



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Local Development Plan 2030 Draft Plan Strategy

The table below identifies the Draft Plan Strategy Reference Numbers that are referred to in the attached submission, and provides the corresponding Counter Representation Reference Number related to each.

<b>Draft Plan Strategy Representation Reference Number referred to within attached submission</b>	<b>Your Counter Representation Reference Number</b>
MUDPS/12	DPSCR-117
MUDPS/16	DPSCR-118
MUDPS/22	DPSCR-119
MUDPS/56	DPSCR-120
MUDPS/59	DPSCR-121
MUDPS/70	DPSCR-122
MUDPS/73	DPSCR-123
MUDPS/81	DPSCR-124
MUDPS/87	DPSCR-125
MUDPS/88	DPSCR-126
MUDPS/89	DPSCR-127
MUDPS/108	DPSCR-128
MUDPS/115	DPSCR-129
MUDPS/121	DPSCR-130
MUDPS/122	DPSCR-131
MUDPS/123	DPSCR-132

MUDPS/131	DPSCR-133
MUDPS/134	DPSCR-134
MUDPS/137	DPSCR-135
MUDPS/141	DPSCR-136
MUDPS/144	DPSCR-137
MUDPS/159	DPSCR-138
MUDPS/162	DPSCR-139
MUDPS/163	DPSCR-140
MUDPS/167	DPSCR-141
MUDPS/168	DPSCR-142
MUDPS/174	DPSCR-143
MUDPS/178	DPSCR-144
MUDPS/181	DPSCR-145
MUDPS/182	DPSCR-146
MUDPS/191	DPSCR-147
MUDPS/194	DPSCR-148
MUDPS/195	DPSCR-149
MUDPS/196	DPSCR-150
MUDPS/197	DPSCR-151
MUDPS/198	DPSCR-152
MUDPS/199	DPSCR-153
MUDPS/200	DPSCR-154
MUDPS/201	DPSCR-155
MUDPS/202	DPSCR-156

## JohnPaul Devlin

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**From:** Emma Walker [REDACTED]  
**Sent:** 09 August 2019 08:40  
**To:** DevelopmentPlan@midulstercouncil.org  
**Subject:** draft Plan Strategy Counter Representations - ABO Wind  
**Attachments:** MUDC Counter Rep Form ABO.pdf; MUDC dPS Counter Representations ABO Wind.pdf

Dear Sir/Madam

On behalf of our client ABO Wind, please find enclosed counter-representations to the responses received in response to the Council's consultation on the draft Plan Strategy.

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

Kind regards

Emma

**Emma Walker**  
Associate Director

**Turley**  
Hamilton House  
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**Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy  
Submission of a Counter Representation**



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

Ref:
Date Received:
(For official use only)

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

**Draft Plan Strategy**

**Counter Representations must be submitted by 5pm on Friday 9 August 2019 to:**

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

Or by email to [developmentplan@midulstercouncil.org](mailto:developmentplan@midulstercouncil.org)

Please complete separate form for each counter representation.

**SECTION A**

**1. Personal Details**

Title

First Name

Last Name

Job Title  
(where relevant)

Organisation  
(where relevant)

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



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**SECTION B**

3(a). Have you submitted a representation to the Council regarding this development plan document?

Yes

No

3(b). If yes, please provide Reference No. and summary of issue raised in you representation.

Representation Ref. MUDPS153

Please see enclosed Counter-representation for details.

**Counter Representation**

Any person may make a counter representation in relation to a representation seeking a change to a DPD. The purpose of a counter representation is to provide an opportunity to respond to proposed changes to the DPD a result of representations submitted under Regulation 15 and 16 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015.

**A counter representation must not propose any further changes to a DPD.**

4. Please provide the reference number of the representation to which your counter representation relates to.

See Enclosed Counter-representation

5. Please give reasons for your counter representation having particular regard to the soundness test identified in the above representation.

Please note your counter 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 any further submissions based on your original counter 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 see attached counter representation responding to MUDPS12, MUDPS16, MUDPS22, MUDPS56, MUDPS59, MUDPS70, MUDPS73, MUDPS81, MUDPS87, MUDPS88, MUDPS89, MUDPS108, MUDPS115, MUDPS121, MUDPS122, MUDPS123, MUDPS131, MUDPS134, MUDPS137, MUDPS141, MUDPS144, MUDPS159, MUDPS162, MUDPS163, MUDPS167, MUDPS168, MUDPS174, MUDPS178, MUDPS181, MUDPS182, MUDPS191 and MUDPS194 - MUDPS202

*(If not submitting using online form and additional space is required, please continue on a separate sheet)*

Signature

[Redacted Signature]

Date

9.8.2019

# Mid Ulster District Council – Draft Plan Strategy

## Counter-representation

August 2019

### 1. Introduction

1. This counter-representation is submitted on behalf of ABO Wind NI Ltd ('ABO Wind') in response to representations received in response to the Council's consultation on the draft Plan Strategy (dPS).
2. These counter representations relate to representations made under Regulation 15 and 16 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 ('the Regulations'). Under Regulation 17, the Council has made available copies of all representations received in response to consultation on the draft Plan Strategy. These counter representations are submitted under Regulation 18 as they relate to site specific representations. For the avoidance of doubt 'site specific representations' mean:
  - Representations to policies relating to any proposed designations which identify a particular area (site);
  - Representations to policies which could be applied to a site that could be subject to a planning application; and
  - Representations containing references or inferences to renewables and wind energy developments or related proposals for a site within the Council area.
3. These counter-representations should be read alongside ABO Wind representation reference MUDPS153 (Appended to this Counter-representation).

