

Colin Mckeown

From: Paul McMonagle [REDACTED]
Sent: 24 September 2020 14:09
To: DevelopmentPlan@midulstercouncil.org
Cc: Brian Kelly
Subject: MUDPS/147 - DPS Re-Consultation
Attachments: LDP-Reconsultation-On-Local-Development-Plan-2030-Draft-Plan-Strategy (1....pdf;
RE: Rep to MUDC DPS obo Edward Burns

Dear Sinead,

I am writing with respect to the Council's re-consultation of its Local Development Plan 2030 - Draft Plan Strategy.

Noting that the re-consultation process is due to Council identifying '*...a procedural error in relation to the original consultation...*' as per the Councils Re-Consultation Notice (attached) and not as a result of any 'focused' or material changes to the content of the Draft Plan Strategy, and as requested, we would like to confirm reliance on the original submission on behalf of Mr. Edward Burns, i.e. MUDPS/147.

We have attached a copy of Council's previous acknowledgment of the original submission to this email, for completeness.

Can you please confirm that this email is also acknowledged by way of return.

Kind regards,
Paul

Paul McMonagle
Senior Planner

Turley
37 Clarendon Street
Derry BT48 7EG
[REDACTED]

All Turley teams are now [remote working](#) wherever possible in line with Government guidance.

Our co-owners are contactable in the usual ways and we suggest using mobile numbers in the first instance. We are doing all we can to maintain client service during this challenging time.

[turley.co.uk](#)
[Twitter](#)
[Linkedin](#)

Think of the environment. please do not print unnecessarily
This e-mail is intended for the above named only, is strictly confidential and may also be legally privileged. If you are not the intended recipient please do not read, print, re-transmit, store or act in reliance on it or any attachments. Instead, please notify the sender and then immediately and permanently delete it. Turley bank account details will not change during the course of an instruction and we will never change our bank account details via email. If you are in any doubt, please do not send funds to us electronically without speaking to a member of our team first to verify our account details. We will not accept liability for any payments into an incorrect bank account. Turley is a trading name of Turley Associates Ltd, registered in England and Wales Registered No 2235387 Registered Office 1 New York Street, Manchester, M1 4HD. Terms and Conditions

Sinead McEvoy

From: Paul McMonagle <[REDACTED]>
Sent: 19 April 2019 13:19
To: DevelopmentPlan@midulstercouncil.org
Cc: Brian Kelly
Subject: Rep to MUDC DPS obo Edward Burns
Attachments: Representation to MUDC DPS - Edward Burns.pdf; MUDC DPS Representation Form - Edward Burns.pdf

Dear Sir/Madam,

Please find attached a representation to the Mid Ulster District Council's Draft Plan Strategy on behalf of Edward Burns along with a duly completed Draft Plan Strategy Representation form.

We would be grateful if you could acknowledge receipt of this representation by return of email.

Should you have any queries, please do not hesitate to contact us.

Kind regards,

Paul

Paul McMonagle
Senior Planner

Turley

37 Clarendon Street
Derry BT48 7EG

T [REDACTED]
M [REDACTED]
D [REDACTED]

turley.co.uk

[Twitter](#)

[Linkedin](#)

Think of the environment, please do not print unnecessarily

This e-mail is intended for the above named only, is strictly confidential and may also be legally privileged. If you are not the intended recipient please do not read, print, re-transmit, store or act in reliance on it or any attachments. Instead, please notify the sender and then immediately and permanently delete it. Turley is a trading name of Turley Associates Ltd, registered in England and Wales Registered No 2235387 Registered Office 1 New York Street, Manchester, M1 4HD. Terms and Conditions

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



**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="37 Clarendon Street"/>
Line 2		<input type="text" value="Derry~Londonderry"/>
Line 3		
Line 4		
Post Code	<input type="text" value="C/O Agent"/>	<input type="text" value="BT48 7EG"/>
Telephone Number	<input type="text" value="C/O Agent"/>	<input type="text" value="028 9072 3900"/>
E-mail Address	<input type="text" value="C/O Agent"/>	<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

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.

Please refer to enclosed representation.

(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:

18 April 2019

Representations to Mid Ulster District Council Draft Plan Strategy

On behalf of Edward Burns

April 2019



Turley

Contents

1.	Introduction	3
2.	Legislative Compliance	4
3.	The Purpose of the Independent Examination	7
4.	Spatial Planning Framework	10
5.	Health, Education and Community Uses	15
6.	Conclusion	19
<hr/>		
Appendix 1: Representation to Mid Ulster POP Stage		
<hr/>		
Appendix 2: Annotated Extract of Map No. 9 Draperstown - Magherafelt Area Plan 2015		
<hr/>		
Appendix 3: Original Extract of Map No. 9 Draperstown - Magherafelt Area Plan 2015		
<hr/>		
Appendix 4: Extract from Position Paper – Strategic Settlement Evaluation, July 2015		
<hr/>		

1. Introduction

- 1.1 This representation is submitted on behalf of Edward Burns in response to the publication of, and formal consultation on, the Mid Ulster District Council Draft Plan Strategy (dPS) and in connection with lands at Magherafelt Road, Draperstown.
- 1.2 Our client welcomes the publication of the dPS and the progress that the Council is making towards adopting a local development plan for the area and the opportunity to return comments.
- 1.3 This representation seeks to highlight concerns expressed by our client with respect to proposed policy SPF 4 and 6 and proposed Policy COY 1 of the dPS. It follows a representation to the Preferred Options Paper (POP) stage of the Local Development Plan (LDP). The previous representation to the POP stage supports this representation and a copy is provided at Appendix 1 for completeness.
- 1.4 Our previous representation sought to identify the subject land as a location for sustainable growth of the village in the emerging Local Development Plan. Our client would like to use this opportunity to again reiterate the importance of this land (identified at the end of Appendix 1) in terms of its ability to support the sustainable growth of Draperstown village.
- 1.5 Our client would also like to take this opportunity to identify a rational extension to the settlement limit of Draperstown (reproduced in Appendix 2) which would assist in supporting the overall 'soundness' of the emerging Local Development Plan.
- 1.6 In line with the Council's procedures, each representation is set out on a separate page within each of the Chapter headings with the policy clearly identified.
- 1.7 To ensure that this representation is set within the appropriate planning context, we have reviewed all legislative, regulative and policy requirements/guidance associated with local development plans in Northern Ireland and all supporting documents associated with the DPS and the preferred Options Paper, which are relevant to the topics/policies which we make comment on.
- 1.8 The remainder of this submission is structured as follows:
 - **Section 2** – Legislative Context
 - **Section 3** – Soundness in Plan Making
 - **Section 4** – Growth Strategy & Spatial Planning Framework
 - **Section 5** – Health, Education and Community Uses
 - **Section 6** – Conclusion

