



Our Ref: A101638/MUDCLDP/MC

Date: 8<sup>th</sup> 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/139 FOR MR MARK NICOLAY**


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

We write to confirm that we wish for our original representation, made on behalf of our client, Mr Mark Nicolay on 19<sup>th</sup> April 2019 (Council's reference MUDPS/139), 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/139 and the current re-consultation on the Draft Plan Strategy.

Yours sincerely,

Kind regards.

  
Matthew Crothers MRTPI  
**Associate**  
For and on behalf of WYG

1 Locksley Business Park, Montgomery Road, Belfast, BT6 9UP

Email: [belfast@wyg.com](mailto:belfast@wyg.com) Website: [www.wyg.com](http://www.wyg.com)

**Sinead McEvoy**

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**From:** matthew.crothers [REDACTED] >  
**Sent:** 19 April 2019 12:27  
**To:** DevelopmentPlan@midulstercouncil.org  
**Subject:** Representation to MUDC Local Development Plan 2030 - Draft Strategy Document on behalf of Mr Mark Nicolay  
**Attachments:** Representation to MUDC Local Development Plan 2030 - Draft Strategy Document on behalf of Mr Mark Nicolay - 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 our client, **Mr Mark Nicolay**.

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

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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)

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

Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy
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**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**

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**1. Personal Details**

Title

First Name

Last Name

Job Title  
(where relevant)

Organisation  
(where relevant)

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

Address Line 1	C/O Ruddell & Co. Solicitors	1 Locksley Business Park
Line 2	16 Church Street	Montgomery Road
Line 3	Dungannon	Belfast
Line 4		
Post Code	BT71 6AB	BT6 9UP
Telephone Number	028 87722043	028 90706000
E-mail Address	[REDACTED]	

**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?

- |  |   |
|--|---|
| (i) Paragraph  | <u>Various - refer to enclosed submission</u> |
| (ii) Objective                                       | <u>Various - refer to enclosed submission</u> |
| (iii) Growth Strategy/<br>Spatial Planning Framework | <u>Various - refer to enclosed submission</u> |
| (iv) Policy  | <u>Various - refer to enclosed submission</u> |
| (v) Proposals Map                                    | <u>N/A</u>                                    |
| (vi) Site Location                                   | <u>N/A</u>                                    |

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

Sound	<input type="checkbox"/>	Unsound	<input checked="" type="checkbox"/>
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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](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.

Various - refer to enclosed submission

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.

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Signature:  Date:

**Submission of Representation on behalf of Mr Mark Nicolay  
Mid Ulster District Council (MUDC) Local Development Plan 2030  
Draft Plan Strategy Document**

**1.0 Introduction**

- 1.1 This representation is on behalf of **Mr Mark Nicolay ('Our Client')** and builds upon the previous submission on his behalf in relation to the Mid Ulster District Council ('MUDC') Preferred Options Paper ('POP'), made in January 2017.
- 1.2 In considering this representation, and whilst we understand that the Local Policies Plan, will deal specifically with site specifics, settlement development limits, allocations, zonings and environmental designations, it is important to note that our client owns lands at Coash Road, Ballynakilly which, if brought within the settlement development limit ('SDL') of Ballynakilly, can be made available for housing development.
- 1.3 For reference, a map indicating the extent of our client's lands is at **Appendix 1**.
- 1.4 On behalf of our client we comment on the MUDC Draft Plan Strategy Document ('DPSD') on the following pages. 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 3.0

#### Local Development Plan Vision and Objectives (pages 29 to 31)

- 2.1 Our client is supportive of the **Local Development Plan Vision and Objectives (pages 29 to 31)** of the DPSD and, in particular, those which aim:

*"To protect and consolidate the role of local towns and villages so that they act as local centres for shops and community services meeting the daily needs of their rural hinterlands (page 30)".*

*"To provide for 11,000 new homes by 2030 in a range of housing capable of meeting the needs of families, the elderly and disabled, and single people, at locations accessible to community services, leisure and recreational facilities, for those people with and without a car (page 31)".*

