used to inform a planning decision. HED highlight the inappropriate use of the terminology here as this misinterpretation feeds into the policy text and policy justification text.

#### Assessment of Alternatives (HE10) and Associated table – from Page 744

HED note that Option 1, adopting the existing PPS6 policy BH10 and SPPS 6.15 scores '*significant positive*' as does Option 2, the preferred option, to reconfiguration and amalgamate of existing policies PPS6 policy BH10 and SPPS 6.15 with the introduction of Design and Access Statements (DAS).

Note: provision of a DAS is required under planning legislation and is not something significantly new being proposed by Mid Ulster District Council.

HED welcome the importance placed on consultation with HED to maintain a '*major positive impact to protect listed buildings and their setting*' in both Option 1 and Option 2. However, our significant major concerns with the wording of the draft proposed policy remain. Therefore, HED query why the decision to **significantly** re-write the policies has been undertaken. See HED concerns on the **soundness** of the proposed draft policy in the consultation response titled 'Submission of a Representation to Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy'.

#### **Advertisement on a Listed Building or Structure**

Table: HED query the scoring of the SA/SEA 13 within the table, notably why and/or how the adoption of existing policies (RA) only scores 'positive' (+), whereas the retention of other policies around change of use, alteration and extension and demolition of listed buildings scored 'significant positive' (++) . HED highlight this scoring as we consider it shows a lack on consistency in the overall scoring methodology.

5.503 We consider the conservation and retention of historic signage should feed into the SA/SEA 5 (Sense of community) indicator, and should have scored as a 'positive' under Adopting existing Policies section of the table.

#### Assessment of Alternatives (HE11) and Associated table – from Page 747

SA/SEA objective 12 – HED suggest the objective has missed a key opportunity to highlight that the protection and conservation of historic signage adds to the character and identity of a local area, in line with the objective.

#### **Designated Conservation Areas and their Historic Setting**

Table: HED disagree with the scoring and consider that the policy as worded will have a negative outcome in relation to the historic environment.



5.510 HED consider the second sentence is worded poorly. The introduction of a DAS at the application stage will aid the decision making process to ensure appropriate and a considered design approach has been undertaken.

HED advise that the use of the term 'mitigation measures' is inappropriate in the context of the statement. Planning conditions relate to mitigation measures to be attached to a planning decision. In the context of the statement by ensuring receipt of additional information/reports for applications seeking demolition within a conservation area will be used to inform a planning decision. HED highlight the inappropriate use of the terminology here as this misinterpretation feeds into the policy text and policy justification text.

#### Assessment of Alternatives (HE12) and Associated table – from Page 750

HED is concerned with the number of positive outcomes which are associated with enabling historic buildings to be converted to shops, cafes and so on to benefit the local economy – this is a very narrow view point. Buildings which are not directly providing economic growth for the council, i.e. private residences and so on, retains the local identity and distinctive character of an area, creating welcoming places to live, work and relax – key components of the LDP.

HED query why the decision to **significantly** re-write the policies has been undertaken. See HED concerns on the **soundness** of the proposed draft policy in the consultation response titled 'Submission of a Representation to Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy'.

### **Conversion, Retention and Sustainable Use of Non-Listed Vernacular Buildings**

5.511 In the context of this statement HED is unclear how our comments from the POP have informed the direction taken here, i.e. separate policies for non-listed vernacular and industrial heritage. At POP HED made no comment on grouping the two heritage assets together in one policy. Rather, HED recommended that parallel consideration was given to policy review BH15 of PPS6 with CTY4 of PPS21, in line with the specific question posed within the POP (pg.94 Q3)

Table: HED disagree with the scoring and consider that the policy as worded will have a negative outcome in relation to the historic environment.

We believe the scoring should be adjusted accordingly to negative in terms of the effects on non-listed vernacular buildings for the option to 'Reconfigure existing policy (PA)' and view the amendments to the policy text in the draft Plan Strategy as being fundamental changes and will create a weaker policy.

5.513 HED consider the view that the '*re-use of **non-listed vernacular buildings has potential to create jobs and instil sense of pride in local communities***' is not wide ranging enough. All construction work, whether in conservation or new build creates jobs in the short term, creates jobs. However, the re-use of non-listed vernacular buildings, along with the conservation as per listed buildings', creates opportunities of learning/training of specialist skills in the construction sector. In addition, the retention of non-listed heritage assets retains the local identity and distinctive character of an area – a key component of the LDP.

5.515 HED advise that the use of the term 'mitigation measures' is inappropriate in the context of the statement. HED consider 'mitigation' as a measure that is used alongside a planning approval/consent,

e.g. by the use of conditions. A Building Preservation Notice is not something to be used in the context of a planning conditions, rather it is a standalone power available to councils.

Note: From 1st April 2015, councils may serve a Building Preservation Notice (BPN), where it appears to a council that an unprotected building is of architectural or historic merit and is at risk of demolition or significant alteration. This power is available for all councils to be used on non-listed buildings across their council areas.

#### Assessment of Alternatives (HE12) and Associated table – from Page 753

HED query the *significant positive* scoring within SA/SEA objective 12, when it is acknowledged within the comments section that as the policy is *'more flexible it could lead to inappropriate forms of development which [could] detrimentally affect the quality of landscapes and townscapes'*. HED suggest this would be a negative score, or uncertain at best. Therefore, HED consider the same principle should be applied to SA/SEA objective 13, i.e. the more flexible policy could lead to inappropriate development.