### 4. Counter-representations

5. This section outlines our counter-representations to comments received by MUDC in response to consultation on the qPS.

Mid Ulster Draft Plan Strategy Representation Ref.	Representation comments	Counter-representation
<b>MUDPS12 – Lightsource BP</b>	<p>The plan should consider the co-location of solar and wind farms. This is highly sustainable use of infrastructure where the two technologies co-exist, sharing the same infrastructure.</p> <p>Propose that Policy RNW1 is reworded to read:</p> <p><i>“Favourable consideration will be given the re-use, shared use (co-location), refurbishment, repair and repowering of existing renewable energy developments 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.”</i></p>	<p>ABO Wind is opposed to draft Policy RNW1 as it fails against soundness tests CE1, CE2, CE4 and C3.</p> <p>The reasons are elaborated on further in Section 5 of Representation Ref. MUDPS153.</p>
<b>MUDPS16</b>	<p>At least 500 metres separation distance between wind turbines and occupied property would have gone some way towards resolving this serious issue.</p> <p>The proposed separation distance is insufficient and consideration should be given to a 1/2km separation distance.</p>	<p>ABO Wind objects to draft Policy RNW1 as it is unduly restrictive and conflicts with the SPPS and PPS18. As such it fails against soundness tests CE1, CE2, CE4 and C3.</p> <p>The reasons are elaborated on further in Section 5 of Representation Ref. MUDPS153.</p>
<b>MUDPS22 – Monaghan County</b>	<p><b>Comments on Sensitive Landscapes</b></p> <p>The introduction of a Special Countryside Area, an Area of Constraint on Wind Turbines and High</p>	<p>ABO Wind objects to draft Policy TOHS1 and SCA1.</p> <p>Draft Policy TOHS1 is inconsistent with the approach set out in the SPPS and PPS18</p>



Council

Structures and an Area of Minerals Constraint, wherein development will be restricted subject to meeting limited criteria is welcomed.

and is not based on a robust evidence base. As such it fails against soundness test CE1, CE2, CE3 and C4. These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153.

Draft Policy SCA1 fails against soundness test CE2 as it is not based on a robust evidence base. This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.

**Comments on SA/SEA Environmental Report**

Concur with the overall findings of the Transboundary Screening exercise and considers that the emerging Plan will not conflict with the Monaghan County Council Development Plan (2019-2025) in relation to cross border issues of mutual interest.

ABO Wind considers that the Sustainability Appraisal provided in support of the dps is flawed because:

- The proposed sterilisation of wind energy development within certain landscape designations is not supported by national policy or guidance;
- The proposed divergence from existing national policy is not justified or supported by a robust evidence base;
- The position that significant adverse landscape impacts will occur in the long term from the continuation of existing national wind energy policy is not justified or supported by a robust evidence base;
- The proposed restrictive wind energy policy may hinder progress on renewable energy development in Northern Ireland and reverse positive trends experienced to date as concluded by Mid Ulster's Development Pressure Analysis;
- Failure to consult on the SA Scoping Report prior to the development and publication of the POP and SA Interim Report;
- Failure to include the reasonable alternative of not introducing Areas of Constraint within the SA Process;
- No evidence to support the assertion that wind energy development is likely adversely affect local tourism and what appears to be only a single letter of concern received by the Council;
- Failure to recognise the key role of the dps in helping to drive CO2 reductions in Mid Ulster as part of Northern Ireland's carbon budgets; and
- Failure to assess alternatives sufficiently and to the same extent at the preferred option.

These reasons are elaborated on further in Section 3 of representation Ref. MUDPS153. For these reasons soundness test P3 cannot be met.

**MUDPS56 –**

**Armagh, Banbridge & Craigavon Borough Council**

**Comments on draft Policy SCA1**  
Council notes that in order to protect and enhance the natural environment in terms of landscape and visual amenity a SCA has been proposed. It is also noted that the proposed SCA does not extend to include the body of water and island within. It is noted that there are a number of breaks within the designation to facilitate Tourism Opportunity Zones and landing points for sand extraction.

The methodology for the review of the Landscape Character Areas and subsequent audit of the assessment is noted and we would advise that we are currently undertaking a review of LCA's which will help inform our approach.

It is also noted that there are no Areas of High Scenic Value carried forward from the extant Local Area Plans.

ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. As such the draft policy fails against soundness test CE2.

This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.

