

Sinead McEvoy

From: Chris Tinsley [REDACTED]
Sent: 18 May 2020 15:38
To: DevelopmentPlan@midulstercouncil.org
Subject: LDP Re-Consultation Correspondence
Attachments: QP Correspondence.pdf

Importance: High

Dear Sir/Madam

Further to the letters received from Mid Ulster District Council (MUDC) dated 12th March 2020 in relation to the Re-Consultation on Local Development Plan 2030- Draft Plan Strategy and accompanying Sustainability Appraisal incorporating Strategic Environmental Assessment Report, please find enclosed correspondence from Quarryplan confirming that our previous joint and individual representations may be considered as our Clients' representations to the DPS.

Please see attached for reference, with hard copy to follow in the post.

If you have any queries please don't hesitate to let me know,

Regards
Chris

Chris Tinsley MRTPI
Senior Town Planning Consultant
Quarryplan Limited
10 Saintfield Road
Crossgar
BT30 9HY



Elaine Mullin

From: Chris Tinsley <[REDACTED]>
Sent: 19 April 2019 10:07
To: DevelopmentPlan@midulstercouncil.org
Subject: MUDC LDP Draft Plan Strategy- Lough Neagh Sand Traders Association Representation
Attachments: Sand Traders Association Representation ISSUE.pdf; Representation-Form.pdf
Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sir/ Madam

Please find enclosed representation to MUDC Local Development Plan 2030- Draft Plan Strategy, made on behalf of Lough Neagh Sand Traders Association.

If you have any queries, please do not hesitate to contact me.

Regards
Chris

Chris Tinsley MRTPI
Senior Town Planning Consultant
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10 Saintfield Road
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BT30 9HY
T: [REDACTED]
Mob: [REDACTED]



2019/13

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

Representations must be submitted by 4pm on 19th April 2019 to:

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

Or by email to developmentplan@midulstercouncil.org

Please complete separate form for each representation.



SECTION A

1. Personal Details

Title

First Name

Last Name

Job Title (where relevant)

Organisation (where relevant)

2. Agent Details (if applicable)

Address Line 1	<input type="text" value="C/O AGENT"/>	<input type="text" value="QUARRYPLAN LTD
10 SAINTFIELD ROAD
CROSSGAR
CO. DOWN"/>
Line 2		
Line 3		
Line 4		
Post Code	<input type="text"/>	<input type="text" value="BT30 9HY"/>
Telephone Number	<input type="text"/>	<input type="text" value="██████████"/>
E-mail Address	<input type="text" value="████████████████████"/>	

SECTION B

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

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

- (i) Paragraph
- (ii) Objective
- (iii) Growth Strategy/
Spatial Planning Framework
- (iv) Policy
- (v) Proposals Map
- (vi) Site Location

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

Sound Unsound

4(b). If you consider the DPD to be unsound, please identify which test(s) of soundness your representation relates, having regard to Development Plan Practice Note 6 (available on the Planning Portal Website at https://www.planningni.gov.uk/index/advice/practice-notes/development_plan_practice_note_06_soundness_version_2_may_2017_-2a.pdf.pdf).

Soundness Test No.

TESTS P3; CE1 AND CE2

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

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

SEE ACCOMPANYING LETTER

(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 ACCOMPANYING LETTER

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

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

Written Representation

Oral Hearing

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

Signature:

Date:

9TH APRIL 2019

File ref: CST/MUDC/DraftPlanStrategy/SandTraders



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

19th April 2019

Via email: developmentplan@midulstercouncil.org

Dear Sir/ Madam

Re: Lough Neagh Sand Traders Association representation to Mid Ulster Local Development Plan 2030- Draft Plan Strategy

Further to the joint representation made on behalf of mineral operators within Mid Ulster, Quarryplan is instructed by its client, Lough Neagh Sand Traders Association (LNST), to prepare and submit an individual representation to the Draft Plan Strategy (DPS) which is currently the subject of a public consultation. For the avoidance of doubt and to streamline individual submissions we will not reiterate the points made in the joint submission (April 2019), however, it is confirmed that the points made in the submission are the views of the Sand Traders and should be recognised as such.

