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From: Planning@Midulstercouncil.org
Sent: 18 April 2019 13:10
To: DevelopmentPlan@midulstercouncil.org
Subject: FW: DPS Submission
Attachments: DPS response GEKO 180419.pdf

From: Jennifer Mawhinney <[REDACTED]>
Sent: 18 April 2019 08:52
To: Planning@Midulstercouncil.org
Subject: DPS Submission

Dear Sir/Madam,

Please see attached DPS response submitted on behalf of Granville Ecopark Ltd.

Regards,

Jenny

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RESPONSE TO DRAFT PLAN STRATEGY

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

On Behalf of Granville Ecopark Ltd

April 2019

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1. Introduction

1. This is a response to the Draft Plan Strategy (“DPS”) of the Mid Ulster District Council Local Development Plan (“LDP”) 2030.
2. It addresses policies identified in the DPS relating to the protection of economic land, the development of waste management facilities (‘WMF’) and renewable energy installations as well as the interrelationship between these policies and amplification text.
3. Specifically, the following DPS policies are considered:

Figure 1: Economic and Waste Management Policies subject of this Representation:

POLICY ECON 3 – PROTECTION OF ZONED LAND AND EXISTING ECONOMIC DEVELOPMENT SITES

Proposals which will result in the loss of land zoned for economic development (existing or proposed) will not accord with the Plan unless it is demonstrated that there are important community and employment benefits. Elsewhere within the settlement, change of use of existing economic development land, or land last used for these purposes, may be permitted where there is no need to protect it for employment purposes and redevelopment of the land would result in environmental benefits.

POLICY WM 1 – WASTE MANAGEMENT: GENERAL POLICY

Proposals for the development of a waste management facility shall accord with the Plan provided that;

- i. It will not cause demonstrable harm to human health or result in an unacceptable adverse impact on the environment that cannot be controlled through mitigation measures;

- ii. The visual impact of the waste management facility including the final land form of land filling or land raising operations, is acceptable in the landscape and the development will not have an unacceptable visual impact on an area designated for its landscape quality;
- iii. The types of waste to be deposited or treated and the proposed method of disposal or treatment will not pose a serious environmental risk to air, water or soil resources that cannot be prevented or appropriately controlled by mitigating measures;
- iv. The proposal avoids (as far as is practicable) the permanent loss of the best and most versatile agricultural land;
- v. In the case of waste disposal the proposal includes suitable, detailed, timely and practical restoration and aftercare proposals for the site.
- vi. A need for the facility has been demonstrated.

POLICY WM 2 – WASTE COLLECTION AND TREATMENT FACILITIES

Proposals for the development of a waste collection and treatment facility shall accord with the Plan provided it complies with one or more of the following locational criteria;

- i. It is located within an industrial area and is of a character which is appropriate to that area; or

POLICY RNW 1 – RENEWABLE ENERGY

Outside of Special Countryside Areas, proposals for development that generate or store energy from renewable resources including solar, hydropower, thermal, geothermal, hydrothermal and biomass, shall accord with the Plan. However, a cautious approach will be adopted towards all renewable energy development proposals within the Sperrin AONB, Slieve Beagh and the along the Clogher Valley ridge line.

The wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted.

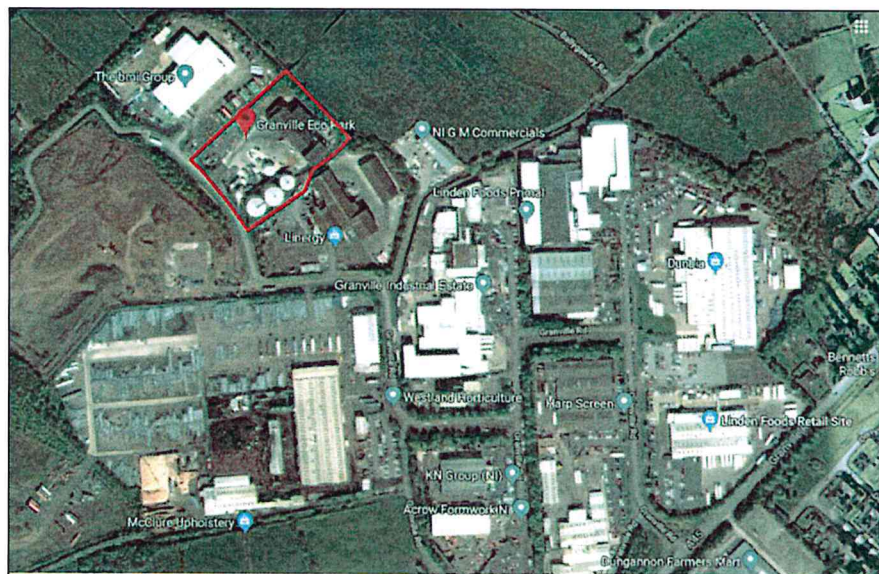
Where any project would result in unavoidable damage during its installation, operation, or decommissioning, then the application must demonstrate how this shall be minimised and mitigated including details of any proposed compensatory measures such as a habitat management or the creation of a new habitat and applicants will be required to ensure that upon decommissioning, land is adequately restored and planning conditions to this effect will be applied.