#### **Areas of Townscape / Village character**

5.517 In the context of this statement HED is unclear how our comments from the POP have informed the direction taken here, i.e. amalgamation of ATC1, ATC2 and ATC3. At POP HED made no issue of grouping the three policies together in one policy. Rather, HED welcomed stricter policy test for demolition within ATC, in line with the specific question posed within the POP (pg.94 Q4)

5.519 HED advise that the use of the term 'mitigation measures' is inappropriate in the context of the statement. Planning conditions relate to mitigation measures to be attached to a planning decision. The proposed policy text refer to the requirement of submitting a full planning application as part of a demolition in an ATC. By councils own draft policy this is not a mitigation measure.

Generally, HED has major concerns by the policy approach and consider that there will overall be significant negative effects in relation to the historic environment. We consider that the policy approach as a whole it is unsound, and not supported by the SA which is not robust in relation to assessment of the historic environment. We consider that the drafted policies require significant modification to take sufficient account of SPPS and avert negative effects.

#### **ECONOMIC DEVELOPMENT STRATEGY**

Page 339 HED advise that the comments against objective 13 in the scoring matrix relate seem to focus more on natural environment matters than historic environment

#### **ECONOMIC DEVELOPMENT SITES IN THE DUNGANNON AREA**

HED have consistently advised (e.g. 21.12.2017) the council when consulted on these zones that they need to be in a position, as the responsible authority, to demonstrate how the historic environment evidence bases were being utilised in the process of plan making. We advised that we could not see

how this was being done (11.01.2018). We also advised that it was important that appropriate expertise be employed utilising the historic environment evidence base to inform zonings and potential forms of mitigation.

In our responses HED highlighted specific concerns around zonings at Granville (Site F, G, H) and the potential for impacting the setting of a State Care Monument, and advised of potential for encountering wetland archaeology in one area of the site, but also advised that our not commenting on other zones did not constitute a “no objection”. While the SA reflects that our specific comments seem to have been taken into account with regard to these zones, and a further zone in Killymaddy, adjacent to Dungannon which had included the site of a rath, we remain uncertain as to how the authority are arriving at the refined zones shown in the Plan Strategy and as to their robustness (e.g what fieldwork, visual and landscape assessment has been undertaken and how has the historic environment evidence base been used? Have, for example, visual impacts informed the reduced zoning D ECON2, at Granville which is adjacent to the State Care Killyliss rath, including views from the monument and views from the road? We would expect to see these types of assessment within the evidence content). Has our published guidance on setting been utilised. Please see our comments on Landscape Character Assessment review below.

Our response also highlighted (11.01.2018) that where the plan proposed large development zones in areas of countryside, the importance of considering potential for previously unrecorded below ground archaeological remains, and the need to consider the application of appropriate key site requirements for the evaluation and identification of such in advance of development.

We are concerned that the council seem to be relying solely on our responses alone, which are general in content, in relation to site specific issues, and which we advised were only informed by the maps they provided, without necessary fieldwork and research (we consider it their responsibility as plan makers to be undertaking this) in informing development zones. Without this information we consider that the SA and associated studies doesn't demonstrate a robust enough use of the historic environment evidence bases in relation to zoning.

## **HOUSING IN THE COUNTRYSIDE**

CT2 HED advise that the historic environment is intertwined with the natural landscape and built environment and that the countryside policies as worded in the draft plan strategy create potential for negative impacts on the historic environment, including historic landscape character. We provide comment on SA of some specific aspects of the policy approach below

CT2 c) See our comments on the draft policy in the dPS. We consider that the assessment text for Option 2 on Page 479 could be more robust and that the scoring for this option would be significant negative reflecting the reduced protection for heritage assets through the application of such a policy.

CT2 d) HED has concerns around the policy wording (see our comments on the plan strategy) and consider that as worded that this policy has potential for negative impacts in relation to heritage assets and causing confusion when considered against policy HE13. We disagree with the positive scoring afforded here.

CT2 f) HED advise that when read against CT2 e) there is potential for conflict in interpretation and consequent negative impacts on the historic environment.

## **TOURISM**

TOU1 As worded HED have concerned around policy item b) and its associated justification text, - we consider as worded the impact would be uncertain but that it could be positive if our recommendations to wording changes are applied, so that the setting of a listed building or vernacular structure is considered and protected. In the comments its worth considering the protection it offers to undesignated as well as designated heritage assets.

## **MINERALS**

MIN2 and MIN3 – HED has expressed concerns around the policy wording as expressed in the draft plan strategy (refer to our comments). There is no clear reference to the historic environment and we are concerned that as worded the policy does not sufficiently address landscape quality and the historic environment (outside ACMDs). We consider therefore that the scoring for the effects on the historic environment of the policy MIN2, should be reduced to uncertain or potentially negative.

## **RENEWABLE ENERGY**

RNW 1. HED have expressed soundness over the wording of the policy as expressed in the draft plan strategy. Although the council is defining Areas of Constraint as presently worded we consider that policy RNW 1 has the potential for negative impacts on the historic environment as it takes insufficient account of SPPS **6.219** (second bullet), **6.223** and **6.224**.

## **Chapter 6 - MONITORING AND IMPLEMENTATION**

HED consider that the proposed monitoring indicators are not meaningful enough in assessing the effects of the plan in relation to the Historic Environment. We would advise that additional meaningful indicators must be included e.g. monitoring of archaeological excavations arising as a result of planning applications (i.e. through requests for further information or through planning conditions in the district). This would aid monitoring the effectiveness of implementation of the planning policies and the application of mitigation. We would also advise that monitoring of planning approvals which go against the advice of statutory consultees, such as HED in relation to polices for the historic environment, would be meaningful in monitoring the effectiveness of the plan in implementing policies and objectives and that monitoring the number of scheduled monument consents in the district which are related to development would also be an important measure.