<b>MUDPS59 – RSPB</b>	<b>Comments on draft Policy TOHS1</b>	Proposes that the area of constraint on wind turbines and high structures is extended to create further opportunities for whooper swans and hen harriers. Whooper Swan consultation zone should be identified on a draft Plan map.	ABO Wind is opposed to draft Policy TOHS1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. As such the draft policy fails against soundness tests CE1, CE2, CE3 and C4. These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153.
<b>Comments on draft Policy RNW1</b>	Draft policy undermines the existing policy provisions in PPS18 and the SPPS as it proposes a general presumption in favour of renewable energy proposals outside of SCA.		ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. As such the draft policy fails soundness text CE1, CE2, CE4 and C3. These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153.
<b>Comments on draft Policy SCA1</b>	Patrick's Lough should be identified as an SCA. The SCA proposed for the north of Fivemiletown should be extended to reflect up to date information on hen harriers. Ballynahoe and Curran Bog should be identified as an SCA. The SCA to the north of the A6 should be extended to run to the boundary of the new A6 and to include all the lands within the whooper swan complex at Toome and Gortgill. Whooper swan areas at Newferry and within the Bann Valley should also be identified as an SCA. The Ramsar zoning to the south west corner of Lough Neagh should be an SCA.		ABO Wind is opposed to draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. As such the draft policy fails against soundness test CE2. This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.
<b>Comments on draft Policy NH6</b>	The policy should refer to a full range of considerations and not just the 'distinctive special character and landscape quality'. This is a more restrictive interpretation of the SPPS. The policy fails to include the second part of the policy requirement as articulated in paragraph 6.187 of the SPPS.		ABO Wind is opposed to draft Policy NH6 as it cross refers to draft Policy RNW1 which is considered unsound. The supporting text to draft Policy NH6 sets out that account will be taken of landscape character assessment produced as part of the Development Plan process which is considered to be flawed. This draft policy fails against soundness test CE2. This reason is elaborated on further in Section 7 (para 7.6 to 7.9) of representation Ref. MUDPS153.
<b>MUDPS70</b>	Welcomes the introduction of SCAs within the district to preserve the qualities and characteristics of vulnerable and distinctive landscapes.		ABO Wind is opposed to draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. As such the draft policy fails against soundness test CE2. This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.
<b>MUDPS73 – Shores of Traad Community Group</b>	Welcomes the introduction of SCAs and ACWTHS.		ABO Wind is opposed to draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. As such the draft policy fails against soundness test CE2. This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153. Draft Policy TOHS1 is inconsistent with the approach set out in the SPPS and PPS18 and is not based on a robust evidence base. As such it fails against soundness test



<p>MUDPS 81 – Secretary of Shores of Traad Community Group</p>	<p>See representation Ref. MUDPS73.</p>	<p><b>CE1, CE2, CE3 and C4.</b> These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153.</p>
<p>MUDPS87 – MBA Planning (on behalf of Granville Ecopark ltd)</p>	<p><b>Comments on Draft Policy RNW1</b> Policy fails to duly consider renewable energy technologies, other than wind energy. Policy RNW1 should be amended to confirm that the policy relates to countryside developments only.</p>	<p>ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. <b>As such the draft policy fails soundness text CE1, CE2, CE4 and C3.</b> These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153.</p>
<p>MUDPS88 - Shores of Traad Community Group</p>	<p>See representation Ref. MUDPS73.</p>	<p>See response to representation Ref. MUDPS73.</p>
<p>MUDPS89 – Fermanagh &amp; Omagh District Council</p>	<p><b>Comments on Special Countryside Areas (SCAs)</b> Part of Slieve Beagh falls within the FODC area and whilst we do not propose an SCA for that part of Slieve Beagh, the ACMD designation proposed for that area in our Draft Plan Strategy would apply.</p>	<p>ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. <b>As such the draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.</p>
<p><b>Comments on Area of Significant Archaeological Interest (ASAI)</b></p>	<p>The Council welcomes the policy relation to the Beaghmore Stone Circles and Cregganadevesky as they are impact shared environmental assets.</p>	<p>ABO Wind is opposed to draft Policy HE1, HE2 and HE3 as the Council fails to identify the particular features of the ASAI's to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAI's. <b>As such the policy fails against soundness tests CE2 and CE3.</b> These reasons are elaborated on further in Section 6 of representation Ref. MUDPS153.</p>
<p><b>Comments on proposed Area of Constraint on Wind Turbines &amp; High Structures (AoCWTHS)</b></p>	<p>The FODC Wind Energy Strategy also identified limited capacity for wind turbines within the Clogher Valley and at Slieve Beagh.</p>	<p>Draft Policy TOHS1 is inconsistent with the approach set out in the SPPS and PPS18 and is not based on a robust evidence base. <b>As such it fails against soundness test CE1, CE2, CE3 and C4.</b> These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153.</p>
<p>MUDPS108 – Quarryplan (on behalf of Norman Emerson Group)</p>	<p><b>Comments on draft Policy SCA1</b> Welcomed that the Lough and landing points of interest to LNST are not included within the proposed SCA. The landing points should be specifically identified within the plan as not being included within the proposed SCA.</p>	<p>ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. <b>As such the draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.</p>

