



Our Ref: A030000/MUDCLDP/MC

Date: 8th September 2020

**Mid Ulster District Council
Planning Department
Local Development Plan Team
50 Ballyronan Road
Magherafelt
BT45 6EN**

By Post & Email

Dear Sir/Madam

RECONSULTATION ON LOCAL DEVELOPMENT PLAN 2030 – DRAFT PLAN STRATEGY – REPRESENTATION NO: MUDPS/145 OBO VARIOUS CLIENTS

We refer to the above and your letters of **12th March 2020** and **16th July 2020**.

We write to confirm that we wish for our original representation, made on behalf of various clients on 19th April 2019 (Council's reference MUDPS/145), to be considered as our representation to Council's Draft Plan Strategy.

We trust this assists Council and clarifies our position in relation to representation MUDPS/145 and the current re-consultation on the Draft Plan Strategy.

Yours sincerely,

Kind regards.



Matthew Crothers MRTPI
Associate
For and on behalf of WYG

Sinead McEvoy

From: matthew.crothers <[REDACTED]>
Sent: 19 April 2019 13:14
To: DevelopmentPlan@midulstercouncil.org
Subject: Representation to MUDC Local Development Plan 2030 - Draft Plan Strategy Document on behalf of various clients
Attachments: Representation to MUDC Local Development Plan 2030 - Draft Strategy Document - Draft Policy FLD 4 - 19.4.2019.pdf
Importance: High

Dear Sir/Madam,

Please find attached a representation to the Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy Document on behalf of various clients.

I would appreciate if you could confirm receipt of this submission by way of return response to this email.

In the meantime should you have any queries or require further information then please do not hesitate to contact myself or a member of the planning team at this office.

Kind regards

Matthew Crothers
Associate

WYG
1 Locksley Business Park, Montgomery Road, Belfast, BT6 9UP
Tel: +44 2890 706 059

www.wyg.com

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Submission of a Representation to Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Local Development Plan
Representation Form
Draft Plan Strategy**

Ref:
Date Received:
(For official use only)

Name of the Development Plan Document (DPD) to which this representation relates

Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy

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

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

Or by email to developmentplan@midulstercouncil.org

Please complete separate form for each representation.

SECTION A

1. Personal Details

Title

First Name

Last Name

Job Title (where relevant)

Organisation (where relevant)

2. Agent Details (if applicable)

Address Line 1		1 Locksley Business Park Montgomery Road Belfast
Line 2		
Line 3		
Line 4		
Post Code		BT6 9UP
Telephone Number		028 90706000
E-mail Address		

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	19.34 to 19.38
(ii) Objective	N/A
(iii) Growth Strategy/ Spatial Planning Framework	N/A
(iv) Policy	Draft Policy FLD4
(v) Proposals Map	N/A
(vi) Site Location	N/A

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

Sound		Unsound	X
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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.

CE4 - Coherence and Effectiveness

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

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

See attached submission.

(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 submission.

(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:

19th April 2019

**Submission of Representation to Mid Ulster District Council (MUDC)
Local Development Plan 2030 Draft Plan Strategy Document
Draft Policy FLD 4 - Development in Proximity to Reservoir**

1.0 Introduction

- 1.1 This representation is made on behalf of various clients and builds upon previous submissions relation to the Mid Ulster District Council ('MUDC') Preferred Options Paper ('POP'), made in January 2017.
- 1.2 This representation is made in relation to ***Draft Policy FLD 4 – Development in Proximity to Reservoir*** of paragraphs 19.34 to 19.38 and pages 215 to 216 for the MUDC Draft Plan Strategy Document ('DPSD').
- 1.3 To assist MUDC, our response follows the layout of the DPSD and sets out:
- that part of the DPSD to which our representation relates;
 - whether we believe the DPSD to be sound or unsound;
 - the soundness tests which we believe are applicable;
 - details of why we consider the DPSD to be sound or unsound; and
 - details of any changes we believe are necessary to make the DPSD sound.