[Review of additional evidence sources available on the Mid Ulster draft Plan Strategy Web Page:](#)

## Preferred Options Paper: Public Consultation Report Update January 2019

As with our comments around item 17.9 of the draft Plan Strategy (dPS) document HED has issue with the phrasing within the POP Public Consultation Report update January 2019 and the summary of main issues from representations made at the Preferred Options Paper and the recommendations and/or conclusions recorded. HED consider the comments highlighted below do not accurately represent the level of engagement with us. We consider that overall the content of this document summarises snapshots of our Preferred Options response without addressing its full thrust, and we are concerned that the consideration of our comments in relation to aspects of policy development for the historic environment reflects a lack of robustness and expertise in relation to historic environment considerations.

Notably;

Pg.130. (extract) *"Following submission of their consultee reply, the Planning Department have recently met with HED to discuss further the issues raised. This meeting was generally positive and we consider that the issues raised by HED are not insurmountable and relate mainly to specific policy wording"...."Therefore we will engage further with HED on the final detailed wording of the policy given their expertise in this area".*

HED highlight the last meeting in relation to the LDP, held between HED and the council's Planning Department was in April 2017. That meeting was in our view constructive and we reiterated the concerns articulated in our preferred options response over historic environment policy development, and the need for utilising appropriate expertise in relation to Sustainability Appraisal of historic environment matters. There have been no further meetings between Mid Ulster District Council and HED since this date, although HED have repeatedly offered to meet in both informal and formal (limited) written and telephone engagement.

HED note that within the paper, pg.130, pg.131 and notably pg.135 under *Recommendations* council state they will engage further with HED regarding the detailed wording of policies due to our expertise in this field (historic environment). While, HED acknowledge that the council did 'engage further' with HED, via an email on 02.07.2018, where we were provided with an early set of draft policies for the Historic Environment to review and provide initial comment, we highlight that we replied with detailed feedback highlighting significant concerns around the then proposed draft policies on 30.07.2018 and offered again to meet. HED **do not** consider sufficient 'engagement has been on-going with HED regarding policy wording' (pg.135). Through the use of these types of phrases HED consider the level of engagement of the council with us may not be being accurately presented.

Overall, unfortunately, HED see limited evidence of where our concerns around alignment with SPPS have been adequately acknowledged, incorporated or where council have provided robust evidence to counter our advice, (e.g. the Consideration of our comments on amalgamation of policies on archaeological assessment/evaluation and mitigation demonstrates no understanding of how these Strategic Policies and PPS6 are applied/why it is important they are distinct, and provides inadequate analysis of the comments forwarded by us). The concerns we have expressed at Preferred Options stage across the policy suite remain and we consider that the wording of some of the policies has weakened since then, and that the wording does not align with the preferred options which were articulated.

HED highlight that the Statements of Significance for the three candidate ASAI were not provided as a response to the Preferred Options Paper but as evidence bases to inform designation. We consider that these should therefore have been included, not within this document, but rather as an evidence base within the context of SA to inform policy development, or within reviews of Landscape Character.

## **REVIEW AND AUDIT OF MID ULSTER LANDSCAPE CHARACTER ASSESSMENT REVIEW FOR LOCAL DEVELOPMENT PLAN**

While Historic Environment Division welcome that an effort has been made toward review we advise that the Landscape Character Areas review has expanded very little on archaeological or cultural heritage as a core components of landscape. As a consequence, we consider that the report doesn't have a particularly strong baseline against which to assess key changes in the landscape and in our view cannot inform robust proposals to mitigate any potential adverse issues. This co-relates to some of our previous comments in relation to how historic environment evidence bases are being used in relation to zoning for development (e.g. Economic Development Sites in the Dungannon Area) and is concerning; the 2014 guidance [An Approach to Landscape Character Assessment](https://www.nature.scot/sites/default/files/2018-02/Publication%202002%20-%20Landscape%20Character%20Assessment%20guidance%20for%20England%20and%20Scotland.pdf) highlights "the key characteristics are likely to become a major reference point – and perhaps determining factor – in making decisions about the future of the landscape". While Gardens and ASAI's and very occasional NISMR sites do get mentioned as key characteristics, historic settlements recorded in the Gazetteer of Historic Nucleated Urban Settlements, IHR and DHP sites, parts of the evidence bases provided to the authority, are all completely absent. Furthermore, there doesn't seem to be any attempt to assess any of these site types and their wider historic landscapes (in a general sense) as part of giving a sense of "time depth" to the evolution of landscape. Assessment of the historic landscape is core to relevant guidance documents, including the Landscape Character Assessment Guidance for England and Scotland (2002) <https://www.nature.scot/sites/default/files/2018-02/Publication%202002%20-%20Landscape%20Character%20Assessment%20guidance%20for%20England%20and%20Scotland.pdf> and An Approach to Landscape Character Assessment (2014) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691184/landscape-character-assessment.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691184/landscape-character-assessment.pdf)

Ideally, HED consider the assessment should be reviewed to include a better assessment of NISMR sites, historic nucleated urban settlements, historic parks and gardens, industrial heritage sites and defence heritage sites. The approach is disappointing given the wealth of evidence which is available.

**CONCLUSIONS**

HED highlight our serious concern over the draft Historic Environment Policies and their assessment in relation to effects on the historic environment. We advise that significant revision is required to increase soundness of the policies and to make assessment in the SA/SEA more robust. We believe that as articulated the historic environment policies on the whole weaken existing policy protections, are not supported by robust SA/SEA and do not take sufficient account of SPPS.