- 2.2 Our client is particularly supportive of the former objective (to protect and consolidate the role of local towns and villages) for Ballynakilly. In order to respect and consolidate such functions set out in the Plan Vision Objectives, it will be important to ensure that there is enough land provided to facilitate future housing growth. As indicated, our client has lands available which can be utilised for housing development to deliver part of the identified required provision for the plan area by 2030.
- 2.3 Our client is also supportive of the latter objective (provision for 11,000 new homes by 2030) and believe their lands in Ballynakilly can assist in delivering this required provision. Within the SDL of Ballynakilly some housing has been built in recent years and whilst areas of undeveloped land remain, it is considered that in order to meet the objectives of the DPSD (and should land currently within the existing SDL not be made available or be de-zoned for development), further land should be brought within the SDL. Our client's lands can assist in meeting this requirement.
- 2.4 Our Client's lands within Ballynakilly can therefore assist in meeting and delivering the **Local Development Plan Vision and Objectives**.



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**Section 4.0**

**Growth Strategy and Spatial Planning Framework (pages 33 to 53)**

- 2.5 Our client is supportive of the **Growth Strategy and Spatial Planning Framework (pages 33 to 53)** of the DPSD, and in particular, the MUDC Settlement Hierarchy at Table 2 page 37, which identifies and retains Ballynakilly as a Village as per the its current position within the **Dungannon and South Tyrone Area Plan 2010 ('DSTAP')**.
- 2.6 It is noted that within the MUDC POP Ballynakilly was to be repositioned as a small settlement however that proposed change has not been brought forward as part of the DPSD. Our client is therefore supportive of Ballynakilly remaining as a Village.
- 2.7 Appendix 1 of the DPSD Strategy provides information on Housing Growth Local Indicators for the District over the plan period and it aligns with that of the POP in terms of allocations and an identified need for housing units for Ballynakilly. This is supported by our client.
- 2.8 The DPSD identifies a housing need of 21No. units for Ballynakilly to 2030. Of these identified 21No. units, 18No. units can be facilitated by way of committed units still to be developed, thereby leaving a need for some additional 3No. units which our client's land is well placed to facilitate.
- 2.9 The above allocation position is consistent with the POP. However, the POP considered that the identified 3No. required additional units were likely to be able to be delivered on available lands within the existing SDL thereby not requiring any additional lands to be allocated for Ballynakilly.
- 2.10 Notwithstanding, given there is an identified housing need for Ballynakilly, a modest amount of additional land should be brought forward at the Local Policies Plan stage to allow for flexibility if the additional required units cannot be delivered within the SDL in a timely fashion, be it through ownership constraints, other land restrictions or de-zoning of land.
- 2.11 Similarly, should it be the case that the identified 18No. committed units are not delivered or cannot be delivered as envisaged or within a timely period, then a modest expansion of the SDL to allow for additional lands to be brought forward would be of benefit and guard against such scenarios occurring. This would ensure that there is flexibility in providing enough land to allow any identified housing need to be met during the plan period.

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2.12 Furthermore, our client believes that the 21No. units indicated for Ballynakilly is not enough, particularly given that it is to be retained as a Village within the DPSD.

2.13 As such, our client believes that an increased allocation should be provided at this stage in order to support the position of Ballynakilly as a Village and to ensure that the Growth Strategy and Spatial Planning Framework of the DPSD will be effective and flexible enough to deliver the Plan Vision and Objectives going forward.

2.14 Whilst our client believes an increased allocation from that indicated should be provided at this stage in order to support the position of Ballynakilly as a Village and assist in delivering the plan vision and objectives, it is supportive of the stance at paragraph 4.18 which states:

***"We recognise that over the plan period the RDS Housing Growth Indicators (HGIs) may change and these will be taken into account when preparing our Local Policies Plan and at Plan Review".***

2.15 The above approach ensures that an element of flexibility has been built into the plan and that there is scope for changes in housing growth to be accommodated by the plan, be it through preparation of the Local Policies Plan or at plan review stage.