<p><b>MUDPS115 – Department for Infrastructure</b></p>	<p><b>Comments on draft Policy TOHS1</b> The proposed policy working within TOHS1 does not make reference to the positioning of new wind turbines. The DfI would expect this to be included.</p>	<p>Draft Policy TOHS1 is inconsistent with the approach set out in the SPPS and PPS18 and is not based on a robust evidence base. As such it fails against soundness test CE1, CE2, CE3 and C4. These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153.</p>
<p><b>Comments on draft Policy RNW1</b></p>	<p>Policy does not address issues relating to access, parking and infrastructure requirements. The Council should provide undertake an analysis of the geography of MUDC to inform its capacity for renewable energy development. The policy does not reflect SPPS as it references 'adverse impact', rather than 'unacceptable landscape impact'. No detail of the planning considerations is given within the policy. In reference to 'a separation distance of 10 times rotor diameter to the occupied property within a minimum distance not less than 500m will generally apply to the development of windfarms', the Council should amend this wording to reflect the SPPS. There is no indication within RNW1 that the settings of the Sperrins, Slieve Beagh and Clogher Valley will be a consideration. Cross reference to the proposed SCA and AOCOWTHS should be included within the planning criterion in RNW1. Reference to decommissioning does not reflect the SPPS. There are a number of occasions where the justification and amplification text conflict with the policy working.</p>	<p>ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. As such the draft policy fails soundness text CE1, CE2, CE4 and C3. These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153. ABO Wind is also opposed to draft Policy SCA1 and TOHS1 as they fail against soundness test CE1, CE2, CE3 and C4. Any cross-reference to these draft Policies in draft Policy RNW1 would therefore render it unsound.</p>
<p><b>Comments on draft Policy HE1, HE2 and HE3</b></p>	<p>Welcomes the proposed policies but as per the SPPS, the policies do not articulate the site or their setting. The policies should reference the statutory protection afforded to ASAI's.</p>	<p>ABO Wind is opposed to draft Policy HE1, HE2 and HE3 as the Council fails to identify the particular features of the ASAI's to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAI's. As such the policy fails against soundness tests CE2 and CE3. These reasons are elaborated on further in Section 6 of representation Ref. MUDPS153.</p>
<p><b>Comments on draft Policy SCA1</b></p>	<p>The exceptional criteria listed within the policy, undermines the intent of the SCA which seek to protect the area from all forms of development. This is a contradiction in policy. The Council should be able to demonstrate that this policy is sustainable.</p>	<p>ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. As such the draft policy fails against soundness test CE2. This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.</p>
<p><b>Comments on draft Policy NH6</b></p>	<p>The policy should refer to the quality of the 'landscape, heritage and wildlife'.</p>	<p>ABO Wind is opposed to draft Policy NH6 as it cross refers to draft Policy RNW1 which is considered unsound. The supporting text to draft Policy NH6 sets out that account will be taken of landscape character assessment produced as part of the Development Plan process which is considered to be flawed. This draft policy fails against soundness test CE2. This reason is elaborated on further in Section 7 (para 7.6 to 7.9) of representation Ref. MUDPS153.</p>
<p><b>MUDPS121 – Shores of Traad</b></p>	<p>See representation Ref. MUDPS73.</p>	<p>See response to representation Ref. MUDPS73.</p>



Community Group		
MUDPS122 – Shores of Traad Community Group	See representation Ref. MUDPS73.	See response to representation Ref. MUDPS73
MUDPS123 – Shores of Traad Community Group	See representation Ref. MUDPS73.	See Response to representation Ref. MUDPS73
MUDPS131 – Mid & East Antrim Borough Council	Note the proposed Special Countryside Area designation at Lough Neagh/Lough Beagh and Lower River Bann. Mid & East Antrim will also be taking full account of the importance of Lough Beg and Lower Bann in bringing forward the Draft Plan Strategy. The mechanisms proposed for this have been the subject of discussions with MUDC in the past and whilst the mechanism for protecting such areas may differ between council we view that the approach taken by MUDC is sound. The extent of the SCA boundary at Lough Beg should be extended to the Council boundary down the middle of the Lough to ensure a complete approach. Welcomes Policy SCA1 and in particular that ancillary open development relating to recreation and open space uses would be accepted. Recommend that the presumption in support of development to provide responsible and sustainable access to the enjoyment of the SCA.	ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. <b>As such the draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.
MUDPS134 – Department for Communities		ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. <b>As such the draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.
MUDPS137 – WYG (on behalf of Specialist Joinery Group)	<b>Comments on draft Policy RNW1</b> The proposed policy is more flexible than what was outline in the Preferred Options Paper and this is welcomed.	ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. <b>As such the draft policy fails soundness text CE1, CE2, CE4 and C3.</b> These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153. Furthermore, when considered alongside draft Policy TOHS1 this policy would result in the sterilisation of the District for wind energy development.
MUDPS141 – Standing Our Ground Women of Sperrins	We particularly welcome the introduction of Special Countryside Areas (SCAs).  Welcome the proposed Areas of Constraint on Wind Turbines and High Structures	ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. <b>As such the draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.
MUDPS144 –	See representation Ref. MUDPS141.	Draft Policy TOHS1 is inconsistent with the approach set out in the SPPS and PPS18 and is not based on a robust evidence base. <b>As such it fails against soundness test CE1, CE2, CE3 and C4.</b> These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153. See response to representation Ref. MUDPS141.