Yours sincerely,

[Redacted signature area]

Heritage Records and Designations Branch

Cc [Redacted recipient list]

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Your ref:

Our ref: Mid Ulster-LDP-Draft PS SA/SEA

Date: 30.07.2018

Dear Sinead,

**RE: HED comments on –**

- i. Draft Local Development Plan Strategy for Project Management Team for Mid Ulster District Council**
- ii. SA/SEA Appraisal of Reasonable Alternative for the Draft Plan Strategy Compatibility Matrices**

Historic Environment Division (HED) maintain an independent role in relation to the Local Development Plan process. We reserve the right to make representations at Independent Examination where we consider that the historic environment is not receiving appropriate consideration.

HED has significant concerns over the content of the Draft Local Development Plan Strategy for Project Management Team documentation, (hereafter referred to as the **draft PS**) and the SA/SEA Appraisal documents, provided on 02/07/2018. **We believe that the historic environment is not receiving appropriate strategic policy consideration** as set out in RG11 of the RDS and the SPPS toward its protection, conservation and enhancement. We also consider that the document does not show due attention of Development Plan Practice Note 06 (Soundness) notably, but not restricted to, items 3.0 (CE2), 5.0 (5.3.15, 5.4.3) or Development Plan Practice Note 07 (Plan Strategy) notably, but not restricted to, item 7.0 (7.3).

Note: Given the tight timeframe for response the comments provided below are not comprehensive but reflective of our significant general concerns with regards to how the draft PS is approaching protection, conservation and, where appropriate, enhancement of the historic environment, particularly through the HE policies. Our not having provided comment



on other sections of the draft PS or SA/SAE documents should not be considered as an endorsement of proposals.

**General feedback on the presentation of the draft PS:**

We highlight it is unreasonable to have forwarded a suite of documents of this size to allow for full detailed comment in the short turnaround requested. Where appropriate, as other councils have been developing their draft PS we have been forwarded the appropriate specialist policies only, i.e. policy suite historic environment with a 3-4 week turnaround time frame for consideration.

We acknowledge the sensitive nature of the draft PS, however, the method of consultation, utilising on screen documents only has severe limitations. A provision to provide comment on the documents would have allowed each consulted party to insert related detailed comments beside the appropriate text to ensure clarity for the local authority.

**General comments regarding the subsections within 'The Historic Environment' section of the PS;**

**Overview:**

HED welcome the inclusion of naming a number of heritage assets in the district. This aligns with SPPS in seeking to ensure the LDP recognises the local distinctiveness of the local area of the plan.

It is important to acknowledge that 'historic fabric' is not limited to towns and villages. The historic environment, its heritage assets and therefore historic fabric, play a key role in the local identity and characterisation of the countryside and should be reflected in the text, i.e. the local vernacular.

**Our Strategy:**

HED welcome the inclusion of the council's strategy statement in relation to the Historic Environment.

**Policy HE 1:**

HED welcome the consideration of Archaeological Remains of Regional Importance and their settings as a distinctive Policy.

We believe the policy as drafted to be **unsound** as it does not take adequate account of Strategic Planning policy articulated in SPPS 6.8. Furthermore we cannot see that our feedback through the POP process has been adequately considered in the drafting of this policy.

The wording in SPPS policy is clear and distinct and contains critically important emphasis not contained in the policy wording provided in the draft. There is no mention of the “exceptional circumstances” referred to both in SPPS and in PPS6. The draft wording weakens existing policy approach. We strongly advise wording as per the SPPS in order to provide adequate protection for Archaeological Remains of Regional Importance and their Settings.

Areas of Significant Archaeological Interest (ASAI) are remains of regional importance and merit mention in this policy (i.e. sites of regional importance include State Care and Scheduled Monuments, monuments that are not scheduled but which would merit scheduling and ASAI). However, the generic policy approach to ASAI provided here is weak and does not take account of SPPS 6.29 – “Local policies for the protection of the overall character of ASAI should be included where relevant”. The generic policy in the draft does not focus on the distinctive individual characteristics which define each ASAI, and is not an appropriate approach. We refer to our Statements of Significance which can be used to inform a policy for each individual ASAI. The attributes and character of each area are distinct and different and a policy for each should reflect this. In order to illustrate trans-boundary co-ordination we advise that the maps illustrating ASAI should highlight locations within the district but should also highlight (e.g. by a dotted line) where these areas extend trans-boundary, i.e. at Beaghmore and Creggandevsky. These areas of landscape predate administrative boundaries, and developments on one side of a modern boundary could impact on the designation area on the other side.

We advise that the amplification text for the draft policy in relation to ASAI demonstrates a lack of understanding of policy and evidence, and places a focus solely on the monuments that lie within these areas. As per SPPS 6.29 such designations seek to identify **particularly distinctive areas of the historic landscape** in Northern Ireland. -ASAI are not purely about the monuments but are identified on the basis of the historic landscape character and the contribution that this makes to the setting, understanding and enjoyment of the monuments that lie therein. For example the Tullaghoge Statement considers the particular contribution of roads and routeways in the landscape. There are no reflections of these types of unique characteristics in the generic policy approach outlined in the draft.

We also advise that the amplification text makes no reference to requirements around scheduled monument consent, which will be critically important for applicants applying to carry out works affecting the ground or fabric of scheduled monuments.

We strongly advise revision of this policy, and of the amplification text to take clear account of SPPS provisions and of statutory requirements (under the Historic Monuments and Archaeological Objects (NI) Order 1995), and of our comments. We advise that individual policies should be tailored to protect ASAI. A generic policy for all three is not appropriate.