2. Legislative Compliance

Introduction

- 2.1 Sections 6 (1) and (2) of the Planning Act (Northern Ireland) 2011 (the 2011 Act) set out that in Northern Ireland, the local development plan (LDP) for each of the 11 local authorities comprises a plan strategy (PS) and a local policies plan (LPP).
- 2.2 The PS represents the first formal stage of the two stage LDP process and Section 8(1) of the 2011 Act requires all Councils in Northern Ireland to prepare a PS for their districts.
- 2.3 In preparing their Draft Plan Strategy (DPS), Mid Ulster District Council (MUDC) is required to adhere to the provisions of the Planning Act (Northern Ireland) 2011 ('Act') and the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 ('Regulations').
- 2.4 This section seeks to identify issues in the compliance of the dPS with the Act and the Regulations.

Planning Act (Northern Ireland) 2011

- 2.1 Under Section 8 of the Act, the Plan Strategy must set out:
 - (a) the council's objectives in relation to the development and use of land in its district (our emphasis);
 - (b) its strategic policies for the implementation of those objectives (our emphasis); and
 - (c) such other matters as may be prescribed.
- 2.2 It is worth noting that the requirements of a PS differ to those of a LPP, which are set out under Section 9(2) of the 2011 Act, these being:
 - (a) the council's policies in relation to the development and use of land in its district (our emphasis); and
 - (b) such other matters as may be prescribed.
- 2.3 Essentially, the purpose of a PS is to provide the strategic policy framework for the plan area as a whole across a range of topics¹, whereas the purpose of the LPP is to set out the local policies and site specific proposals in relation to the development and use of land in its district².

¹ Development Plan Practice Note 07 - The Plan Strategy, April 2015

² Development Plan Practice Note 08 - The Local Policies Plan, April 2015

- 2.4 The Act stipulates that the Plan Strategy should be prepared in accordance with the Council's timetable, as approved by the Department for Infrastructure ('DfI') and in accordance with the Council's Statement of Community Involvement.
- 2.5 The Council's Timetable, as approved and published on the Council's website is dated November 2018. We note that the Council has published the dPS within the broad timeframe set out in the timetable (i.e. Spring 2019). However, we would highlight that the timetable shows that this timeframe will include:
- An 8 week statutory public consultation period; and
 - An 8 week statutory consultation on counter representations.
- 2.6 The Council will need to monitor the commencement of the counter representations stage of consultation to ensure that it is commenced and completed within the Spring 2019 timeframe. Should the Council foresee a delay in this timeframe a revision to the timetable will be needed.
- 2.7 Section 8(5) prescribes the following elements which a Council must take into account when preparing a PS:
- (a) the regional development strategy (i.e. the RDS 2035);
 - (b) the council's current community plan;
 - (c) any policy or advice contained in guidance issued by the Department (i.e. the SPPS); and
 - (d) such other matters as the Department may prescribe or, in a particular case, direct, and may have regard to such other information and considerations as appear to the council to be relevant.

The Planning (Local Development Plan) Regulations (Northern Ireland) 2015

- 2.8 In addition to the Act, Parts 4 & 5 of the Regulations set out the requirement for the preparation of the Plan Strategy Development Plan Document (DPD). Part 4 sets out the requirements for the Form and Content of a DPD.
- 2.9 Part 4 Regulation 12(1) establishes that a development plan document must contain:
- (a) a title which must give the name of the council district for which the development plan document is prepared and indicate whether it is a plan strategy or a local policies plan, and*
- (b) a sub-title which must indicate the date of the adoption of the development plan document.*
- 2.10 Part 4 Regulations 12 (2) and (3) set out that a development plan document must contain a reasoned justification of the policies contained in it and that the policy and justification text should be readily distinguishable. We note that the Council has provided justification text associated with each proposed policies, however this should

be considered alongside detailed comments on the soundness of the proposed policies, contained within the remainder of this representation.

- 2.11 Part 5 of the Regulations relates to the procedures for the preparation of the Development Plan Documents, particularly Regulations 15 and 16.
- 2.12 Regulation 15 identifies a schedule of information that should be made available alongside the publication of the DPS. This includes:

“such supporting documents as in the opinion of the council are relevant to the preparation of the local development plan.”

- 2.13 We acknowledge that Council has prepared and made available its Preferred Options Public Consultation report which provides an insight as to how comments made to the Preferred Option Paper have been considered in the preparation of the dPS.
- 2.14 Notwithstanding this, there is insufficient supporting evidence to support a number of the proposed policies within the dPS and therefore the requirements of Regulation 15 have not been met. We identify the specific concerns within the remainder of this representation.

3. The Purpose of the Independent Examination

- 3.1 Section 10(6) of the 2011 Act provides that the purpose of the Independent Examination (IE) is to determine, in respect of the development plan document:
- *whether it satisfies the requirements of sections 7 and 8 or, as the case may be, sections 7 and 9, and any regulations under section 22 relating to the preparation of development plan documents; and*
 - *whether it is **sound**.*

The Tests of Soundness

- 3.2 The Planning Act (Northern Ireland) 2011 does not define the meaning of 'soundness'. However, Development Plan Practice Note 6 – Soundness (DPPN 6), dated May 2017, suggests that it may be considered in the context of its ordinary meaning of '**showing good judgement**' and 'able to be trusted' (our emphasis).
- 3.3 Furthermore, DPPN 6 states that the tests of soundness are based upon three categories. These three categories relate to:
- how the development plan document (DPD) has been produced;
 - the alignment of the DPD with central government regional plans, policy and guidance; and
 - the coherence, consistency and effectiveness of the content of the DPD.
- 3.4 DPPN 6 advises that 'soundness' involves testing the principles, content and preparation process of the DPD against a list of key criteria. DPPN 6 then sets out the following tests which '**aim to provide a framework** to assess the soundness of the DPD, whilst taking account of all relevant procedural, legislative and policy considerations':

Procedural tests

P1. Has the plan been prepared in accordance with the council's timetable and the Statement of Community Involvement?