Favourable consideration will be given to the re-use, refurbishment, repair and repowering of existing renewable energy development in order to prolong the life span of developments such as wind farms and solar farms providing that these do not result in unacceptable impacts on the environment or residential / visual amenity.

2. Background to the Representation

4. This representation is made on behalf of Granville Ecopark Ltd ('GECO'). GECO own and operate a c. 1.4 ha site at Granville Industrial Estate:

Figure 2: General Location of GECO within Granville Industrial Estate



5. GECO's process at Granville involves an Enhanced Anaerobic Digestion Facility which can treat up to 90,000 tonnes of biowaste (including food waste) per annum. Biowaste is broken down through the process to produce a biogas which can be used directly as fuel in combined heat and power gas engines. The plant also produces nutrient rich digestate which can be used as a fertiliser.

6. The plant will have capacity to produce 64,000 MWh per annum, which is equivalent power for 13,900 thousand homes in Northern Ireland. It is the market leader in Ireland within the Anaerobic Digestion sector and is providing an unbeatable Circular Economy experience in the waste sector.

7. The award winning facility represents an investment of 27 million in the Mid Ulster District and it is a significant employer generating 32 direct and 40 indirect jobs.

8. GECO is the type of entrepreneurial business which paragraph 2.6 of the DPS recognises as part of the character of the Council area and that the DPS wishes to encourage and foster.

9. GECO is committed to continuously improving its environmental credentials and paving the way for Best Practise in its Sector. It's participation in a Prosperity Agreement with the Northern Ireland Environment Agency evidences this through commitments to expand its business in terms of generating capacity, diversion of waste from landfill, use of biomethane to off-set the use of fossil fuels at the site, produce an identified tonnage of quality assured digestate and increase efficient use of by-products of the process amongst other things.

10. Commitment 3(c) of the Prosperity Agreement requires Granville to review the collection network and work with NIEA to seek to influence the environmental performance of Local Councils and local community collection arrangements. The response to this DPS is seeking to enact this obligation.
11. The GECO facility is for the purposes of the Planning (Use Classes) Order (Northern Ireland) 2015 a sui generis use. Its primary purpose is the production of renewable energy but its use of biowaste as an input means it is bound under waste management licensing regimes. Resultantly development of this type is tasked with straddling both renewable energy and waste management policies when seeking planning permission for future development. This is common place for all renewable technology which utilises waste materials to produce renewable products.
12. Facilities of this kind are not considered as an economic development use within the definition provided by footnote 28 on page 56 of the Strategic Planning Policy Statement ("SPPS").
13. GECO welcomes the preparation of a new LDP for Mid Ulster and is keen to ensure that it can accommodate new and improved renewable facilities and associated development that will enhance the Region's energy mix and low carbon economy while providing certainty for its investment proposals.

14. However, GECO is concerned that a number of the policies in the draft Plan Strategy are not sound and should be altered. This response sets out these concerns and suggestions on how the relevant policies could be improved. It firstly identifies the relevant legislative and policy context and planning guidance issued by the Department.