## **Policy HE 2:**

HED are very concerned about the merging of three policies into one. We advise that the approach is confused and will create uncertainty in the Planning Process. The three SPPS policies 6.9., 6.10 and 6.11 are each distinct and separate, and with SPPS 6.8 they reflect a hierarchical approach toward archaeological remains which has not been properly taken into account in the draft. We advised against the merging of policies on evaluation and on mitigation in our previous feedback to the POP and our concerns are increased now by the now proposed merge of three policies.

The Preferred Option described was an approach in line with existing policy. The current approach is not in line with existing policy or with the SPPS approach. The line "subject to a full archaeological evaluation" at the end of the first paragraph could inadvertently cause destructive effects to locally important monuments, including upstanding prominent features in landscape and townscape and we advise that it should be removed from this paragraph. Evaluation is a distinct requirement in itself for circumstances where further information may be required or where there is uncertainty over the presence or absence of remains, hence its consideration separately within SPPS. Where it occurs on known archaeological sites it has a destructive impact. The approach outlined in the draft demonstrates that the concept of archaeological evaluation and the hierarchical approach referred to above is not clearly understood. We also suggest that the words "by the developer" in the content of this paragraph should be removed.

We advise that discussion on Areas of Archaeological Potential would be more appropriate in explanatory text and that in these cases, that archaeological assessment and evaluation across the board may be overly prescriptive. A line to state that HED will be consulted for advice in relation to proposals in Areas of Archaeological Potential would be an appropriate insertion in its stead.

The policy on locally important remains, SPPS 6.9, refers to sites on the sites and monuments record which are not scheduled or state care monuments. Presently about 12% -13% of monuments recorded on this record are scheduled or state care monuments with the rest being locally important monuments.

The third paragraph takes inadequate account of SPPS 6.10. This should be a separate distinct policy and HED recommend its articulation as per SPPS, to retain clarity as to how the policy applies.

The fourth paragraph takes inadequate account of and severely weakens the SPPS 6.11 policy, - it does not reflect critical considerations such as preservation in situ, licensed excavation, recording, examination and archiving the archaeology. It also does not consider that in some cases, based on HED advice, conditions may be required for mitigation without

having had evaluation carried out in the first instance. This policy should be clear and separate from requirements for archaeological evaluation.

HED advise that HE2 as drafted is not sound, does not demonstrate adequate account of SPPS, the preferred option, or our previous comments. The policy lacks clarity and is likely to cause confusion and uncertainty in relation to development affecting archaeological remains. As worded it also creates a potential for unnecessary destructive impacts on locally important archaeological remains. We re-iterate that it is vital toward meeting our obligations under the Valletta Convention that the policies in relation to evaluation and mitigation, and archiving by way of planning conditions be articulated as per SPPS 6.10 and 6.11.

Justification & amplification text:

HED advise that the explanatory amplification text demonstrates a deviation in policy approach from SPPS, without justification, and a lack of understanding of the policies and evidence bases. We advise that designation of Local Landscape Policy Areas should be considering the protection of locally important remains and other heritage assets identified on the sites and monuments record which lie within or immediate to settlement limits.

Paragraph 3 - The use of the example of the preservation of a monument within a housing scheme as a positive solution does not demonstrate understanding of the potential adverse impact on setting and is a poor illustration of the application of policy to protect remains of local importance. We recommend the removal of this section.

Paragraph 4 - The terminology of "recording and removal" is particularly inappropriate and is inconsistent and not in line with the provisions of SPPS.

Paragraph 7 - of the explanatory text refers to the official list of scheduled monuments named the Sites and Monuments Record. The official list of scheduled monuments is the Schedule of Historic Monuments and is available as an online published list via our website. The Sites and Monuments Record is a wider database containing locally important monuments as well as scheduled monuments. Scheduled Monuments are of regional importance. The text does not demonstrate an understanding of the evidence base to which this policy would apply. We are confused by what is meant in the last paragraph in relation to consulting ourselves (the central government department, perhaps better to refer to DfC HED) when remains are only discovered once development commences – Is this referring to development that had planning permission in place without archaeological conditions? The paragraph seems to be an attempt to summarize PPS6 3.20 and 3.21 and we recommend it more closely follows the text of those passages to provide clarity.

We advise again that these merged policies must be considered separately to be effective and take proper account of SPPS. Likewise each should have its own explanatory text. We refer you to explanatory text in PPS6 which clearly outlines policy amplification.

### **Policy HE 3:**

The policy approach is vague does not take proper account of SPPS 6.16 and 6.17, and removes any reference to character and principal components. It does not reflect the Preferred Option which was to adopt the existing policy.

Within policy text HED suggest a word change: omit 'intrinsic' add in-lieu significant ensures alignment with local, national and international legislation and guidance around the importance of heritage assets.

Within the justification and amplification text, 3<sup>rd</sup> para, we consider a word is missing – 'Consideration will also be given to applying...'

### **Policy HE 4:**

HED consider policy HE4 as drafted to be **unsound** and not in robust alignment with SPPS 6.12, 6.13 and 6.15.

Policy wording lacks clarity and is likely to cause confusion and uncertainty in relation to proposal affecting listed buildings. HED deem it vague and open to wide misinterpretation, providing weaker protection than currently afforded under SPPS and PPS6 and not in alignment with RDS. HED consider this policy does not adhere to the council's strategy statement in relation to the Historic Environment (pg.144). Nor does the policy adhere to the preferred option given in the POP.

HED consider the policy wording must include the wording protect, conserve and enhance the listed building, rather than limiting its inclusion to the justification and amplification subtext section.