P2. Has the council prepared its Preferred Options Paper and taken into account any representations made?

P3. Has the plan been subject to sustainability appraisal including Strategic Environmental Assessment?

P4. Did the council comply with the regulations on the form and content of its plan and on the procedure for preparing the plan?

Consistency tests

C1. Did the council take account of the Regional Development Strategy?

C2. Did the council take account of its Community Plan?

C3. Did the council take account of policy and guidance issued by the Department?

C4. Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?

Coherence and Effectiveness tests

CE1. The plan sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant is it in conflict with the plans of neighbouring councils.

CE2. The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.

CE3. There are clear mechanisms for implementation and monitoring.

CE4. The plan is reasonably flexible to enable it to deal with changing circumstances.

- 3.5 Although the tests of soundness are based upon these three categories – procedural, consistency, coherence and effectiveness, there is a degree of overlap in terms of the criteria used for each test. The purpose of the IE will be to examine how the DPS meets each test and determine whether the DPS is sound as a whole.
- 3.6 In accordance with Section 10(6) of the 2011 Act, the preceding sections seek to identify the issues associated with the 'soundness' of MUDC's dPS as the purpose of the Independent Examination will be to determine if the dPS is 'sound'.

Other Soundness Considerations

- 3.7 As stated previously, Section 10(6) of the 2011 Act also states that the purpose of the Independent Examination is to determine if the dPS satisfies the requirements of sections 7 and 8 of the 2011 Act.
- 3.8 So far as Section 8 of the 2011 Act is concerned, we note that it confirms that the Council must take account of any policy or advice contained in guidance issued by the Department.
- 3.9 It is considered that Development Plan Practice Note 07 (DPPN 07) entitled 'The Plan Strategy', which was issued by the Department in April 2015, can be regarded as 'guidance' for the purposes of Section 8(b) of the 2011 Act.
- 3.10 Indeed, this is reinforced by the Preamble section of DPPN 07 noting that it states the following:

- *'This Development Plan Practice Note is designed to **guide** planning officers and relevant users through the key requirements for the preparation of the Plan Strategy and deals primarily with procedures as well as good practice. It **forms part of a series of new practice notes stemming from the Planning Act (Northern Ireland) 2011**'*
- *'Where appropriate this practice note will therefore highlight... Procedural **guidance**'; and*
- *'**This guidance** is not intended to replace the need for judgement by planning officers in the local development plan making process'.*

3.11 In light of the above, we set out below some notable requirements identified in DPPN 07 with respect to the objectives of the dPS:

- *'...act as a basis for **rational and consistent decisions about the use and development of land...**' (our emphasis);*
- *'provide a **settlement hierarchy** which **identifies** settlements and **their role** within the hierarchy...' (our emphasis);*
- *'facilitate **sustainable patterns of growth and regeneration** whilst promoting **compact urban forms** and protecting and **maintaining** distinctive local character and **viability**' (our emphasis);*
- *'**promote the development** of sustainable tourism, **recreational and other community facilities** that will **positively contribute** to the **amenity and wellbeing** of the population' (our emphasis);*
- *'...aim to ensure that [the] PS is **both realistic and deliverable** taking into account the **resources available and any potential constraints** which may arise during the plan period' (our emphasis)*
- *'aim to incorporate **a degree of flexibility** within its PS **to ensure** that its objectives and strategic policies for its area can still be **delivered**' (our emphasis).*

3.12 In accordance with this guidance, the following sections of this representation seek to set out why some aspects of the dPS are considered unsound, particularly with respect to Draperstown.

3.13 This representation endeavours to focus on the 'soundness' tests and identify the relevant evidence where available, but it also seeks to identify weaknesses of the dPS and offer recommendations/suggestions which will assist with ensuring a more 'sound' plan.

4. Spatial Planning Framework

SPF 4 – Maintain and consolidate the role of the villages as local service centres providing opportunities for housing, employment and leisure activities in keeping with the scale and character of individual settlements

Policy SPF 4 is unsound as the policy fails the tests of CE2 and CE4

The intention of the policy is appreciated, but concerns arise with the evidence used to formulate the policy

The Council is requested to consider the contents of this representation and the 6 recommendations set out at the bottom of this section to ensure a more 'sound' dPS

- 4.1 This proposed policy focuses on maintaining and consolidating growth within villages, relative to their size and current level of services. Our client fully supports sustainable growth and recognises the value and importance of this principle in determining the location for future development.
- 4.2 To ensure that there is clear policy support for the provision of a range of facilities and uses which will deliver a quality of life for the immediate residents and those living in the surrounding rural catchment of villages, it is considered that SPF 4 should be updated to also include reference to community, health, education, cultural, retail and service uses.
- 4.3 Paragraph 4.25 of the dPS creates some confusion as it states that '*Villages are also important service centres...*' yet it then states that '*...villages are not seen as key service centres or locations in which to direct people used to living in the open countryside*'.
- 4.4 The dPS should seek to establish a consistent position with respect to the role of villages. Furthermore, the dPS should recognise that villages, such as Draperstown³, play a vital role in providing essential and accessible services to its immediate residents and those living in its rural catchment.
- 4.5 This approach is consistent with policy SFG 13 within the Regional Development Strategy 2035 which identifies the need for an integrated approach in delivering public services in villages which can assist in underpinning the rural area.
- 4.6 Our client agrees with the approach that '*...in the main growth in the villages will be proportionate to their current size and the level of services on offer*'. However, the dPS should also acknowledge the need to ensure that the level of growth for each village is commensurate with its role and function (informed by up-to-date evidence) and its existing services to ensure that its role and function and existing services are maintained in the future.