3. Regional Planning Policy Context

15. The legislative context is provided by the Planning Act (NI) 2011 (“the 2011 Act”) and The Planning (Local Development Plan) Regulations (NI) 2015 (“the LDP Regulations”). It is not necessary to set out all of their requirements here, although a number are particularly relevant to the issues set out in Section 4.
16. One of these is Regulation 12(2) of the LDP Regulations. It requires that development plan documents (“DPDs”) – defined as the DPS and the local policies plan (“LPP”) – must provide a reasoned justification of the policies contained within them.
17. Section 8(5) of the 2011 Act is also relevant. It states that in preparing a PS, the Council must take account of the Regional Development Strategy 2035 (“RDS”) and any policy or advice contained in guidance issued by the Department.
18. The RDS and SPPS are policies issued by the Department and DPPNs are guidance documents that set out planning advice.
19. **DPPN7** provides advice on the Plan Strategy. Paragraphs 1.2 & 1.3 states that the PS should:
 - establish the strategic direction early in the plan process in order to provide a level of certainty on which to base key development decisions in the area as well as the necessary framework for the preparation of the local policies plan;
 - ensure that its objectives are integrated with, add value to and assist in the delivery of regional policy.
20. DPDs including the Plan Strategy must be tested to ascertain whether they are ‘sound’. The term sound is not defined in legislation however **DPPN6** states that in the context of assessing DPDs, it may be considered within its ordinary meaning of ‘showing good judgement’ and ‘able to be trusted’ (paragraph 5.1).
21. **DPPN6** states that the tests of soundness are based upon three categories: how the 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.

22. The RDS is an overarching planning framework that provides the strategic context for where development should take place. Among other things, it sets out regional guidance (RG) that applies to all parts of NI.

23. Regional Guidelines (RG) 5, 9 and 10 seeks to advance the following:

RG5: Deliver a sustainable and secure energy supply

- **Increase the contribution that renewable energy can make to the overall energy mix.** There will need to be a significant increase in all types of renewable electricity installations and renewable heat installations, including a wide range of renewable resources for electricity generation both onshore and offshore to meet the Regions needs.

RG9: Reduce our carbon footprint and facilitate mitigation and adaptation to climate change whilst improving air quality.

- **Increase the use of renewable energies.** Energy production from fossil fuels is a major source of greenhouse gas emissions and other pollutants. Northern Ireland is largely dependent on fossil fuel combustion for electricity generation. Energy efficiency along with decarbonisation of the power sector is the key to achieving emissions reduction targets. The Strategic Energy Framework for Northern Ireland 2010 sets a target of 40% of electricity consumption from renewable sources by 2020 as well as achieving 10% penetration of renewable heat. This will require increasing numbers of renewable electricity installations and the grid infrastructure to support them. These must be appropriately sited to minimise their environmental impact.

RG10: Manage our waste sustainably

3.28 Managing waste is a significant part of how we treat our environment. If waste is not managed safely then it can become a serious threat to public health, and cause damage to the environment as well as being a local nuisance.

- **Apply the Waste Hierarchy principles.** The revised Waste Framework Directive introduces a 5-step waste hierarchy. The waste hierarchy aims to encourage the management of waste materials in order to reduce the amount of waste materials produced, and to recover maximum value from the wastes that are produced. It is not applied as a strict hierarchy however as a guide, it encourages the prevention of waste, followed by the reuse and refurbishment of goods, then value recovery through recycling and composting.

The next option is recovery, including energy recovery, an important level in the hierarchy as many materials have significant embedded energy that can be recovered. Waste prevention, reuse, recycling and recovery are collectively defined by the Organisation for Economic Co-operation and Development (OECD) as waste minimisation. Finally, waste disposal should only be used when no option further up the hierarchy is possible. The less waste we introduce into the waste stream, the less harm we inflict on our environment

- **Apply the Proximity Principle.** This will emphasise the need to treat or dispose of waste as close as practicable to the point of generation to minimise the environmental impacts of waste transport.

24. The SPPS is a statement of the Department's policy on important planning matters that should be addressed across NI. It was agreed by the NI Executive and was judged to be in general conformity with the RDS.

25. Sustainable development is at the heart of the SPPS. It was prepared under the Planning Act (NI) 2011, which provides that LDPs must be prepared with the objective of furthering sustainable development (Section 5(1)).