Within our POP consultation we have previously expressed concerns around policy phrasing and lack of clarity and consistency. Unfortunately, HED consider there is a significant step away from the positives in the POP draft policy framework in comparison to the structure and wording / phrases presented in the draft PS policy:

- (1) hierarchy structure; (a) the separation of works to a listed building, (b) from the works in the setting of the listed building and (c) demolition of a listed building,
- (2) the inclusion of key wording (essential character, special interest, exceptional, detailed design, scale, height and so on)

The policy merges a number of different and differing policies expressed separately within both PPS6 and SPPS. While HED acknowledge the direction of SPPS towards amalgamation of policies (from PPS6) within 6.13, i.e. BH8 – alterations or extension, BH11 – setting issues and BH7 – changes of use, we have serious concerns around the potential this has to change emphasis and create significant confusion in the approach to the protection of listed buildings. Leading to contravention of legislative protections and failure to meet obligations under international conventions on the protection of archaeology and built heritage.

We highlight the existing policies within PPS6 as outlined below for listed buildings have a structure which is important in their application and reflects the different levels of protection which, heritage assets are afforded, examples as are set out below:

- Policy BH7 is concerned with the type of use of a listed building only, which encompasses a principle of conservation – sustainability. Applications for listed building consent may not be required for this type of application unless the proposal required material changes to the buildings fabric. In which case the requirements of BH8 must be met.
- Policy BH8 is concerned with the proposed extension and/or alteration of a listed building and may have an effect on the buildings essential character and significance and therefore listing status. Any alteration to the historic fabric and/or spatial layout of the building requires Listed Building Consent (LBC).
- Policy BH11 is concerned with development affecting the setting of a listed building. This normally involves new build, its detailed design and its proximity/juxtaposition to the listed building. The consideration of BH11 complement but are different to those of BH8. An application for LBC may not be required for this type of application.

Should merging policies, in clear alignment with SPPS, be considered HED consider it necessary to express the differences as set out above within a policy hierarchy structure.

HED is concerned there is no use of words such as appropriate, scale, massing, height, alignment, materials or detailing and so on of any development impacting the listed building. HED consider inclusion of such wording as critical to enable a policy test to be established. We strongly advise their inclusion here, especially as we can see no reason for their exclusion,

as they are noted in other policies within the document over and above annotation in GP1, e.g. CT1, ECON1, ECON2, HE11, HOU3, TOU3 and UD1 (this is not an exhausted list).

Critically SPPS recognises the importance of having a separate policy for demolition of a listed building (6.15). This document does not have a demolition policy and therefore is unsound and fails to align with SPPS. In addition, SPPS requires any demolition consent to be conditional to agreement (planning permission obtained) for the redevelopment of the site.

Note, 'assessment' of the heritage asset should form part of the decision making procedure of the application process, not after a permission has been granted. With regard to information to be submitted for demolition consent we welcome the inclusion of the requirement for a conservation structural engineer report to ascertain structural soundness. HED suggest any such report must include evidence to support that alternative options to conserve and/or stabilise have been considered and exhausted to retain the structure in the first instance.

Term use within policy:

See comments above regarding inclusion of necessary wording to aid clarity around proposals meeting a policy test.

HED consider the use of the term 'development' in the policy text as inappropriate, as not all alterations or change of use to a listed building result in 'development'.

HED recommend a move away from the term 'Developer' as not all applications are from developers, e.g. private home owners, HED suggest applicants.

HED consider the use of the word 'conflict' is too vague and open to misinterpretation, HED considers fails or refused as more appropriate.

Policy context is critical and can have a profound effect on how the wording of a policy protects a heritage asset, some example set out below;

'Renovation' in a conservation principle context, is the process of improving a broken, damaged or outdated structure and/or element and making it look like new. Therefore, we suggest its removal and add in-lieu the word alteration as it is more appropriate in relation to historic environment policy.

'Reuse' – Better to use 'Change of Use' as this links with general planning legislation, i.e. Change of Use applications, and SPPS 6.13.

'Repair' may cause confusion as like-for-like repairs of historic fabric do not require Listed Building Consent and may not require planning approval.

Justification and amplification text:

The policy is the test to which a proposal must adhere, with the amplification text providing the opportunity to clarify the meaning of the policy or the decision making process as to how the policy will be assessed and determined. HED consider the current amplification text fails this requirement. HED welcome the 1<sup>st</sup> paragraph in the amplification text, but question how will the policy text be tested against it?

In addition, within the amplification text it states 'When assessing development proposals weight will be given to our supplementary planning guidance...' Further clarity is required, as weight must be focused on policy text, aided by clarification in amplification text.

The bullet points under 'Developers shall provide the following information when required' (HED suggest 'when required' should be omitted) could be placed in a supplementary planning guidance note.

HED advise that Mid Ulster District Council review the amplification text from PPS6: BH7, BH8, BH10 and BH11 as part of the evidence base to inform an understanding of the differences between the existing policies and their potential impact and evaluation on listed buildings to clarify the proposed justification text body of the draft PS.

HED has concern that some aspects of the current text, notably the differentiating between phrases such as 'the Plan' and 'policy' have potential to create confusion – if a scheme is argued to adhere to the objectives of the LPD, i.e. by creating a balanced proposal which benefits the social, economic and environmental qualities of the local area, does a scheme then 'accord with the plan' and therefore, meet the policy? Clarity over the phrasing is required. HED consider to use of 'the Plan' should be removed and 'policy' added in-lieu for clarity.

Ensure consistent use of term use between policy text and the amplification text and within the overall document as a whole (some examples set out below):

'Listed building heritage asset'. A 'listed building' is defined in legislation. Whereas, a 'heritage asset' can be considered as a building (designated or non-designated), monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions.

'Original authentic historic fabric' - Original historic fabric is by its nature authentic.