³ which has the 4th largest population of the 81 local towns, villages and small settlement identified in Appendix 1 of the dPS

- 4.7 In addition, the DPS should also recognise that some villages, such as Draperstown, have the capacity to accommodate more growth than others and indeed have lands which are more suitable and available for housing development. This is something that needs to be factored into the proposed growth for each of the settlements in the hierarchy to ensure the delivery of the dPS and its vision.
- 4.8 Appendix 1 of the dPS outlines a requirement of 145 residential units for Draperstown over the 15 year lifetime of the plan (i.e. 2015 to 2030), which equates to approx. 10 houses a year. As discussed below, under SPF 6, there is potential for part of the housing allocation to the open countryside to be redirected to more sustainable locations such as larger villages like Draperstown. Indeed, the Settlement Appraisal (dated July 2015) for Draperstown describes the village as '*...one of the larger settlements within the District*'.
- 4.9 It is noted that the 2015 Housing Land Availability Monitor identified that there was the potential for 446 units to be built in Draperstown. Having undertaken a review of the zoned housing land within the village, it seems that planning permission has lapsed or was not secured for almost half of the 446 residential units (i.e. 223 units) which benefitted from planning permission when the land availability monitor was undertaken (i.e. in 2015).
- 4.10 With respect to sites which did have the benefit of planning permission we could find no evidence that works had been undertaken to demonstrate that a substantive start had commenced in order to safeguard the planning permission.
- 4.11 Indeed, it is noted that when the Settlement Appraisal (dated July 2015) for Draperstown was undertaken it found that '*There are a number of housing policy areas zoned within the settlement limits DN03/3 and DN08 are currently under construction. Housing policy zonings DN03/1, DN03/2, DN04, DN05, DN06, DN07 and DN09 have not been developed*'.
- 4.12 In light of this, we query if Draperstown can fulfil the plan objectives as set out in paragraph 3.15, if the sites identified for residential development have no reasonable prospect of developing, and would respectfully request Council to review this aspect.
- 4.13 The above findings highlight the risk associated with relying on an out of date evidence base and we would urge the Council, in accordance with Section 3 of the 2011 Act and Section 3.1 of DPPN 07, to review its evidence base noting that the Housing Monitor was published in November 2014 (almost 5 year sold) and the Strategic Settlement Evaluation was published in July 2015 (almost 4 years old)⁴.
- 4.14 Paragraph 4.26 of the dPS states that '*In the main [the Council does] 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 limit*'. We seek clarification as to whether the Council is stating that there is no intention 'in the main' to zone sites for housing development?

⁴ This date relates to the publication of these documents but it is important to note that the actual research/surveys underpinning these documents would have been before this publication date.

Soundness Tests

- 4.15 It is considered that proposed Policy SPF 4 fails soundness tests CE2 and CE4. The policy is formulated on out-dated evidence and no information has been provided to demonstrate how the policy would respond to changing circumstances.

Improving the Soundness of the draft Plan Strategy

- 4.16 We set out below a number of recommendations which will help to improve the 'soundness' of the dPS:
- We request the Council to review the apparent ambiguity with respect to the role of and function of villages as service centres and that the dPS is amended to set out a consistent policy.
 - We request the Council to review its evidence base, in accordance with Section 3 of the 2011 Act and Section 3.1 of DPPN 07, to ensure that the policy is founded on an up-to-date evidence base which takes account of the current role and function of each villages within the district, particularly the vital role villages play in providing much needed services to the local resident population and their surrounding rural catchments.
 - We request the Council to amend SPF 4 to also include reference to community, health, education, cultural, retail and service uses to ensure that the full suite of uses required to maintain vital and viable villages and a high quality of life are provided and planned for.
 - We urge the Council to ensure that an appropriate quantum of available, suitable and viable land is zoned in Draperstown for housing, employment, leisure, community, health, education, cultural, retail and service uses so as to provide an appropriate degree of flexibility and choice and to facilitate the delivery of a variety of uses which will ensure a quality of life for residents of Draperstown and those living in its rural catchment.
 - We encourage the Council to prepare an up to date Housing Monitor which:
 - provides an accurate understanding of the level of remaining capacity which has a reasonable expectation of being delivered in order to ensure that the strategic aim of the policy can be delivered. Having undertaken this exercise, Council could if required undertake a call for sites;
 - We would request the Council to amend supporting text in paragraph 4.27 to acknowledge that a degree of flexibility may, on occasions need to be provided to accommodate new residential development if sites which have the benefit of planning permission and/or are zoned housing sites within the settlement limit do not come forward with a reasonable time period.

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

Policy SPF 6 is unsound as the policy fails the tests of C1, C3, CE1 and CE2

The policy does not reflect current regional planning policy and jars with the draft plan objectives

The Council is requested to consider the contents of this representation and 3 recommendations set out at the bottom of this section to ensure a more 'sound' dPS

4.17 Our client raises concern with the Council's position as set out in 4.34 where it states:

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

4.18 Based on a HGI of 10,950 new homes as proposed at Paragraph 4.15 of the draft Plan Strategy, 40% would equate to 4,380 new homes that could be approved within the open countryside. This is a significant number of residential units when compared to Council's proposal to allocate 3,285 to 6,569 homes to the 3 main towns.

4.19 An allowance of this scale is contrary to the principles of sustainable development set out in Regional Development Strategy 2035 (policy RG8: Manage housing growth to achieve sustainable patterns of residential development) and the Strategic Planning Policy Statement (SPPS).

4.20 We would respectfully highlight that a similar concern has been raised in the relation to the Fermanagh & Omagh District dPS by the Department for Infrastructure (DfI).

4.21 Council has failed to consider the environmental effects of such a high number of dwellings within the countryside in terms of availability of utilities and the interrelationship of homes, jobs and local services and facilities in underpinning the town and villages. Permitting the scale of development gives rise to a degree of tension with the draft Plan objectives.

Soundness Tests

4.22 Policy SPF 6 fails soundness tests C1, C3, CE1 and CE2. The policy fails to take account of the Regional Development Strategy and the SPPS. The policy is at odds with the Plan objectives and there is no evidence base to support it.

Improving the Soundness of the draft Plan Strategy

4.23 It is recommended that further work is undertaken to consider the implications of the SPF, particularly in relation to impact on the plan objectives (paragraph 3.15).