<p>McKenna Family</p>	<p>Notes the designation of the SCA and AOCWTHS</p>	<p>ABO Wind is opposed to draft Policy TOHS1 and SCA1. Draft Policy TOHS1 is inconsistent with the approach set out in the SPPS and PPS18 and is not based on a robust evidence base. <b>As such it fails against soundness test CE1, CE2, CE3 and C4.</b> These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153. <b>Draft Policy SCA1 fails against soundness test CE2</b> as it is not based on a robust evidence base. This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.</p>
<p>MUDPS159 – Causeway Coast and Glens Borough Council</p>	<p>Notes the Council's approach to Historic Environment</p>	<p>ABO Wind is opposed to draft Policy HE1, HE2 and HE3 as the Council fails to identify the particular features of the ASA's to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAs. <b>As such the policy fails against soundness tests CE2 and CE3.</b> These reasons are elaborated on further in Section 6 of representation Ref. MUDPS153.</p>
<p>MUDPS162 – Protect Slieve Gallion</p>	<p>Notes the Council's approach to Natural Environment.</p>	<p>ABO Wind is opposed to draft Policy NH6 as it cross refers to draft Policy RNW1 which is considered unsound. The supporting text to draft Policy NH6 sets out that account will be taken of landscape character assessment produced as part of the Development Plan process which is considered to be flawed. <b>This draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.6 to 7.9) of representation Ref. MUDPS153.</p>
<p>MUDPS163 – Traad Shore Community Group</p>	<p>Slieve Gallion should be identified as an area to the protected. The SCA proposed for Slieve Beagh and High Sperrins SCAs should look to alternative ways to provided electricity.</p>	<p>ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA, including the upper slopes of Slieve Gallion. The proposed SCA has not been based on a robust evidence base and it been identified based on a desktop assessment and flawed landscape character assessment. <b>As such the draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153. See response to representation Ref. MUDPS73.</p>
<p>MUDPS167 – Natural Environment Divisions</p>	<p>Comments on draft Policy SCA1 Support in principle for the proposed SCAs. Concerned that the exceptions do not refer to the impact on natural heritage, including international designations, nor the legislative obligations regarding these designations under the Birds and Habitats Directive. This is contrary to the SPPS. The Plan fails to take account of DEARA POP response regarding the need to create a separate Area of High Scenic Value policy area at Lough Neagh/Lough Beg. A building on land excluded from the SCA still has potential to negatively impact on the landscape quality of the rest of the SCA. A buffer should be added to the Lough Neagh/Lough Beg SCA to ensure</p>	<p>ABO Wind is opposed draft Policy SCA1 and to the extent of the proposed SCA as it has not been based on a robust evidence base. The SCA has been identified based on a desktop assessment and flawed landscape character assessment. <b>As such the draft policy fails against soundness test CE2.</b> This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.</p>

it is not impacted by adjacent development.

#### Comments on draft Policy NH6

Policy is weakened as some of the policy tests in PPS2 are only provided for within supporting text. This should be moved in to the main policy text.  
The policy test should also include the need for proposals to respect local architectural styles and patterns.

#### Comments on draft Policy RNW1

The proposed AOCWTHS covers a number of internationally designates sites. This policy creates a presumption in favour of the development of up to 15m high structures in in the AOCWTHS but does not adequately protect the designated sites.

ABO Wind is opposed to draft Policy NH6 as it cross refers to draft Policy RNW1 which is considered unsound.

The supporting text to draft Policy NH6 sets out that account will be taken of landscape character assessment produced as part of the Development Plan process which is considered to be flawed. **This draft policy fails against soundness test CE2.** This reason is elaborated on further in Section 7 (para 7.6 to 7.9) of representation Ref. MUDPS153.

ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. **As such the draft policy fails soundness text CE1, CE2, CE4 and C3.**

These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153.

Furthermore, when considered alongside draft Policy TOHS1 this policy would result in the sterilisation of the District for wind energy development. This sterilisation would impact on the deliverability of the dps as it is inconsistent with the Council's own objectives to *'encourage energy efficiencies and promote use of renewable energy'* and *'to accommodate investment in power, water and sewerage infrastructure and waste management particularly in terms of public health'*.

#### MUDPS168 - Natural Environment Division

#### Comments on draft Policy RNW1

Slieve Beagh is designated for the protection of Hen Harriers. Teal Lough SAC is an area of active blanket bog and Owenkillew River SAC is designated for various species and bog woodland. Although development is constrained in the AOCWTHS, the continuous zoning of an AOCWTHS, which includes part of the designated European site, sets a precedent and create a presumption in favour of development up to a 15m hub height at Slieve Beagh.

Renewable development represents a threat to foraging habitat and disturbance to nest and roosting sites and risk of collisions.

The policy gives no consideration to the potential impact on the integrity of these sites.

ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. **As such the draft policy fails soundness text CE1, CE2, CE4 and C3.**

These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153.

Furthermore, when considered alongside draft Policy TOHS1 this policy would result in the sterilisation of the District for wind energy development.

#### MUDPS174 – The National Trust

#### Comments on draft Policy RNW1

The policy fails to protect heritage assets from inappropriate renewable energy development. Planning criteria should be applied to protect heritage assets and their settings.

Rigorous policy testing on heritage and landscape considerations should also be applied to wind turbine proposals.

ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. **As such the draft policy fails soundness text CE1, CE2, CE4 and C3.**

These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153.

#### Comments on draft Policy NH6

The policy fails to recognise that AONBs are designated not only for their distinctive landscape character but also for their wildlife importance and rich cultural and architectural heritage. The policy should be expanded to apply a robust policy test for the AONB to cover its special character.

The policy fails to mention the need to take account of the Landscape Character Assessment and the Sperrin AONB Management Plan and is therefore not consistent with the SPPS.

ABO Wind is opposed to draft Policy NH6 as it cross refers to draft Policy RNW1 which is considered unsound.