There is an opportunity within the justification text to highlight that Council has powers to seek remedial works to listed buildings if they are deliberately allowed to fall into despair.

We welcome the inclusion of referencing BS 7913:2013 Guide to the conservation of historic buildings. BS 7913 describes best practice in the management and treatment of historic buildings. It applies to both designated and non-designated heritage assets. BS 7913 takes you through all stages from initially looking at a heritage assets through to the completion of appropriate work.

**Policy HE 5:**

HED consider policy HE5 as drafted to be **unsound** and not in robust alignment with SPPS 6.14 and 6.20.

We have concerns that the wording within the draft policy HE5 afforded a stronger policy test in comparison to HE4, i.e. where is the proportionate policy weight between the protections to the Listed Buildings (HE4) compared to the advertisement (HE5) policy wording.

SPPS clearly expresses a hierarchy in advertisement applications between Listed Buildings (LB), Conservation Areas (CA) and Areas of Townscape Character (ATC).

PPS6 policy BH9 – is specific to ‘design and location’ requirements of signage on a listed building in terms of its ‘architectural form and detailing’. PPS6 policy BH13 refers to ‘adversely affecting’ the ‘character, appearance or setting’ of a CA. BH9 uses the pretext ‘normally only grant consent’ whereas BH13 states ‘not normally grant consent’. This means that BH9 is conditional on further standard being met and is a stronger test to fulfil than BH13. PPS6 ATC3 aims to ‘retain the overall character and appearance of the area’ unlike BH13 it does not refer to setting.

**Policy HE 6:**

HED consider policy HE6 as drafted is not in alignment with SPPS 6.18 and 6.19.

SPPS states that development in a Conservation Area must enhance its character in the first instance. With preserving its character only when the opportunity to enhance does not exist. The draft policy seeks a higher policy test. While a strong policy test is welcomed by HED, it has the potential to confuse the hierarchy policy balance between works to listed buildings and non-designated heritage assets in CA or ATC.

There are fundamental differences between protection of listed buildings compares to CA and ATC. SPPS places the highest policy test to listed buildings – development must seek to protect, conserve and enhance. (Generally) policies relating to CA and ATC are about enhancing and preserving – a lesser policy test compared to LB. SPPS places enhancement over preserving as the policy test in CA, while the hierarchy is maintaining or enhancement as the policy test in an ATC. These are the fundamental differences and nuances that establish hierarchy policy tests across LB, CA and ATC.

HED consider there is policy opportunity to enact the Article 4 Direction to remove permitted development rights to buildings within CAs.

See our comments for HE4 in relation to demolition.

HED welcome the inclusion of naming the current CAs within the council area. However, we consider their inclusion may be better placed in the 'overview' section rather than within the policy text as the list is subject to change due to potential additions and/or removals.

HED remind Council of the statutory requirement to consult the Historic Buildings Council (HBC) on the designation or removal of designation of Conservation Areas. Consultation to HBC will be administered through the HED Statutory Advisory Council's Secretariat.

**Policy HE 7:**

HED welcome the inclusion of this draft policy and the importance it will play in the safeguarding of non-designated (non-listed) heritage assets within the council area – retaining local identity and distinctive character in alignment with RDS and SPPS objectives. Outside of the policy there is the potential for local listing designation, and HED welcome this acknowledgment in the justification and amplification text.

Potential wording error, 2<sup>nd</sup> bullet point – do you mean 'intervention techniques'  
HED advise it may not be necessary to limit works to non-designated buildings to using traditional craft skills and materials provided the attention is focused on quality and sustainability. With appropriate design, detailing and skill more contemporary/modern approaches, notably in relation to new build extensions and so on, can achieve successful and sympathetic design solutions.

**Policy HE 8:**

See HED related comments under Policy HE6.

**Policy HE 9:**

HED welcome the inclusion of a policy framed around industrial heritage.

Within the justification and amplification text, 3<sup>rd</sup> para, we consider the following phrase/words are missing – ‘...fabric, form, significant of the setting and associated historic...’

**Policy HE 11:**

HED consider policy HE11 as drafted to be **unsound** or in robust alignment with SPPS 6.25 and 6.27.

We welcome the wording of the first paragraph, however, HED consider major policy gaps remain – SPPS states Enabling Development is a development proposal that is contrary to established planning policies, i.e. that Enabling Development is only to be used as a last resort from departing from normal policy presumptions is not expressed here. Enabling works should avoid detrimental fragmentation of the management of the place, be the minimum necessary works to secure the future of the place and arise to resolve the inherent needs of the place and not the circumstances of the owner, e.g. financial.

For clarity it would be prudent to provide annotation stating that enabling development is only acceptable in exceptional cases to address the conservation deficit of the heritage asset and consequently the preservation of the setting of the heritage asset will remain a key consideration.

We consider there is an opportunity within the policy to create a strong policy test by ensuring any proposal has a Heritage-led regeneration approach.

HED consider the justification and amplification text does not provide further clarity to the meaning of the policy or to the decision making process, e.g. how will ‘material interest’ be defined? Rather it states the type of information necessary to be submitted as part of any planning application. HED consider it more appropriate to state what information must be submitted in a Statement of Justification and that the purpose of a PAD in advance of a Full planning application is to avoid unrealistic exceptions.

### **Monitor Success (section):**

HED has major concerns as to how the means of monitoring the success of the LPD measurement tool will show how success towards the historic environment has been achieved. At present the tool appears to create a list of data that will show the number of various application types set against the number of applications submitted, alongside approval or refusal decisions. HED consider it may be more appropriate, for example, to include figures that comprise of (a) the number of Scheduled Monument Consents related to planning applications, (b) number of planning conditions which have had archaeological conditions attached, (c) the number of Conservation Areas and/or Areas of Townscape Character designated or removed, (d) the number of designated and non-designated heritage assets brought back into occupied use, demolished or replaced and (e) planning decisions which overturn consultations advice/recommendations throughout the Plan period.