- 4.24 We also recommend that comments made by DfI in representations to the Fermanagh & Omagh dPS are considered in light of the approach proposed by Mid Ulster.
- 4.25 Finally, we recommended that the Council reviews the potential to direct part of the open countryside housing allocation to more sustainable locations, such as larger villages, like Draperstown, which perform a vital role for their surrounding rural catchments.

5. Health, Education and Community Uses

Policy COY 1 – Community Uses

Policy COY 1 is unsound as the policy fails the tests of CE2 and CE3.

The intention of the policy is appreciated, but concerns arise with application/implementation of the policy and the dated nature of the evidence used to formulate the policy

The Council is requested to consider the contents of this representation and the 4 recommendations set out at the bottom of this section to ensure a more 'sound' dPS

- 5.1 Our client is encouraged that this proposed policy of the emerging Local Development Plan intends to zone land for community uses either through a community zoning or a key site requirement on an opportunity site or other land use zoning as designated in the Local Policies Plan.
- 5.2 This approach should assist in achieving the 5 themes and 15 outcomes set out within the Community Plan, particularly if the right sites are zoned/designated.
- 5.3 The flexibility provided by proposed Policy COY 1 is welcomed, particularly noting that it will give favourable consideration to a community use associated with the settlement on a site which is located next to the settlement limits or visually associated with it. However, the dPS or the dLLP should provide some further clarification with respect to what constitutes '*exceptional circumstances*'.
- 5.4 This is particularly important for instances which may arise when lands within settlement limits will not be able to deliver the type and quantum of sites sought after by potential investors/service providers.
- 5.5 The Council should expand proposed Policy COY 1 to include criteria for what would qualify as an '*exceptional circumstance*' and the criteria should have regard to the 5 themes and 15 outcomes of the Council's adopted Community Plan.
- 5.6 In addition, our client would ask the Council to review criterion ii) as identified under COY 1 as it seems to introduce a stringent test, particularly in cases where zoned lands may not be delivering.
- 5.7 Further clarification should also be provided with respect to what constitutes '*comprehensive development of surrounding lands, particularly on zoned sites*' so that this policy does not lead to the creation of ambiguity in terms of interpretation and application in the future.

- 5.8 The Strategic Settlement Evaluation Position Paper was published in July 2015 and this document is nearly 4 years old⁵. There is an inherent risk in relying on an out-of-date evidence base, particularly with respect to ‘soundness’ and we would request the Council to review its evidence base noting the provisions of Section 3 of the 2011 Act and Section 3.1 of DPPN 07.

Site Merits and Potential Uses

- 5.9 Our client would like to take this opportunity to reiterate that the site identified in Appendix 1 and 2 of this representation should be considered for an ‘Opportunity Site’ zoning as it would ensure that the emerging Local Development Plan is more ‘sound’ by aiding the plan to achieve its vision and objectives and its availability and suitability will ensure that community and other uses can be delivered at an accessible location for the village of Draperstown.
- 5.10 The subject land represents a rational rounding off/infill of the settlement limit for Draperstown, as demonstrated in Appendix 2, and its suitability is reinforced noting that it is not affected by any flooding issues and that it is not located in a sensitive designation such as a Conservation Area or a Local Landscape Policy Area.
- 5.11 In addition, the Settlement Appraisal for Draperstown, contained in the Strategic Settlement Evaluation Position Paper (dated July 2015), shows that the subject site is located in a part of the village that does not have any constraints on development (see Appendix 4).
- 5.12 Furthermore, the size of the site (approx. 2.95 ha) will ensure that there is ample capacity to accommodate any unforeseen demand throughout the life time of the plan and ensure a flexible approach can be achieved.
- 5.13 Indeed, this approach will align with the Council’s proposed flexible approach outlined at Section 9.18 of the dPS with respect to unforeseen demand for new community facilities that may arise over the lifetime of the Plan.
- 5.14 Additionally, this approach will also be in keeping with Section 9.16 of the dPS which states that ‘Our Strategy is to ensure that there is sufficient land to meet the anticipated needs of the community, in terms of health, education and other public facilities’.
- 5.15 It is considered that the inclusion of the identified lands within the settlement limit and/or designation of these lands as an opportunity site for Draperstown will ensure that the dPS and the dLLP can satisfy soundness test CE4, i.e. that it is reasonably flexible to deal with changing circumstances.

Ageing Population

- 5.16 The dPS states that Mid Ulster’s population is ‘...an ageing one with a greater proportion of people aged over 64 than in previous years’. Thus, Mid Ulster, like other Council areas, will need to plan and provide for this ageing population and ensure that

⁵ This date relates to the publication of the document but it is important to note that the actual research/surveys underpinning this document would have been before this publication date and so the evidence base may be considerably older than identified.

sites which can provide such facilities like retirement villages are enabled to do so. It is noted that the closest elderly care/living facilities for the Draperstown area are located in Magherafelt.

- 5.17 It is considered that Draperstown, which is described as '*...one of the largest settlements within the District*' in the Strategic Settlement Evaluation (dated July 2015), represents an ideal location for a retirement village as it would allow the elderly to enjoy independent living in a safe, secure and accessible location.
- 5.18 The appropriateness of the subject site for such a use and other complementary uses should be explored further with the Council and our client would welcome engagement with the Council's LDP team to explore this opportunity.
- 5.19 It is noted that other Councils, such as Belfast City Council, have proposed specific policies for Specialist Residential Accommodation through the dPS. Indeed, this is something that the Council should also consider incorporating into the dPS to provide assurance and certainty to service providers.
- 5.20 In preparing such a policy, regard should be had to the site specific and market requirements of such a use as this will help to inform what sites are appropriate if the Council is minded to zone/designate specific sites and it will also help to determine what factors should be considered if an 'exceptional circumstance' test is to be applied for those sites located on the edge or outside a settlement limit.
- 5.21 We request the Council to consider identifying Draperstown as an appropriate location for a Specialist Residential Accommodation, such as a retirement village and urge the Council to engage with our client to explore the potential of the identified lands to deliver such a facility.