2.16 Our client notes that the Spatial Planning Framework reflects the Strategic Planning Guidelines (SPG's) of the MUDC POP and, in particular, is supportive of **Spatial Planning Framework ('SPF') 4** of the DPSD which seeks to:

***"Maintain and consolidate the role of the villages as local service centres providing opportunity for housing, employment and leisure activities in keeping with the scale and character of individual settlements".***

[our underlining emphasis]

2.17 Again, to maintain and consolidate Ballynakilly, opportunity for new housing sites must be provided. This is acknowledged as being required under **SPF4** of the DPSD, i.e. ***"...providing opportunity for housing..."***.

2.18 Again, in order to support this position, our client believes that an increased allocation from that indicated should be provided at this stage. Our clients land in Ballynakilly is excellently

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placed to assist and facilitate both the delivery of the identified allocation and any potential increase to it.

2.19 It is noted at paragraph 4.26 (page 40), that:

***"In the main we do not intend to reserve land for housing or economic development although exceptions may exist where there is a need to expand or accommodate an identified rural enterprise within the settlement limits".***

2.20 Whilst there may be no intention to reserve land for such uses, this should not preclude land from being brought within settlement limits of villages in order to allow for provision of housing, where it may be required to meet identified need and the Vision and Objectives of the plan. Indeed, the MUDC Position Paper – *Strategic Settlement Evaluation – July 2015* identifies that the lands in question as having no existing development constraints and therefore they would arguably be suitable for future development purposes. As detailed at POP stage, our client confirms that they can make their lands available for housing.

2.21 As stated, our client's lands in Ballynakilly is excellently placed to assist in providing for future housing to maintain and consolidate Ballynakilly's role as a Village and assist in meeting delivering the Plan Vision and Objectives. It can support and facilitate both the identified and any increased housing allocation for Ballynakilly and would provide an appropriate inclusion and logical rounding off of the SDL.

**Section 6.0**

**General Principles Planning Policy (pages 57 to 61)**

**Draft Policy GP1 - General Principles Planning Policy**

2.22 ***Draft Policy GP1 - General Principles Planning Policy*** is provided within the DPSD to ensure that the development of the MUDC District occurs in a sustainable way.

2.23 It sets out a number of general principles relating to development and provides that planning permission will be granted for sustainable development where the proposal accords with the Plan and there is no demonstrable harm in relation to a number of specific areas including:

- amenity;
- nature and scale of development;
- siting;

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- design and external appearance;
- advertisement;
- meeting needs of people with mobility difficulties;
- other infrastructural requirements;
- landscape character;
- biodiversity; and
- planning gain and developer contribution.

2.24 Whilst the provision of a general principles planning policy is supported in broad terms, our client believes that it is unsound in respect of its criteria (h) Landscape Character and (i) Biodiversity in that it fails to meet tests **C3 (Consistency)** and **CE4 (Coherence and Effectiveness)**. We expand below.

2.25 *Criterion (h) Landscape Character* requires that:

***"Development proposals should respect, protect and/or enhance the region's rich landscape character, features and sites designated for their landscape quality at any level. They should also reflect the scale and local distinctiveness of the landscape".***

2.26 *Criterion (i) Biodiversity* requires that:

***"Development proposals should respect, protect and/or enhance the District's rich and distinct biodiversity and sites designated for their contribution to the natural environment at any level".***

2.27 It is the position of our client that these criterion of **Draft Policy GP1 General Principles Planning Policy** fail to satisfy the tests of **C3 (Consistency)** and **CE4 (Coherence and Effectiveness)** in that the policy is not consistent with, nor does it incorporate, an appropriate degree of flexibility in line with the Strategic Planning Policy Statement ('SPPS') and Regional Development Strategy ('RDS').

2.28 To have a test of 'enhance' is considered too onerous and one which could unnecessarily prevent development that is otherwise acceptable and which respects both landscape character and biodiversity.

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2.29 Whilst we understand that the SPPS seeks to provide policies which provide enhancement, it is noted that paragraph 6.170 of the SPPS refers to the RDS 2035, which provides regional guidance to conserve, protect and where possible enhance our natural environment. It recognises that effective care of the environment provides very real benefits in terms of improving health and well-being, promoting economic development and addressing social problems which result from a poor-quality environment. This relates directly to Policy RG 11 of the RDS 2035 which aims to: "**Conserve, protect and, where possible, enhance our built heritage and our natural environment**".

