

## Strategic Planning Directorate

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Your reference:  
Our reference: DFIPG 165/22

17 June 2022

Dear Mr Bowman

### **CLARIFICATION ON THE MUDC SUBMISSION OF THE DRAFT PLAN STRATEGY**

I refer to the above mentioned matter and in particular to the Department's correspondence to you dated 23 December 2021 and your response of 4 February 2022.

The purpose of this latest correspondence is twofold – firstly to provide your Council with a final opportunity to add to the response to date and to consider whether you wish to provide the requested further information, as well as the clarifications and corrections. Secondly, the Department now refers to a legal concern that has been further drawn to our attention, following the Council's response in February. This is connected to a policy the Department have already raised concerns about. I will come to this later.

You will be aware that we are now at an important and pivotal stage in the plan making process, and on the basis of the information received to date and any further information received in response to this correspondence, the Department will make its determination on the appropriate next steps.

Firstly, the response from the Council in February provided a position of clarity in relation to some of the matters raised, however the Department still remains concerned on many of the issues that have not been addressed.

For convenience, in summary, the outstanding concerns mainly relate to the following

aspects of the Council's evidence:-

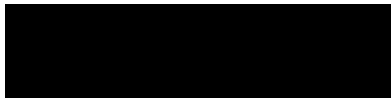
- The approach of the Council in taking account of the most up to date evidence, including National Statistics;
- The Council's changed approach to the distribution of housing growth between settlement and the countryside (specifically the 40% allowance made outside the Housing Growth Indicator);
- The Council's explanation of the role of the Housing Local Indicator in informing the quantum of land zoned for housing at Local Policies Plan (LPP) stage;
- The interpretation of regional and strategic policy and guidance including the 60% Regional Development Strategy brownfield target.

We would specifically highlight responses to Appendix 1 questions 2, 10, 11, 12, 13, 14, 15, 17 and 20; Appendix 2 questions 1, 5, 6 and 9; Appendix 3 questions 2, 4, 6, 7, 8, 10; and Appendix 4 questions 1 and 4.

The second matter we now refer to is in light of the Council's correspondence in February and what the Department still considers to be a lack of a robust justification for approaches that incorporate local connection and kinship criteria. This raises further potential issues in respect of the lawfulness of such policy approaches. The Department asks if the Council has received advice and is able to reconcile the policy approaches under (h) and (j) with the 'Flemish' judgment (C-197/11 and C-203/11) in the Court of Justice of the European Union (Annex A).

I appreciate that the Council will wish to consider its position and I look forward to your response.

Yours sincerely



**ALISTAIR BEGGS**  
Director

Cc Dr Chris Boomer

Encl - Annex A Judgment of the CJEU- 8 May 2013 - FLEMISH DECREE