Soundness Tests

- 5.22 Proposed Policy COY 1 fails soundness test CE3 as the implementation/application of this policy is not clear and clarification is sought, and CE2 as the policy is formulated on out-dated evidence.

Improving the Soundness of the draft Plan Strategy

- 5.23 We set out below a number of recommendations which will help to improve the 'soundness' of the dPS:
- We request the Council to provide clarification with respect to the '*exceptional circumstances*' test for community uses located next to the settlement limits or visually associated with it.
 - We request the Council to review criterion ii) of Policy COY 1 noting that instances may arise where zoned sites are not delivering.
 - We request the Council to provide clarification on what constitutes '*comprehensive development of surrounding lands, particularly on zoned sites*'.

- We request the Council to review its evidence base, in accordance with Section 3 of the 2011 Act and Section 3.1 of DPPN 07, to ensure that the policy is founded on an up-to-date evidence base.

6. Conclusion

- 6.1 Section 10(2) of the 2011 Act advises that the Council must not submit a plan to the Department unless: it has complied with any relevant requirements contained in regulations; and it thinks the document is ready for Independent Examination. Section 10(6) of the 2011 Act states that the purpose of the Independent Examination (IE) is to determine, in respect of the development plan document, whether it satisfies a range of requirements, such as Departmental guidance, and whether it is 'sound'.
- 6.2 'Soundness' is not defined in the 2011 Act, but DPPN 06 and 07 provide guidance on 'soundness' to assist Councils and practitioners. Indeed, there is a clear focus on the need to provide evidence and to address the 12 'soundness' tests identified by DPPN 06. However, DPPN 06 also advises that 'soundness' may be considered in the context of its ordinary meaning of *'showing good judgement'*.
- 6.3 The aim of the 12 'soundness' tests is to provide a 'framework' to assess the soundness of the dPS and dLLP. However, it is equally noted that DPPN 07 advises that the dPS should aim to be *'...both realistic and deliverable'*, take account of *'potential constraints which may arise during the plan period'* and *'incorporate a degree of flexibility'* to ensure the objectives and strategic policies of the dPS can *'be delivered'*.
- 6.4 This representation seeks to identify weaknesses of the dPS which are considered unsound, particularly with respect to Draperstown. In accordance with the relevant requirements, it endeavours to focus on the 12 tests of 'soundness' and set out the relevant evidence, where available. However, this representation also relies on 'good judgement' as per DPPN 06 and aims to assist in the development of a 'realistic and deliverable' plan that will incorporate an appropriate 'degree of flexibility' and have regard to 'potential constraints that may arise', in accordance with DPPN 07.
- 6.5 Noting the issues and recommendations set out within this submission, we respectfully request Mid Ulster District Council to not submit the DPS to the Department in its current form as we have concerns about its 'soundness'. The identified gaps in information prejudice the entire Local Development Plan (LDP) process and the Council's ability to formulate a sound and lawful local development plan.
- 6.6 However, if Mid Ulster District Council decides to submit the DPS in its current form to the Department for Infrastructure for an independent examination, we respectfully request an opportunity to appear and be heard at the Examination in Public in accordance with Section 10(7) of the Planning Act (Northern Ireland) 2011.
- 6.7 The dPS acknowledges that the *'...duty of community planning requires a Council to lead the process of creating a long term vision for the social, environmental and economic wellbeing of their area and its citizens, in partnership with the community and service providers in their area'*.
- 6.8 Our client looks forward to engaging with the Council to define a viable future for the identified lands and to working in partnership with the Council to create a long term vision for the social, environmental and economic wellbeing of Draperstown so as to benefit its immediate residents and its surrounding rural catchment.

Appendix 1: Representation to Mid Ulster POP Stage

Turley

27 January 2017
Delivered by email

Dr Chris Boomer
Mid Ulster District Council Planning Service
Ballyronan Road
Magherafelt
BT45 6EN

Dear Dr Boomer

**RESPONSE TO CONSULTATION ON MID ULSTER PREFERRED OPTIONS PAPER
MR EDWARD BURNS - LAND AT MAGHERAFELT ROAD, DRAPERSTOWN**

We write on behalf of Mr Edward Burns in relation to land at Magherafelt Road in Draperstown. We respectfully request the land is considered a location for sustainable growth of the village in the emerging LDP for Mid Ulster – see map at Appendix 1.

Background

This site was previously situated inside the development limits of Draperstown in the Magherafelt Area Plan of 1976 – 1996. A planning application (application reference: H/2003/1164/O) for residential development was validated on 1 October 2003. The draft Magherafelt Area Plan 2015 was then published on 28 April 2004 and excluded the land from the settlement limits, even though the site was the subject of a live planning application. A subsequent appeal to the Planning Appeals Commission (appeal reference: 2004/A080) was dismissed on grounds of prematurity to the emerging Magherafelt Area Plan 2015.

Refusal reasons relating to the location and potential scale of the proposed development or that it would not contribute to a sustainable pattern and spread of development were not sustained by the planning authority.

POP Findings

We note at Appendix 2 of the Preferred Options Paper the number of committed units and residual zoned land in Draperstown. Based on the 2014 Housing Monitor, these figures are now quite dated and a number of planning permissions will have since expired. It appears that significant planning permissions are not being activated. We agree that a fresh audit is undertaken to determine the inactive sites and to consider whether these lands should continue to be earmarked for development.

Site Suitability

Reflecting on the planning history of the subject land it is obvious the physical characteristics of the site and its ability to integrate new development was not a sustained grounds for refusing planning permission.

Hamilton House
3 Joy Street
Belfast
BT2 8LE

T 028 9072 3900 turley.co.uk

Registered in England Turley Associates Limited no. 2235387. Registered office: 1 New York Street, Manchester, M1 4HD

Turley

It is evident the land is contiguous with the settlement limit, being enveloped by developed on to two side and with a positive aspect to the adjacent playing fields. Site topography does not pose any buildability issues and there are no obvious development constraints.

Sustainable Growth

In advance of any audit of the inactive zoned or permitted sites, it would be inappropriate to advocate a specific use zoning for this land. At this early stage in preparing the new LDP, it is important to retain an open mind in relation to the suitable uses for assisting sustainable growth of Draperstown Village. The site lends itself to a number of development opportunities given the mix of adjoining land uses.