2.30 This clearly provides an element of flexibility for where enhancement is not possible.

**Recommendation**

2.31 It is respectfully suggested that the use of the words 'respect, protect and/or enhance' should be revisited or clarified to state 'respect, protect and, where possible, enhance'.

2.32 This proposed rewording would ensure better consistency with both the SPPS and RDS and also provide greater flexibility to this policy as part of the DPSD and allow for instances where enhancement is not possible. In doing so our client believes it would be in line with soundness tests **C3 (Consistency)** and **CE4 (Coherence and Effectiveness)**.

**Section 7.0**

**Housing In Settlements (pages 63-74)**

**Draft Policy HOU2 – Quality Residential Development (pages 67-71)**

2.33 **Draft Policy HOU2 – Quality Residential development** is provided within the DPSD to ensure that housing development in the MUDC District provides a quality residential development. It sets out a number of criteria and justification and amplification for each.

2.34 Whilst the provision of the policy is supported in broad terms by our client, there are some areas which require clarification and that it is unsound in other areas as it fails to meet tests **C3 (Consistency)** and **CE4 (Coherence and Effectiveness)**. We expand below.

**Creating a Sense of Place and Avoiding Town Cramming (paragraphs 7.20 to 7.23)**

2.35 Paragraph 7.20 relates to Creating a Sense of Place and Avoiding Town Cramming and states:

*"Town cramming can be avoided by applying appropriate densities to new development. On sites of 0.5 hectares or over, densities of developments should respond to their surrounding and normally be in the range of 10-30 units per hectare. Higher densities may be acceptable in our town centres, mixed use areas or zonings identified for social and affordable housing".*

- 2.36 Our client agrees with and supports the proposed minimum density of 10-30 units per hectare. As stated in our response at POP stage, such provision will ensure that the character of MUDCs towns, villages and small settlements is maintained.

***Separation Distance and Amenity (paragraphs 7.24 to 7.25)***

- 2.37 Paragraph 7.24 relates to Separation Distance and Amenity and states:

*"Separation distance is important not only to prevent town cramming but to prevent over dominance, over-looking and overshadowing, protect privacy and avoid overlooking. Developments should provide adequate separation distance, normally a minimum distance of 20 metres between facing windows of habitable rooms in the interests of privacy and a minimum distance of 12 metres between a front or rear elevation and a gable should be provided in the interests of over dominance, visual intrusion and loss of light. Larger separation distances may be required due to the topography of the land (see diagram 1), while smaller separation distances are achievable and normally found within town centres or historic areas.*

- 2.38 Our client supports the proposed justification and amplification behind Separation Distance and Amenity and notes the inclusion of: *"...normally a minimum distance of 20 metres between facing windows of habitable rooms in the interests of privacy..."*. This minimum distance of 20metres reflects current guidance set out within Creating Places and our client welcomes the consistency that has been applied between it and that now proposed in the DPSD.

- 2.39 However, whilst broadly supportive of this aspect of ***Draft Policy HOU2*** it should be noted that there are numerous examples in which reductions in guidance distances has still resulted in a quality residential scheme. Therefore, the wording of the policy must be flexible enough to use these distances as a starting point, but allow for instances, where on balance, reductions in these distances will still deliver a quality residential scheme. The use of the word 'normally' within the justification and amplification is therefore welcomed and must be retained.

- 2.40 In addition, clarity should be provided within the justification and amplification of the policy on what is considered to be a 'habitable room'. It is often considered that a habitable room is a kitchen/dining room or living room/playroom, but that it does not include bedrooms. This allows for amenity impacts to be properly considered against the location of habitable rooms as opposed to bedrooms which have a lesser impact upon amenity in terms of overlooking.