26. The following are the relevant excerpts to this representation:

- planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process (**para 6.89**);

- The aim of the SPPS in relation to renewable energy is to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance (my emphasis added to **para 6.218**).
- **Para 6.217** confirms that biomass utilised through anaerobic digestion technology is one of the main sources of renewable energy;
- **Para 6.221** states Councils should set out policies and proposals in their Local Development Plans (LDPs) that support a diverse range of renewable energy development...LDPs must take into account the above-mentioned aim and regional strategic objectives, local circumstances, and the wider environmental, economic and social benefits of renewable energy development;
- Councils must assess the likely extent of future waste management facilities for the plan area. Specific sites for the development of waste management facilities should be identified in the LDP together with key site requirements (**para 6.312**);
- Sites and proposals for waste collection and treatment facilities must meet one or more of the following locational criteria:
 - it is located within an industrial or port area of a character appropriate to the development (**para 6.313**);
- LDPs should also identify the need for appropriate waste management facilities within new development (**para 3.15**).

4. The Issues

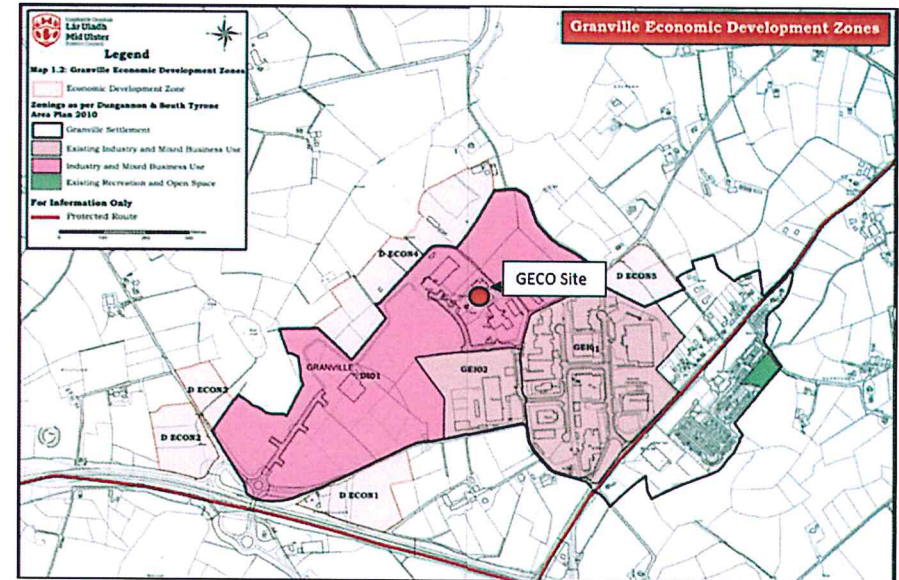
27. GECO's main interest in the DPS is the Sections on Economic Development, Renewable Energy and Waste Management. It is unclear whether these have been informed by robust and up to date evidence in relation to capacity, especially in respect of WMFs in accordance with the SPPS paras 6.312 and 6.315.

28. Setting that aside I make the following comments:

29. The purpose of the LDP is to guide development to appropriate locations. However, the LDP policies prohibit this due to unclear terminology compared with regional policy definitions and overly restrictive wording and internal inconsistency between various segregated policies which do not consider the cross-cutting nature of development proposals such as that my client is engaged in – as are a wide range of renewable energy installations dealing with biomass technologies. In more detail:

Unclear Terminology

30. My client's land is identified on Map 1.2 "Granville Economic Development Zones":



31. The land is shaded pink and identified as "Industry and Mixed Business Use" – the wording for the area in the extant Dungannon and Tyrone Area Plan.

32. I acknowledge that the purpose of this plan is to identify future zonings for which KSRs are provided in the DPS but it is unclear to me what the land use status is of the pink land my client is located in with respect to policy provisions in the plan and specifically whether this equates to an

employment land zoning in the Council's mind and therefore subject to the trappings of **Policy ECON 3**.

33. The definition of what is economic development is clearly set out in the footnote on page 56 of the SPPS. My client business does not fall within this definition. The pink land arguably goes beyond this definition in stating that it includes "Mixed business use" which includes any and all type of business activity including WMFs and renewable energy businesses.
34. As such the DPS is completely unclear as to how this land is zoned and what policy provisions are proposed to apply in respect of those in the plan and at regional level.
35. I would respectfully suggest that should it be the Council's intention that Granville Industrial Estate is to be zoned as employment land that the wording is clarified consistent with the SPPS and my client's site as a committed sui generis use is removed from this zoning. It would be manifestly unfair to identify the land as existing employment land given its existing sui generis status.