Clarity is required by what is meant by including central government and local planning authority within the Measure subheading, e.g. HED have never approved or refused applications and the powers to issue Building Preservation Notices (BPN) were transferred to local councils in April 2015.

### **Additional General feedback on the draft PS:**

Throughout the document, notably within the Justification and Implication text, it states (or similar wording) *'In all such cases we will consult with the appropriate central government department'*. There is no need to include this type of sentence/statement as under planning legislation HED must be consulted when works impact a 'listed building' or a 'historic monument' or their setting (terms as defined within planning legislation).

Pg.5 – missing word: final bullet point under the RDS subheading must include conserve.

Pg.17 – under 'Mid Ulster's Spatial Planning Framework' (SPF) subheading, should the opening sentence read *'..the following Spatial Planning Framework...'*  
Spatial Planning Framework - HED seek further clarity for their hierarchy position and how they aid the decision making process. To ensure clearer alignment with RDS and SPPS the wording of SPF 10 (pg.26) should omit the wording 'conservation interests' and in-lieu the historic environment.

Pg.22 – HED disagree with the phrasing ‘...the introduction of a new dwelling will make no difference to the character of the landscape...’ All development (single or cumulative) in the countryside impact the character of the landscape. The landscape is inseparable and intrinsically linked to the historic environment and forms the immediate and wider rural setting of heritage assets. The historic environment and the setting of heritage assets often share common pressures and strengths with landscape and countryside with regard to sensitivity to development. We suggest the wording ‘will make no difference’ should be omitted and change the structure of the statement along the suggestion of to reduce the impact of the introduction of a new dwelling on the character of the landscape.

Pg. 136 - NIEA Historic Environment Division is mentioned as the responsible Department for historic environment data/evidence. This is incorrect, Historic Environment Division (HED) has not operated as part of NIEA since April 2015 and has been operating within the Department of Communities since May 2016.

**General comments regarding the subsections within ‘The Historic Environment’ section of the SA/SEA Appraisal for the draft PS;**

Within the document NIEA and/or NIEA Built Heritage is mentioned as the responsible Dept. for historic environment data/evidence – see comments above, ref pg. 136.

HED have considerable concerns around scoring, in relation to appraisal of impacts on the historic environment, including with regard to proposed HE policies, and in relation to zoning for (some) development land. We believe that it is not robust, inconsistent, and that it demonstrates a lack of understanding of the historic environment evidence bases. HED has previously highlighted concerns over areas zoned for economic development at Granville and at Dungannon. We cannot see that our previous comments specifically (notably correspondences of 17.07.2017, 21.12.2017 and 15.01.2018) are being appropriately considered, and we cannot see how the proposed policies have been developed following feedback during the Preferred Options consultation. In relation to zonings, it is clear the case of the Dungannon zoning Site D in the Appraisal of Reasonable Alternatives has not taken account of the evidence base. Development in this zone will almost certainly have a negative impact on an upstanding rath, a historic monument of local importance, and/or its setting, particularly with regard to its association with other historic monuments such as the nearby crannog - this particular grouping of heritage assets are likely to be representative of an early medieval centre of power associated with the O’Neill’s - and its contribution to the

understanding of the evolution of the settlement of Dungannon. The comment in the SA that HED have not advised of any features at this location is misleading and inaccurate. **We are extremely concerned that our comments are not being taken on board through the process.** We have provided advice specifically in relation to this feature, however we reiterate that it is for the council to utilise our datasets in order to assess impact of proposals and to propose designation or mitigation is appropriate for the purposes of their Plan. Statements such as "HED have not advised of" in relation to presence or absence of heritage features at zoned locations do not demonstrate that robust assessment is being undertaken. We reiterate that it is for the council to assess impacts on the historic environment using the historic environment evidence bases we have provided.

HED has major concerns that the merging of number of policies is seen as a positive or major positive, e.g. merging BH2, BH3, BH4, or BH7, BH8, BH10, BH11, especially when the wording of the policy, and justification and amplification text, currently proposed lack clarity, will lead to more confusion and provide lesser protection than currently afforded, which would be negative. HED strongly disagree with the scoring in the SA in relation to these policies and consider that the interpretation and combining of existing policies can result in changes in meaning and emphasis, when considering appropriate strategies for the protection, conservation and enhancement of listed buildings, their fabric, character and their setting (as we have set out elsewhere in this document). In addition, the emergence of BH10 with other policies fails to align with SPPS 6.15. We observe inconsistencies in the scoring and consider that the scoring in relation to some of the drafted policies would actually be negative.

Note: Design and Access Statements (DAS) are already required under planning legislation for all listed building consent applications. Therefore, the phrasing under the comments around SA/SAE objective 13 and Option 2 (pg.281) must be clarified and amended - Suggested amendment: '...the requirement of Design and Access Statements that applicants are required to produce for Listed Building Consent proposals will enable considered and quality design interventions impacting listed buildings. Therefore, Council may introduce DAS to be sought for Full planning applications impacting the setting of a listed building ...'

HED cannot see justification for the policy approaches taken, as articulated through the policies in the draft plan strategy, and request that the local authority meet with us in relation to the policy development for the historic environment.

Yours sincerely,

[Redacted]

Senior Architect (acting):

[Redacted]

[Redacted]  
Senior Archaeologist.

Heritage Records & Designation Branch  
Historic Environment Division : DfC

Cc

[Redacted]