**Recommendation**

- 2.41 The use of the word 'normally' within the justification and amplification must be retained and clarity should be provided within the justification and amplification of the policy on what is considered to be a 'habitable room'. In providing such clarification our client believes it would provide greater consistency and coherence to the draft policy bringing it in line with soundness tests **C3 (Consistency)** and **CE4 (Coherence and Effectiveness)**.

***Meeting the Needs of All – Provision of a Mixture of House Types and Tenures  
(paragraphs 7.26 and 7.27)***

- 2.42 This sets out MUDC's policy for affordable housing and requires:

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

***On sites of 25 units or more or on sites of 1 hectare and over, there should be a mix of house types to cater for the needs of all families and small households, providing access for all".***

- 2.43 We note that the above policy is an interim measure until such times that the Local Policies Plan brings forward sites with Key Site Requirements addressing social housing needs. It is also understood that the above policy will only apply where a need for social housing has been identified by the relevant strategic housing authority.

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- 2.44 As such this interim approach would appear to be consistent with the SPPS which states at its paragraph 6.143 that:

***"The HNA/HMA undertaken by the Northern Ireland Housing Executive, or the relevant housing authority, will identify the range of specific housing needs, including social/affordable housing requirements. The development plan process will be the primary vehicle to facilitate any identified need by zoning land or by indicating, through key site requirements, where a proportion of a site may be required for social/affordable housing. This will not preclude other sites coming forward through the development management process".***

- 2.45 It is considered that the policy is appropriate as an interim measure. However, it is considered that the later part of the policy which states ***"...to cater for the needs of families and small households..."*** is not required and could be removed without weakening the policy.

**Recommendation**

- 2.46 The latter part of the policy which states: ***"...to cater for the needs of families and small households..."*** should be removed from the policy as it is superfluous. Its removal will not weaken the policy. In making such an amendment, our client believes it would provide greater consistency and coherence to the draft policy, ensure flexibility, and bring it in line with soundness tests **C3 (Consistency)** and **CE4 (Coherence and Effectiveness)**.

***Provision of Adequate Public and Private Open Space (paragraphs 7.31 to 7.33)***

- 2.47 This sets out MUDC's policy for provision of public and private open space in housing developments. Paragraph 7.31 states:

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

- 2.48 Our client is supportive of this wording given it is consistent and in line with current guidance on such matters.

- 2.49 Paragraph 7.33 states:



*"Residential developments will be expected to provide adequate garden areas for new housing with a rear garden depth to be not less than 10 metres thus contributing to adequate amenity and separation".*

- 2.50 It is believed that this aspect of **Draft Policy HOU2** fails to satisfy the test of **C3 (Consistency) CE4 (Coherence and Effectiveness)** in that the policy does not align with current guidance on separation distances (it is more restrictive than that set out within Creating Places which stipulates at its paragraph 7.16 "...a minimum of around 10m...") nor does it incorporate an appropriate degree of flexibility to allow for instances where a 10metre requirement cannot be met, but a high quality development could still be achieved.

**Recommendation**

- 2.51 This aspect of **Draft Policy HOU2** should be reworded to state:

*"Providing adequate garden areas for new housing with a rear garden depth of around 10 metres".*

- 2.52 This will still keep the majority of gardens to this size but will allow for flexibility in instances and house types that have rear gardens, and which do not warrant such a sized garden. For example, some single households or social housing schemes only require a small garden to provide space for some private amenity and minimal storage requirements. In the latter example, the provision of larger gardens, which are then not maintained and looked after, can result in amenity impacts for residents and visitors alike.
- 2.53 Such amended wording would take account of existing guidance and provide for flexibility in application of the policy and ensure compliance with the tests of **C3 (Consistency) CE4 (Coherence and Effectiveness)**.

**Section 10.0**

**Urban Design (pages 99-102)**

**Draft Policy UD1 – Urban Design**

- 2.54 **Draft Policy UD1 – Urban Design** sets out the main considerations that MUDC will take into account in assessing proposals for development within all settlements within the District.

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2.55 Whilst the provision of an urban design policy is supported in broad terms, there are queries over the soundness of the policy in terms of **CE1 (Coherence and Effectiveness)** in relation to when a Design and Access Statement ('D&AS') is required to accompany a planning application.