The supporting text to draft Policy NH6 sets out that account will be taken of landscape character assessment produced as part of the Development Plan process which is considered to be flawed. **This draft policy fails against soundness test CE2.** This reason is elaborated on further in Section 7 (para 7.6 to 7.9) of representation



MUDPS178 – Pat Haughey	<p><b>Comments on Draft Policy RNW1</b></p> <p>MUDC should be trying to preserve the Sperrins AONB and the entire district. According to paragraph 22.14 of the dPS, there will be a presumption in favour of renewable energy development unless it will be detrimental to human health or residential amenity. Given the recent reports wind turbines do cause significant harm to health hence MUDC must take this into consideration with health being the priority factor in determining permission.</p> <p>This policy allows for more wind turbines.</p> <p>Wind turbines should not be permitted in the Sperrins.</p>	<p>Ref. MUDPS153.</p> <p>ABO Wind is opposed to draft Policy RNW1 as it is unduly restrictive and is inconsistent with the SPPS and PPS18. This policy also conflicts with the Council's own position paper on renewable energy. <b>As such the draft policy fails soundness test CE1, CE2, CE4 and C3.</b></p> <p>These reasons are elaborated on further in Section 5 of representation Ref. MUDPS153.</p> <p>Furthermore, when considered alongside draft Policy TOHS1 this policy would result in the sterilisation of the District for wind energy development.</p>
MUDPS181	See representation Ref. MUDPS 141.	See response to representation Ref. MUDPS141.
MUDPS182 – Concerned Broughdery Residents Association	See representation Ref. MUDPS 141.	See response to representation Ref. MUDPS141.
MUDPS191	See representation Ref. MUDPS 178.	See response to representation Ref. MUDPS141.
MUDPS194 - 202	<p>Template Letter</p> <p>Welcome the provision being made to protect and preserve the qualities and characteristics of vulnerable and distinctive landscapes.</p> <p>Welcomes the introduction of Special Countryside Areas and AOCWTHS.</p> <p>South Sperrins should be afforded further protection.</p>	<p>See response to representation Ref. MUDPS141.</p> <p>ABO Wind is opposed to draft Policy TOHS1 and SCA1.</p> <p>Draft Policy TOHS1 is inconsistent with the approach set out in the SPPS and PPS18 and is not based on a robust evidence base. <b>As such it fails against soundness test CE1, CE2, CE3 and C4.</b> These reasons are elaborated on further in Section 4 of representation Ref. MUDPS153.</p> <p><b>Draft Policy SCA1 fails against soundness test CE2</b> as it is not based on a robust evidence base. This reason is elaborated on further in Section 7 (para 7.1 to 7.5) of representation Ref. MUDPS153.</p>

Appendix 1: Representation Reference MUDPS153

○

# Representations to Mid Ulster District Council Draft Plan Strategy

On behalf of ABO Wind (NI) Ltd

March 2019



**Turley**

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Emma Walker

**Client**

ABO Wind (NI) Ltd

**Our reference**

ABOB3000

April 2019



## Executive Summary

1. This representation is submitted behalf of ABO Wind (NI) Ltd in response to consultation on the Mid Ulster District Council draft Plan Strategy (dPS).
2. The dPS is unsound as the legal compliance tests have not been met.
3. Furthermore, the Sustainability Assessment (SA) provided in support of the dPS is flawed. These flaws render the dPS in its entirety unsound as soundness test P3 cannot be met.
4. The following table summarises the draft policies which are unsound, for the reasons specified:

### Schedule of key draft Policy Comments

Policy	Comment	Cross ref.
Draft Policy TOHS 1	<p>The Council is proposing to introduce an Area of Constraint on Wind Turbine and High Structures across parts of the district.</p> <p>The draft policy conflicts with and is inconsistent with the approach set out in the SPSS and PPS18 and is not based on a robust evidence base.</p> <p>Taken together with Draft Policy RNW1, this policy would result in the sterilisation of the District for wind energy development.</p> <p>We object to this draft policy as it is unsound and it fails tests CE1, CE2, CE3 and C4.</p>	Section 4
Draft Policy RNW 1	<p>The Council is proposing to introduce a requirement for a 500m separation distance from residential properties.</p> <p>This approach is unduly restrictive and is inconsistent with and in conflict with the SPPS and PPS 18.</p> <p>Furthermore the policy is in conflict with the Councils own position paper on renewable energy.</p> <p>This policy fails soundness test CE1, CE2, CE4 and C3.</p>	Section 5
Draft Policy HE 1	<p>The council is proposing that development which would adversely impact on ASAI will conflict with the development plan.</p> <p>The Council fails to identify the particular features of the ASAI to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAI.</p> <p>This policy therefore fails soundness tests CE2 and CE3.</p>	Section 6
Draft Policy HE 2	<p>The council is proposing that development which would adversely impact on ASAI will conflict with the</p>	Section 6

	<p>development plan.</p> <p>The Council fails to identify the particular features of the ASAI to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAs.</p> <p>This policy therefore fails soundness tests CE2 and CE3.</p>	
Draft Policy HE 3	<p>The council is proposing that development which would adversely impact on ASAI will conflict with the development plan.</p> <p>The Council fails to identify the particular features of the ASAI to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAs.</p> <p>This policy therefore fails soundness tests CE2 and CE3.</p>	Section 6
Draft Policy SCA 1	<p>The Council is establishing a presumption against all forms of development with the SCA.</p> <p>The extent of the SCA has been identified based on a desktop assessment and flawed landscape character assessments which are also out of date.</p> <p>This policy fails against soundness test CE2</p>	Section 7 Paragraph 7.1 to 7.5
Draft Policy NH 6	<p>The draft policy cross refers to draft Policy RNW 1 which is considered unsound.</p> <p>Supporting text sets out that account will be taken of landscape character assessments produced as part of the Development Plan process which we consider to be flawed.</p> <p>Therefore this policy fails soundness test CE2.</p>	Section 7 Paragraph 7.6 to 7.9