This site represents an opportunity to grow this settlement without compromising the setting of the village and to bring the development boundary to a defensible edge. Previous attempts by this client to bring forward development of this land demonstrate his commitment to investing in Draperstown. This should be an influencing factor in the context of the undelivered or 'banked' permissions or zonings.

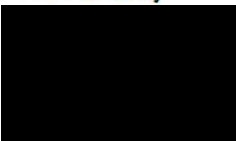
We reserve our position in relation to the HGI allocation and housing zonings generally. We further reserve our position in relation to policies and plans for economic development opportunities in the village, which is known for a number of home-grown businesses.

Next Steps

On behalf of Mr Burns we would welcome the opportunity to discuss the development potential of Draperstown and the LDP's emerging objectives for achieving sustainable growth.

We are grateful for you taking the time to consider this representation.

Yours sincerely



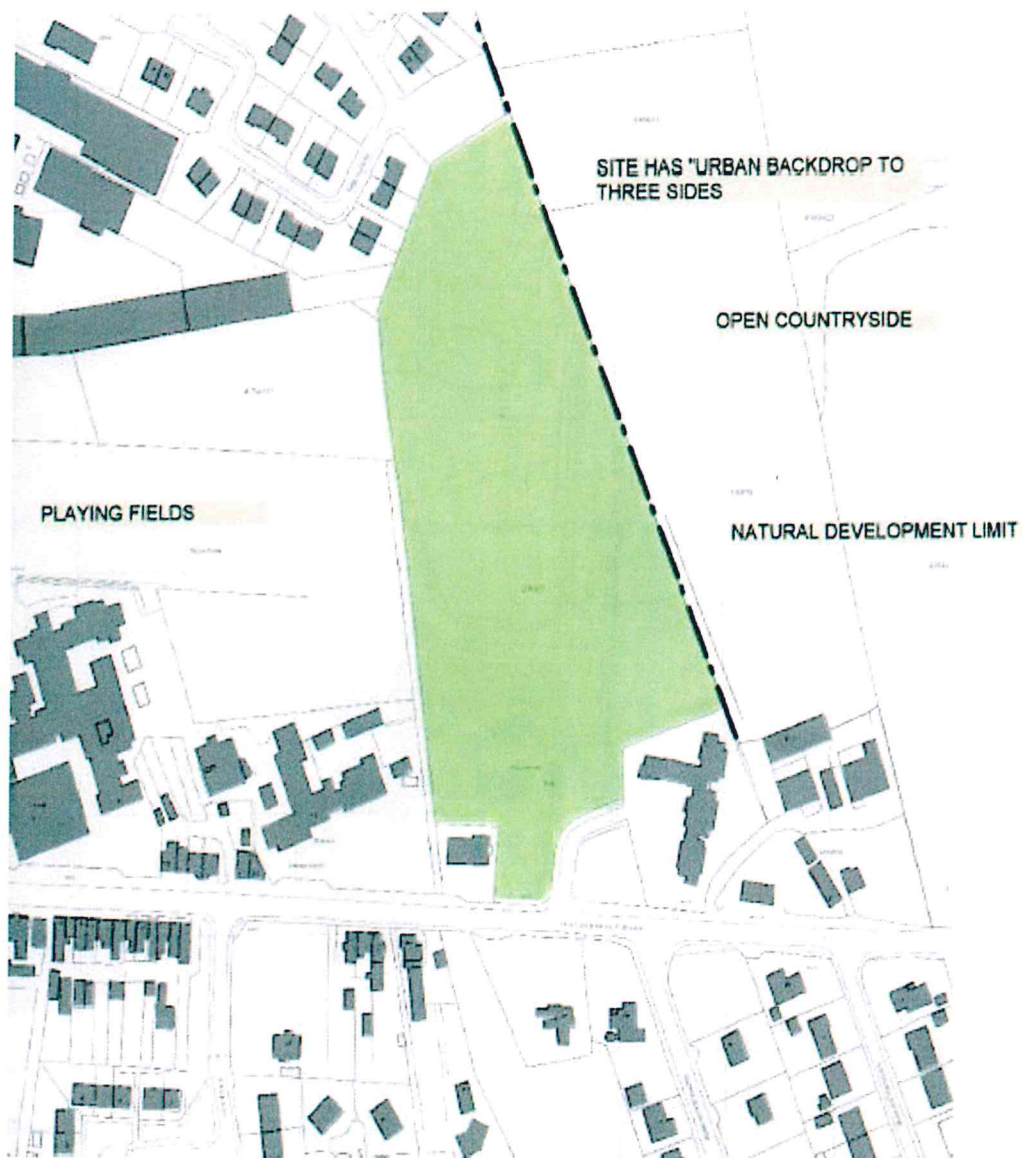
Brian Kelly
Director



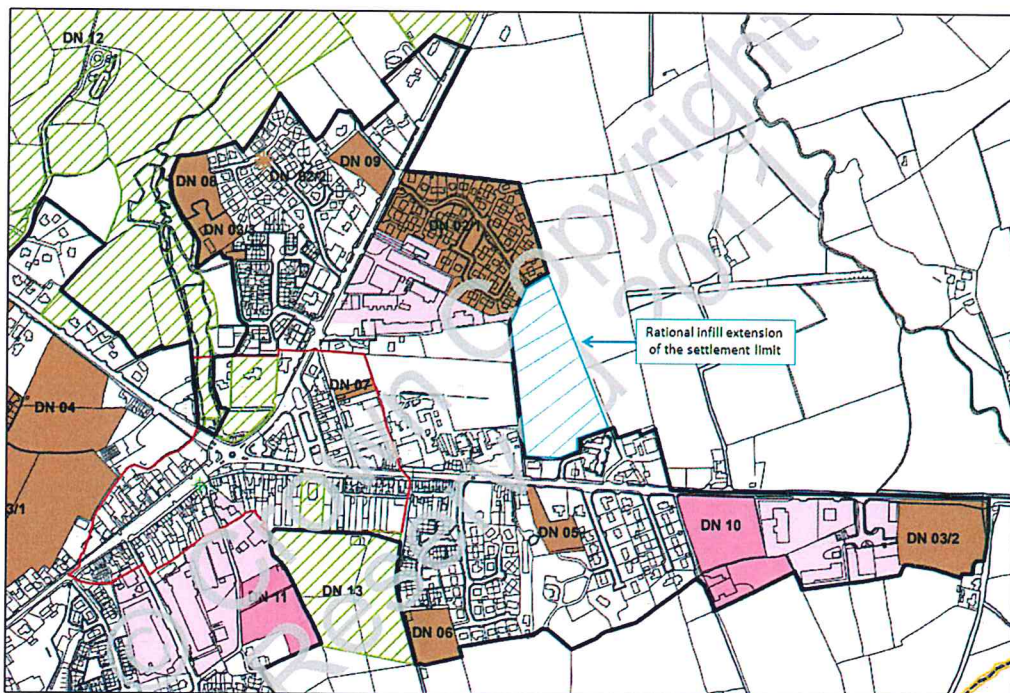
APPENDIX 1

SITE LOCATION PLAN

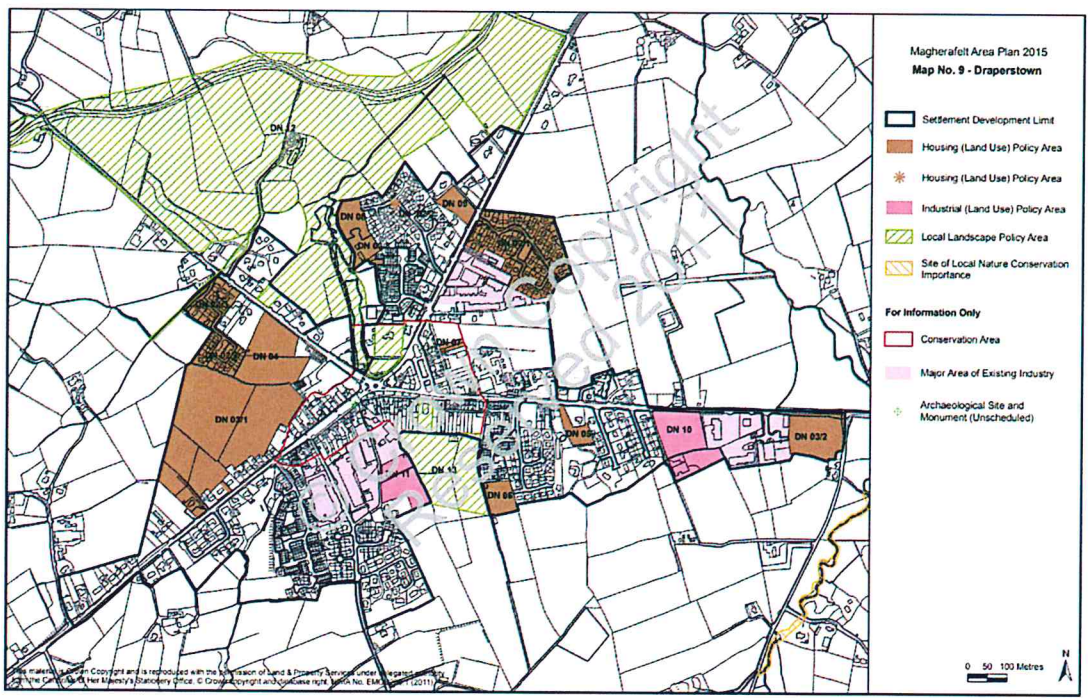
Magherafelt Road, Draperstown



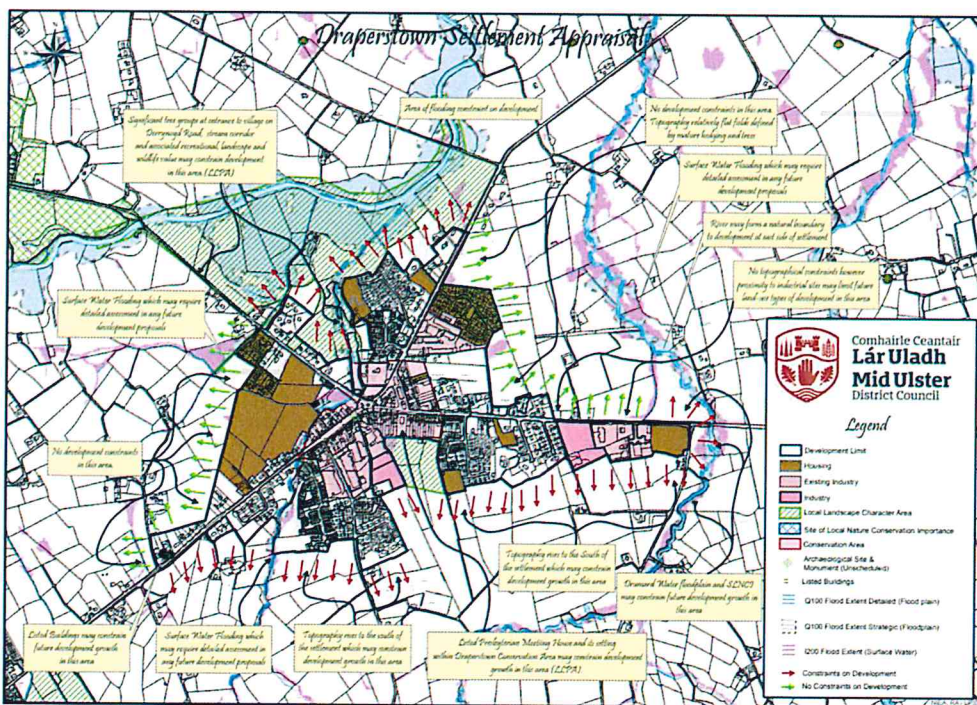
Appendix 2: Annotated Extract of Map No. 9 Draperstown - Magherafelt Area Plan 2015



Appendix 3: Original Extract of Map No. 9 Draperstown - Magherafelt Area Plan 2015



Appendix 4: Extract from Strategic Settlement Evaluation Position Paper - July 2015



Turley Office
Belfast

028 9072 3900

Turley