2.56 **Draft Policy UD1 – Urban Design** states:

**"Development will need to be of a high standard to accord with the Plan. Developers will be expected to demonstrate where appropriate through a Design and Access Statement that the proposal respects:**

- ***the urban context taking into account any natural features of the landscape and the overall setting in which the development is introduced.***
- ***the best local traditions of form, materials and detailing to complement the urban grain and character of the settlement;***
- ***the height, scale and form of surrounding buildings;***
- ***the public realm, providing adequate public and private open space and landscaping and is designed to foster natural surveillance, promote personal safety and deter crime".***

[our underlining emphasis]

2.57 The policy does not specifically identify when a D&AS will be necessary, nor does it clarify the term 'where appropriate' within the policy text box. Potentially, in reading **Draft Policy UD1** as it currently stands, it could be construed to only apply where a D&AS is required in line with legislation (i.e. for an application which is a major development; or where any part of the development is in a designated area, development consisting of – (i) the provision of one or more dwelling houses, or (ii) the provision of a building or buildings where the floor space created by the development is 100sq.metres or more).

2.58 The justification and amplification behind the policy does provide some clarification in that it specifies at paragraph 10.11 that a D&AS will be necessary to demonstrate that proposals of height over 3 storeys are of high-quality design and will enhance the area. However, paragraph 10.17 goes on to states:

***"Provided that the correct approach to design is followed the production of such a document is not considered to be onerous on the part of the applicant and the D&AS can be a useful tool in the determination process"***

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2.59 This indicates that MUDC potentially see a D&AS being required in other instances, but does not indicate what these are.

2.60 The lack of clarity or coherence on the matter is further noted given that elsewhere in the DPSD at paragraph 7.38 it states:

***"In order to achieve quality residential developments, applicants will be encouraged to provide Design and Access Statements (D&AS) over and above what is required in legislation".***

2.61 Here the DPSD indicates that a D&AS will be encouraged over and above what is required in legislation.

2.62 In light of the above, it is unclear whether the DPSD aims to:

- encourage provision of a D&AS over and above what is required in legislation (as per its paragraph 7.38);
- specify specific instances in which a D&AS is required over and above what is required in legislation (***Draft Policy UD1*** would allude to this, but does not ultimately confirm it); or
- specify that a D&AS is required for all forms of development?

2.63 This lack of clarity has implications in relation to what development ***Draft Policy UD1 – Urban Design*** will apply to, i.e. is it just applicable to development where a D&AS is required or applicable to all forms of development? Clearly, there is a lack of coherence within the DPSD on this issue as it currently stands and; hence, as a result, cannot be considered to be sound.

**Recommendation**

2.64 The DPSD is inconsistent and unclear on when a D&AS will be required and in doing so the applicability of the proposed ***Draft Policy UD1*** is also unclear.

2.65 It is recommended that MUDC review its position in relation to D&AS's. Clarification and specific details must be provided on when and in relation to what types of development a D&AS will be

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required by MUDC. This detail must be provided as part of any final Policy UD1 and/or as part of the DPSD. In doing so our client believes it would ensure the policy is in line with soundness test **CE1 (Coherence and Effectiveness)**.