Background

The LNST businesses and their sites around Lough Neagh, as identified in Figure 1.1 overleaf are as follows:

Company	Site #	Address
P&J Walls	1	Airfield Road, Toome
Northstone	2	Creagh Road, Toome
Northstone	3	Creagh Road, Toome
Northstone	4	Loughview Road, Ballyginnif
Northstone	5	Shore Road, Sandy Bay
Lagan	6	Shore Road, Sandy Bay
Mulholland	7	Gooseberry Corner Road, Derryclone
Emersons	8	Ardmore Road, Derryadd

The five independent sand trading businesses of Lough Neagh came together to form a limited company in 2015 to enable a collegiate, comprehensive and coordinated response to the planning and regulation of the sand extraction, processing and trading activity which has been ongoing for the past seven decades and which is recognised by Lough shore communities as an established feature of the life of the Lough and its surrounding environment. LNST regard this interaction with the planning system as part of their ongoing commitment to the responsible and sustainable management of the Lough, as a long-standing indigenous stakeholder in its past, present and future.

Whilst the LNST process of extraction of minerals (sand and incidental gravel) from the bed of the Lough is well established and has been recognised by successive planning authorities for many years, it does not have planning permission.

The extraction of sand from the Lough is the subject of a deemed planning application before the Planning Appeals Commission and a planning application currently under consideration by the Department for Infrastructure (DfI) under the Planning Application references (2015/E0023-28) and LA03/2017/0310/F respectively. A decision is currently awaited and in the interim, mineral is extracted from the Lough in accordance a number of interim measures issued and is closely monitored by the DfI.

Extraction Area

The current/ proposed extraction area is located wholly within the Mid Ulster District Council (MUDC) administrative area, which covers the western and south western extents of Lough Neagh. The extraction area is c. 3.2 miles to the south east of Ballyronan.

The extent of the 2 areas identified as the Extraction/ Dredging Area in Figure 1.1 have been established via borehole, grab sample and seismic analysis, which has permitted the determination of sand and gravel deposit depths remaining within the Lough and the resource volume.

Full details of the site investigation and the sand extraction process is provided at Chapter 2 of the Environmental Statements submitted under the Planning Application references (2015/E0023-28) and LA03/2017/0310/F, a copy of which is held by the Council.

As demonstrated via Figure 1.1, whilst the extraction area is located wholly within the MUDC Administrative Area, the sand extracted from this part of the lough is landed within a number of different Council Areas dotted around the Lough. The resource extracted from Mid Ulster, therefore generates economic benefits across a much wider geographical area than just Mid Ulster.

Economic Contribution

As detailed in the accompanying table, the extraction of sand from Lough Neagh makes a significant contribution not only to the Mid Ulster District, but also the wider regional economy. The extraction operations directly support 46 jobs with a further 211 supported in the associated manufacturing processes, supporting average yearly wages of c. £7.5 million.

The accompanying table shows that the value of turnover (i.e. sales) from Lough Neagh Sand Traders was just over £45 million, with c.16 percent of this output attributed to sand dredging and the remaining c.84 percent generated by higher value-added activities, where the sand is used in manufacturing processes and other products.

As demonstrated in the joint representation, the evidence base presented by the Council which identifies the contribution of the industry to the district, including that of LNST, has been grossly undervalued. The policies contained within the plan are therefore not based upon a robust evidence base and as such, the plan is considered to fail to comply with Soundness Test CE2.

The extraction of sand from Lough Neagh of 1 million tonnes per annum in recent years on average, provides in excess of 50% of all sand produced in the Mid Ulster district, with reference to Table 6 of

the Council's ACDM Impact Paper¹, without considering the capacity to increase to 1.5MTpa that has been assessed as part of the Environmental Impact Statements.

Therefore in addition to the loss of the significant economic benefits, the removal of the supply contribution of the Lough would be potentially catastrophic to the added value concrete industry (precast, tiles, block paving, ready mix concrete) as presently structured in Northern Ireland as alternative sources of sand are quite simply not available, as can be deduced from the Council's own research once the Cement limestone and shale resources are correctly taken out of the sand and gravel resource bank. Furthermore, Mid Ulster land-based resources would come under further pressure, as in order to deliver the additional 1 to 1.5MT of sand, there would be a requirement for between 2 and 3MT of land-based sand and gravel to be worked annually (allowing for an optimistic 50-50 sand to gravel average resource split).

The SA fails to identify and assess this point as one of the reasonable alternatives with regards to the various issues around minerals supply. Given the lack of understanding on the Council's part and the absence of a credible and robust baseline, the Sustainability Appraisal (and SEA) is considered to be flawed and the plan is therefore considered to fail Procedural Test P3

Proposed Mineral Policies

Policy MIN 1 states that:

"Within a Mineral Reserve Policy Area (MRPA), surface development which would prejudice the future extraction of minerals, shall not accord with the Plan".