2.0 Consideration of Draft Plan Strategy & Recommendations

Section 19.0

Flood Risk (pages 206 to 216)

Draft Policy FLD 4 – Development in Proximity to Reservoir (page 215 to 216)

- 2.1 ***Draft Policy FLD4*** relates to development in proximity to reservoirs. It states:

"Development within a flood inundation area of a controlled reservoir will be in conflict with the plan except where it has been demonstrated through a Flood Risk Assessment that appropriate controls are in place to ensure that there would be no significant risk to the development.

Within the flood inundation area of a controlled reservoir there is a presumption against bespoke development for vulnerable groups, essential infrastructure and development for the storage of hazardous substances likely to cause a pollution".

- 2.2 It is believed that ***Draft Policy FLD4*** fails to satisfy the test of **CE4 (Coherence and Effectiveness)** in that the policy is not flexible and is unduly onerous.

**Submission of Representation to Mid Ulster District Council (MUDC)
Local Development Plan 2030 Draft Plan Strategy Document
Draft Policy FLD 4 - Development in Proximity to Reservoir**

2.3 It is noted from the MUDC *Planning and Flood Risk Policy Review Paper - April 2016* that MUDC's preferred approach to dealing with development in proximity to reservoirs was to not provide operational planning policy on development in proximity to reservoirs.

2.4 This was clarified in the position paper at page 30, where it stated:

"Currently there is an absence of Maps or data relating to reservoir inundation areas for the reservoirs within Mid Ulster. Such information is not readily available to planning officers or indeed the public. Therefore, a member of the public in making an application would not be aware that they were proposing to locate in such an area. It is the view of Mid Ulster that this is an untenable situation and that until such times as this information is available to both the planning officers and the public then an operational policy should not be provided.

It is important to note that this does not result in a policy void at this time since the operational planning policy contained within PPS15 remains in place until the Plan Strategy is adopted and indeed strategic policy is contained within the SPPS. It is hoped that this matter will have been progressed further with the Rivers Agency by the time that the Plan Strategy is published, and that an agreed and workable solution will have been arrived at".

2.5 Whilst further information is now available in the form of *DFI Rivers Reservoir Flood Map* (<https://www.infrastructure-ni.gov.uk/articles/what-reservoirs-bill-northern-ireland>), it is not believed that this in itself provides appropriate justification for such a policy.

2.6 Whilst the available information will assist both applicants and Council's Planning Officers in confirming if a proposed development site is within the flood inundation area of a reservoir, it will still result in a prospective applicant being placed with the unduly onerous task and costs of engaging a suitably qualified engineer to comment on the reservoirs safety.

2.7 On this basis the policy is not considered flexible and is unduly onerous and therefore is considered to not satisfy the test of **CE4 (Coherence and Effectiveness)**.

Recommendation

2.8 **Draft Policy FLD4** should not be brought through to any adopted Plan Strategy Document and should be removed as it is unduly onerous and inflexible for potential applicants.

**Submission of Representation to Mid Ulster District Council (MUDC)
Local Development Plan 2030 Draft Plan Strategy Document
Draft Policy FLD 4 - Development in Proximity to Reservoir**

- 2.9 In order for the DPSD to be line with the soundness test **CE4 (Coherence and Effectiveness)** focus should be on a regulatory system to ensure reservoir infrastructure is safe; thereby, negating the need for such a policy.

3.0 Conclusions

- 3.1 **Section 10(2) of the Planning Act (Northern Ireland) 2011** (the 'Act') advises that the Council must not submit a plan to the Department for independent examination unless: (a) it has complied with any relevant requirements contained in regulations under Part 10 of the Act and, (b) it thinks the document is ready for independent examination.
- 3.2 Whilst broadly supportive of the DPSD, given the issues set out within this submission and concerns regarding the 'soundness' of the DPSD it is requested MUDC does not submit the DPS to the Department in its current form.
- 3.3 The identified issues, in our opinion, prevent MUDC from delivering a sound and lawful Local Development Plan.
- 3.4 In accordance with **Section 10(7)** of the Act, should MUDC submit the DPS in its current form to the Department for an independent examination, we request that we are given the opportunity to appear before and be heard at the examination.

Should you have any queries or require further information on the above please do not hesitate to contact us.

WYG Planning.

April 2019