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**3.0 Conclusions**

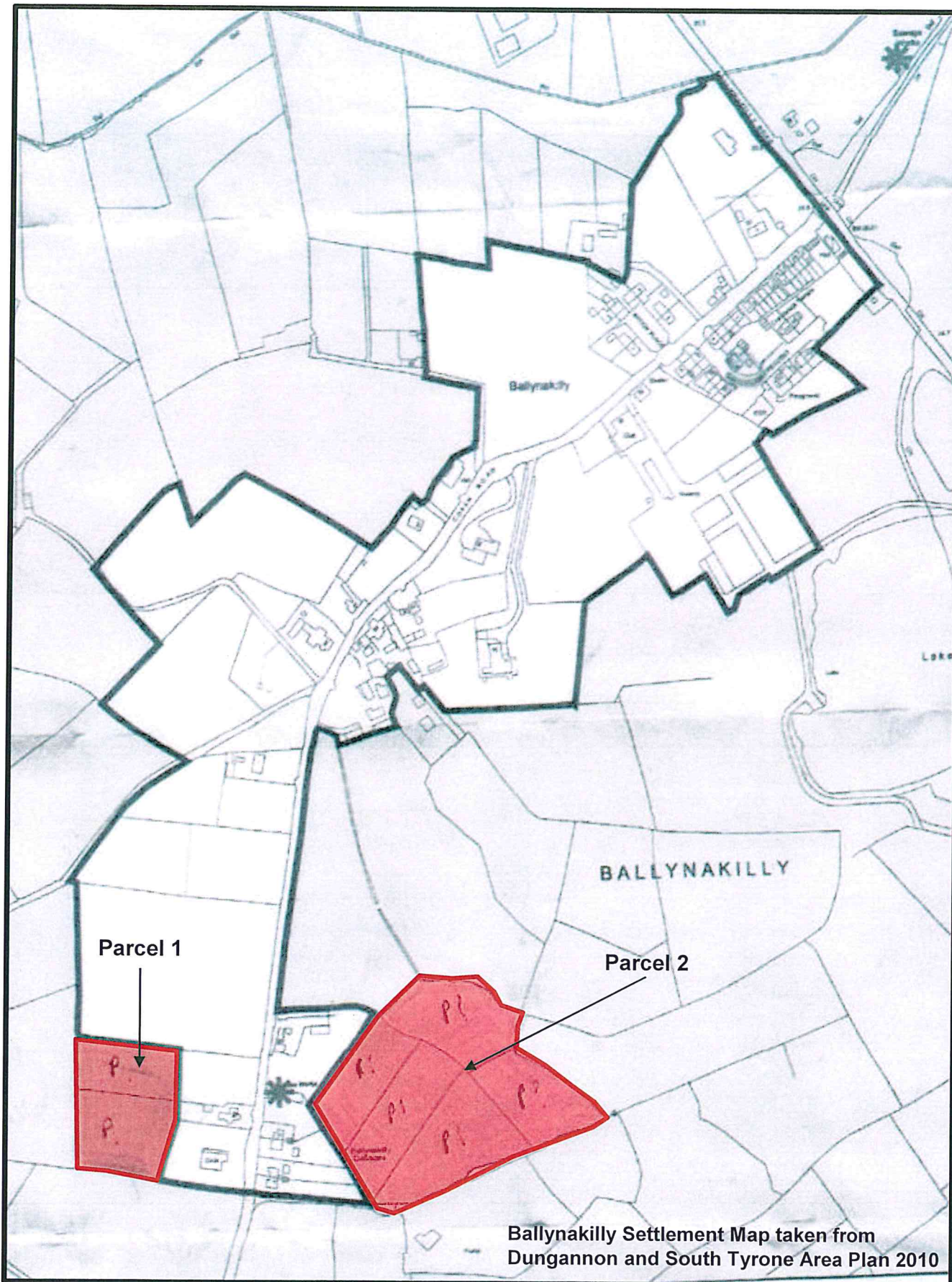
- 3.1 **Section 10(2) of the Planning Act (Northern Ireland) 2011** (the 'Act') advises that the Council must not submit a plan to the Department for independent examination unless: (a) it has complied with any relevant requirements contained in regulations under Part 10 of the Act and, (b) it thinks the document is ready for independent examination.
- 3.2 Whilst our client is 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 inconsistencies and clarifications required, in our opinion, prevent MUDC from delivering a sound and lawful Local Development Plan.
- 3.4 Should MUDC submit the DPS in its current form to the Department for an independent examination, we request that the matters raised in this representation are given full and careful consideration by the Independent Examiner.

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

**WYG Planning on behalf of Mr Mark Nicolay.**

**April 2019**





**Legend**



**Parcel 1 Lands**



**Parcel 2 Lands**



**Lands at Coash Road, Ballynakilly  
Site Location Plan**

Scale: NTS

Job No: A101638

Date: April 2019