## 1. Introduction

- 1.1 This representation is submitted on behalf of ABO Wind (NI) Ltd in response to the consultation on the Mid Ulster District Council draft Plan Strategy (dPS). It has been structured to reflect the template provided by the Council.
- 1.2 ABO Wind is a globally successful project developer for renewable energy technologies. Since 1996, the company has developed over 900 wind energy, solar and biogas plants across 18 countries with a total output of 2,000 megawatts.
- 1.3 Economical prudence, careful planning and ethical responsibility are at the core of ABO Wind. Installations completed to date avoid more than 2 million tonnes of carbon dioxide and generate around 3 million megawatt hours each year - equivalent to the domestic electricity consumption of 2 million people.
- 1.4 ABO Wind entered the UK market in 2006, with the head office in Bellshill in the central belt of Scotland. There are currently several projects in various phases of development, from early stage assessment to realisation. In 2011 ABO Wind commissioned its first British wind farm at Lairg in the Scottish Highlands.
- 1.5 ABO Wind NI was registered in 2010 with the head office in Belfast. Across Northern Ireland ABO Wind have a total of 68.9MW of wind farm projects that have received planning permission, with a further 79.9MW currently in the local planning system and several projects between early stage assessment and planning. Northern Ireland has an excellent wind resource although continued investment in the grid is needed to ensure integration of renewable energy to the grid.
- 1.6 ABO Wind is fully supportive of sustainable development and committed to exploring opportunities for wind energy development to deliver positive impacts to the local community and economy whilst addressing environmental considerations.
- 1.7 This representation focuses on the interests of ABO Wind (NI) Ltd within Mid Ulster District and whilst some specific locations are identified, the comments apply to the relevant policies across the District.
- 1.8 ABO Wind (NI) Ltd is considering wind energy developments in Slieve Gallion and therefore this representation includes some specific references to development proposals. The proposal is located in proximity to the existing Crockandun Wind Farm operated by Brookfield renewable Energy.
- 1.9 In line with the Council's procedures, each representation is set out on a separate page within each of the chapter headings with the draft policy and response clearly identified.
- 1.10 The structure of the submission is as follows:
  - Section 2: Provides an assessment of how the draft Plan Strategy addresses the legislative compliance tests;

- Section 3: Details our representations to the Strategy Environmental Assessment (SEA) and Sustainability Appraisal (SA);
- Section 4: Details our representations to Telecommunications, Overhead Cables, High Structures and Other Utilities policies;
- Section 5: Details our representations to Renewable Energy Policies.
- Section 6: Details our representations to Built Heritage policies; and
- Section 7: Details our representations to Natural Heritage policies.

## 2. Legislative Compliance

2.1 In preparing their draft Plan Strategy (dPS), Mid Ulster District Council ('the Council') 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').

2.2 This section identifies issues in the compliance of the dPS with the Act and the Regulations.

### **Planning Act (Northern Ireland) 2011**

2.3 Part 2 of 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.

2.4 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.

2.5 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.

2.6 In preparing a Plan Strategy, the Council must take account of:

- "the regional development strategy;
- The council's current community plan;
- Any policy or advice contained in guidance issued by the Department;
- 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."

2.7 This representation identifies specific instances where, in particular, policy issued by the Department has not been adequately assessed.

2.8 The Act also requires that the Council:

*"(a) carry out an appraisal of the sustainability of the plan strategy; and*

*(b) prepare a report of the findings of the appraisal."*

2.9 We have identified significant flaws with the Council's Sustainability Assessment and identify them in this representation in Chapter 3 and Appendix TBC.

### 3. Strategic Environmental Assessment and Sustainability Appraisal

- 3.1 These representations to the Mid Ulster District Council Local Development Plan Draft Plan Strategy have been prepared by Turley Sustainability on behalf of ABO Wind NI Ltd. They relate to the Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) process undertaken in support of the each LDP preparation stage.
- 3.2 DPP Note 04 (para 3.1) states *“the purpose of SA is to promote sustainable development through the integration of social, environmental and economic considerations into the preparation of plans and programmes such as local development plans.”*
- 3.3 Given their commitment to sustainable development and the function of the SEA / SA process in relation to the emerging Mid Ulster Local Plan, ABO Wind wishes to engage positively in the local plan process and makes these representations in relation to proposals currently in preparation for the development of a 6 turbine wind farm at Slieve Gallion in Mid Ulster. This will ensure the emerging Mid Ulster Local Development Plan accords with national policy and SA/SEA guidance and appropriately reflects the significant environmental, social and economic benefits of wind energy.
- 3.4 The following Mid Ulster District Council documents have been reviewed:
- Position Paper 3; Employment and Economic Development; February 2015;
  - Position Paper 6; Public Utilities; May 2015;
  - Position Paper; Development Pressure Analysis; September 2015;
  - Sustainability Appraisal incorporating Strategic Environmental Assessment (SA/SEA); Scoping Report; June 2016;
  - Local Development Plan 2030; Preferred Options Paper; November 2016;
  - Sustainability Appraisal (Incorporating Strategic Environmental Assessment); Interim Report; November 2016;
  - Sustainability Appraisal incorporating Strategic Environmental Assessment Report (Environmental Report) of Local Development Plan 2030 – Draft Plan Strategy; February 2019; and
  - Local Development Plan 2030 – Draft Plan Strategy; February 2019.
- 3.5 The following SA / SEA guidance is also relevant Northern Ireland given the close similarity in SA / SEA process across UK administrations:
- A Practical Guide to the SEA Directive; Practical guidance on applying European Directive 2001/42/EC “on the assessment of the effects of certain plans and



programmes on the environment”; Office of the Deputy Prime Minister (ODPM), September 2005;