The DPS states that the aim of MRPA's is to protect minerals which have important economic benefits. As outlined above, the policies within the plan are not based upon a robust evidence base, therefore the economic contribution of the areas identified as MRPA's (apart from the Limestone deposit at Cookstown) is questionable.

As demonstrated above, the economic contribution that the extraction of sand from Lough Neagh brings to the local and regional economy is significant. No detail is provided within the plan as to how this resource and its associated economic benefits will be considered in terms of future planning policy provision.

Given the economic contribution, the safeguarding of the resource is considered to be a reasonable alternative to the proposed policy however no assessment of the same has been undertaken within the Council's Sustainability Appraisal/ Strategic Environmental Assessment (SA/SEA). As a result, the policy is considered to fail to comply with Soundness Tests P3, CE1 and CE2.

"In Areas of Constraint on Mineral development ('ACMD') the extraction and processing of hard rock and aggregates will conflict with the Plan...elsewhere, extraction and processing of hard rock and aggregates will conform with the Plan, subject to environmental and transportation considerations".

Our client welcomes the fact that Lough Neagh has not been identified within the proposals maps as an ACMD. Given that the extraction of sand from the Lough is currently the subject of a planning application and enforcement appeal, any proposed designation is considered likely to be prejudicial.

As outlined separately within the joint submission LNST has instructed us to emphasise their concerns regarding the contradictory wording of the policy which indicates that such development (outwith the proposed ACMD) will conform with the plan and therefore a presumption in favour of mineral development exists, whilst setting a higher bar than is prescribed in the SPPS which seeks a balanced approach to mineral decisions whereas the policy introduces the requirement for a precautionary approach. This approach is unjustified and no assessment has been provided as to the introduction and why the Policy should run contrary to the SPPS.

¹ Identification of Areas of Constraint on Mineral Development & Impact of Surface Development on Aggregate Resources in Mid Ulster Evidence Report, MUDC, January 2019

As a result, the policy is considered to fail to comply with Soundness Tests CE1 and CE2.

The policy goes on to state that

“A precautionary approach will be adopted to assessing mineral development and therefore the onus will be on the developer to demonstrate that development will not:

a) Prejudice the essential characteristics of a site of international / national or local nature conservation importance including ASSI’s, SAC’s, SPA’s and local /national nature reserves or other heritage interests”;

The wording used is overtly prescriptive and is not reflective of regional planning policy. The policy categorises local designations (e.g. SLNCl’s) with European sites and introduces a new test for European designated sites. The approach is confused, imprecise and contradicts regional guidance for others.

For example, paragraph 6.175 of the SPPS states that

“Development proposals are restricted where they are likely to impact upon the integrity of European or Ramsar sites as these are afforded the highest form of statutory protection”.

The phrase “essential characteristics” is not used anywhere within the SPPS when detailing policy with regards to local, national or international designations.

Paragraph 6.158 of the SPPS states that:

“Minerals development within or in close proximity to an area that has been designated (or is proposed for designation) to protect its landscape, scientific or natural heritage significance will not normally be granted permission where this would prejudice the essential character of the area and the rationale for its designation”.

The SPPS is therefore a two-part test as it states that planning permission will **not normally be granted** where this would prejudice the essential character of the area and the rationale for its designation. Thus, the existing SPPS policy is considered to have the potential to permit exceptional cases.

The proposed wording has unreasonably become more prescriptive by removing the reference to “not normally” and lacks clarity and fails to comply with regional planning policy. As a result, the policy is considered to fail to comply with Soundness Tests CE1 and CE2.

Policy SCA 1- Special Countryside Areas

The plan introduces Special Countryside Areas (SCA’s) in order to protect the quality and amenity value of these landscapes. Proposed SCA designations are proposed along the shore of Lough Neagh/ Deg. Within the SCA’s there will be a presumption against all new development except for ancillary open development relating to appropriate recreation / open space uses, which have been demonstrated to be in the wider public interest; or in-situ replacement of an existing building of a similar size and character; or communications apparatus to serve a recognised ‘not spot’.

It is noted the DPS, at paragraph 14.17 states that:

“The Special Countryside Area around the shores Lough Neagh introduces a tight constraint on all development including mineral extraction in recognition of its landscape qualities and the international importance of this wet land. Whilst the shores are designated an SCA and are therefore protected from extraction the Plan has not introduced a SCA on the Lough, which has historically been used for sand dredging. This activity is subject to a regionally significant application being dealt with by Department of Infrastructure. Mid Ulster District Council will review the approach to extraction in

light of the outcome of that application. In the interim the Lough continues to be afforded protection by other statutory bodies through the various environmental designations that have been placed on it by virtue of the RAMSAR, SPA and SAC and ASSI designations”.