Policy Conflict

36. **Policy ECON 3** is consistent with the general policy theme of the RDS and SPPS which seeks to protect zoned employment land from being lost to non-employment uses while also providing flexibility for other

compatible uses in certain circumstances. However, the DPS prescribes the circumstances as limited to developments which can demonstrate "*important community and employment benefits*".

37. The amplification confirms that sui generis WMF could potentially be a compatible use acceptable under the policy where it can demonstrate its employment credentials.
38. This is inconsistent with **Policy WM 2** which states that Proposals for the development of a waste collection facility shall accord with the Plan provided it complies with one or more of the locational criteria which includes being located on industrial land where it is compatible with surrounding uses.
39. **Policy WM 2** contains a lower policy test than **Policy ECON 3** for a biomass proposal and in doing so creates uncertainty as to how future proposals will be treated and what tests will be applied to the determination of future planning applications.
40. Furthermore, I note that **Policy RNW 1** states that *Outside of Special Countryside Areas, proposals for development that generate or store energy from renewable resources including solar, hydropower, thermal, geothermal, hydrothermal and biomass, shall accord with the Plan*. This means that any location outside of a SCA is consistent with the plan and introduces an even lower locational test than **Policy WM 2** in respect of a biomass plant such as my clients.

41. **Policy RNW 1** completely ignores a situation where by renewable plants are or shall be proposed in urban areas. It is a failing of its focus which is dominantly made in consideration of wind energy proposals which has made the resultant policy blunt for the wide range of technologies it is supposed to address.
42. The inconsistency between these three policies is untenable and unsound. It will lead to the cherry picking of policy and disorderly decision making. The DPS should provide clear policies which support the development and expansion of renewable biomass plants in appropriate areas of zoned economic development land.
43. I respectfully suggest that this is achieved through explicit wording in **Policy ECON 3's** headline policy that a sui generis WMF or renewable energy plant proposed on zoned economic development land and land last used for economic purposes is in accordance with the plan subject to compatibility with adjacent uses. The wording should confirm where a proposal is on zoned land it shall not lead to a significant diminution in the overall supply of economic development land. The policy could continue that other sui generis uses will be required to demonstrate important community or employment benefits as per the existing wording.
44. I do not consider that sui generis WMFs and renewable facilities should be tasked with the additive test of proving important community and employment benefits to locate in industrialised areas. There are sound

planning reasons of sustainability as to why they should locate in such areas and all that should be required in this instance is a no harm test in light of neighbouring uses and supply of economic land – the points made in paragraph 43.

45. **Policy RNW 1** should also be amended to confirm that the existing wording relates to development proposals in the countryside only. It should be supplemented by a sentence stating that where a proposal, such as biomass plant, is proposed in an urban context it will accord with the plan where it is located on both zoned employment land and land last used for employment purposes where it is compatible with surrounding uses in the area. Again, for zoned land it should confirm that proposals must not significantly diminish the supply of zoned land.
46. Such wording will allow biomass energy plants to locate in appropriate industrial areas and expand existing operations in these areas in a way which regional policy seeking the sustainable development of land intends.

Need

47. Policy WM 1(vi) states that a need for a facility must be demonstrated.
48. I note the amplification in 20.18 states that need for the facility must be demonstrated within the context of the prevailing Joint Waste

Management Plan ("JWMP"), taking into account the views of the Councils Environmental Services Department.

49. I would highlight that need in the JWMP is made exclusively in respect of LACMW. There are no expressions of need for privatised waste streams and developments proposing to deal with C&I waste for example. As such a policy which requires the demonstration of need in accordance with a plan which does not identify need for the waste stream proposed to be processed is illogical.

50. I respectfully suggest that either the headline policy or amplification text should be clarified to confirm that need to be met through the JWMP is for proposals which relate to the processing of LACMWs and that WMFs proposed for delivering the processing of alternative waste streams will be considered on their individual merits.

5. Conclusion

51. I would be grateful if the above points could be considered in future iterations of the LDP.