It is welcomed that the lough and the that the landing points for the unloading and processing of sand extracted from the bed of the lough, to the south west of Toomebridge (landing Points 1, 2 and 3 of Figure 1.1) are excluded from the SCA Given the importance of these sites to the operations on the Lough, it is imperative that the sites are not included within such a prohibitive designation.

The landing points provide important physical infrastructure for delivering the benefits associated with the extraction of sand from Lough Neagh, to the local economy. It is considered prudent to explicitly identify the sites within the policy, identifying that they have been purposely located outside of the designation in conjunction with the development of policy which is similar to that afforded to Lough Neagh Commercial fishing, which acknowledges that the activity is of commercial importance and therefore allows for the minor expansion of facilities.

No consideration of such an alternative approach appears to have been considered within the Council's SA/ SEA.

As a result, the policy is considered to fail to comply with Soundness Tests P3, CE1 and CE2.

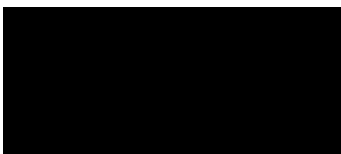
Soundness

To conclude further consideration of the true value / contribution to the Mid Ulster Economy by the Council is encouraged before moving on to the next stage, given that the figure of £13.2M quoted is so far removed from the reality that it cannot reasonably be relied upon as being evidentially sound. Upon establishing an accurate picture regarding Value / Contribution of the Mineral Industry within Mid Ulster the Council are encouraged to consider extending proposed designations to protect against alternative forms of surface development and the proposition of Areas Suitable for Mineral Development commensurate with the actual contribution derived from the resource, from which all subsequent prosperity is derived.

For the reasons set out within this individual representation and detailed within the combined representation, submitted under sperate cover, our clients consider the plan to be **unsound**, based upon its failure to comply with a number of the soundness tests, specifically Tests P3, CE1 and CE2.

I trust that the above is acceptable, however, if you wish to discuss any of the same please do not hesitate to contact me.

Yours sincerely,



Chris Tinsley MRTPI
Senior Town Planning Consultant
Enc

Site Address	Operator Name & HQ	Aggregate Extracted since commencement	Yearly Extraction rate	Remaining Reserves	Demand up until 2030 (2019-30)	Time remaining on Existing Planning	Extension Potential	Do You intend to expand this site before 2030
<p>Extraction area c. 3.2 miles to the east of Ballyronan.</p> <p>Landing Points at Toomebridge; Ballyginniff; Sandy Bay; Gawley's Gate; Ardmore.</p>	<p>Lough Neagh Sand Traders, comprising of:</p> <p>Breedon;</p> <p>Norman Emerson;</p> <p>Mulholland;</p> <p>Northstone; and</p> <p>PJ Walls.</p> <p>C/O Ardmore Road, Derryadd, BT66 6QP</p>	<p>Unknown- sand has been historically dredging from the Lough for decades.</p>	<p>c. 1 million tonnes per annum.</p>	<p>The extraction of sand from the Lough is the subject of a deemed planning application before the Planning Appeals Commission and a planning application currently under consideration by the Department for Infrastructure (Dfi) under the Planning Application references (2015/E0023-28) and LA03/2017/0310/F respectively.</p>	<p>Up to 1.5 million tonnes per annum</p>	<p>Planning permission is sought for a period of 15 years.</p>	<p>Yes- calculated resources of up to 100 million tonnes in Lough.</p>	<p>N/A</p>

Other Info


Turnover: £45 million

No. of staff employed: 46 (Extraction)
211 (Manufacturing)

Annual Wage Bill: £7.5 million

Annual Rateable value:

Signed:



On behalf of: LOUGH NEAGH SAND TRADERS COMPANY LTD
Date: 11th April 2019

Notes:

Legend

- Area of Search
- Extraction/
Dredging Area
- Potential Extraction
Area
- Sand Quays

- 1 - P & J Walls
(Airfield Road)
- 2 - Northstone
(Creagh Road)
- 3 - Northstone -
(Hutchinson's)
- 4 - Northstone -
(Ballyginiff)
- 5 - Northstone -
(Sandy Bay)
- 6 - Lagan Group
(Sandy Bay)
- 7 - A & E Mulholland
(Derryclone)
- 8 - Norman Emerson Group
(Ardmore)



Contains OS Data © Crown
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right 2011.

Title: Potential Extraction Area
and Sand Processing Locations

Scale: 1:125000 @ A3

Figure 1.1

Drawn By:
APS

Date:
08/03/2017