- SEA and SA; Planning Practice Guidance (PPG); Ministry of Housing, Communities & Local Government (HCLG); February 2015;
- Strategic Environmental Assessment: Improving the effectiveness and efficiency of SEA/SA for land use plans; RTPI; January 2018; and
- SEA & Climate Change: Guidance for Practitioners; Environment Agency; 2011.

### **The Importance of Renewable Energy to Northern Ireland**

- 3.6 The central role of renewable energy in the delivery of sustainable development is recognised by national policy. Para 6.214 of the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development<sup>(1)</sup> explains Northern Ireland has significant renewable energy resources and a vibrant renewable energy industry that makes an important contribution towards sustainable development as well as being a significant provider of jobs and investment across the region.
- 3.7 Para 2.3 of the Mid Ulster Employment and Economic Development paper recognises renewable energy provides jobs and opportunities in rural areas when appropriately integrated within a settlement or rural landscape. Indeed, a 2017 analysis by NIRIG ‘Onshore wind: Economic benefits in Northern Ireland’<sup>(2)</sup> estimated that onshore wind created 500 jobs and £32 million in gross value added (GVA) in the Northern Irish economy in 2014.
- 3.8 Planning Policy Statement 18 (PPS18) Renewable Energy<sup>(3)</sup> explains how greater use of renewable energy will also reduce dependence on imported fossil fuels, bring diversity and security of supply to our infrastructure, and help Northern Ireland achieve its targets for reducing carbon emissions.
- 3.9 Position Paper 6 Public Utilities recognises (para 10.6) the substantial contribution of onshore wind energy to Northern Ireland, with 92% of Northern Ireland’s renewable energy generated by this technology during 2014.
- 3.10 ABO Wind agrees with the SA Scoping Report in terms of the “..need to provide and encourage use of renewable energy both as a means of generating money for the local economy, attracting investment in enterprise and providing sustainable and affordable lighting and heating for the population” as a key contributor to Local Development Plan Objective (b) ‘Creating jobs and promoting prosperity’ as well as the role of “reducing contributions... to climate change” and “need to accommodate investment in power” in Objective (c) ‘Enhancing the environment and improving infrastructure’.

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(1) [https://www.planningni.gov.uk/index/policy/spps\\_28\\_september\\_2015-3.pdf](https://www.planningni.gov.uk/index/policy/spps_28_september_2015-3.pdf)

(2) <http://149.255.57.18/~nirigweb/wp-content/uploads/2017/03/Onshore-Wind-Economic-Benefits-NI.pdf>

(3) [https://www.planningni.gov.uk/index/policy/planning\\_statements\\_and\\_supplementary\\_planning\\_guidance/planning\\_policy\\_statement\\_18\\_renewable\\_energy.pdf](https://www.planningni.gov.uk/index/policy/planning_statements_and_supplementary_planning_guidance/planning_policy_statement_18_renewable_energy.pdf)

### Concerns relating to the SA process

- 3.11 The following sections set out the concerns of ABO Wind in relation to the SA process undertaken as part of the emerging Draft Plan Strategy.

#### **Publication of the SA Scoping report with the Preferred Options Paper (POP) and Interim SA report**

- 3.12 Para 6.2 and Figure 1 of the DPP SA/SEA guidance sets out the key stages of the LDP process and how the SA/SEA process should interact with it. Para 6.2 states, whilst there are clear linkages at various stages of both processes, preparation of the LDP and SA should be an 'iterative process' whereby findings at each stage are taken into account to inform subsequent stages of the plan.
- 3.13 Figure 1 of the DPP guidance clearly links the SA Scoping Report with production of the POP but states that Stage A(1) SA Scoping Report should be prepared, issued for consultation and (subject to consultee comments) amended prior to the assessment of alternatives within the POP.
- 3.14 Paras 8.1 to 8.3 of the SA Scoping Report confirm that consultation has been undertaken with the Natural Environment Division (NED) and Historic Environmental Division (HED), however no records are provided of comments received. It would also appear that the SA Scoping Report was not issued for public consultation prior to the production of the POP and SA Interim Report.
- 3.15 ABO Winds consider the need to receive and assess statutory and non-statutory consultee comments on the SA Scoping Report prior to the assessment of alternatives within the POP to be a key requirement of the guidance and iterative process.
- 3.16 It is best practice for wider stakeholders including members of the public within the plan area to have opportunity to comment on the SA Scoping Report. Para 3.5 of the ODPM's 2005 SEA guidance states *"the Directive refers only to consultation with the Consultation Bodies and with the public. Responsible Authorities will however normally consult a range of other bodies in the course of preparing their plans and programmes (e.g. Local Authorities, Regional Development Agencies and Primary Care Trusts) and information from these may be useful in SEA."*
- 3.17 ABO Wind considers the SA Scoping Report should have been submitted for consultation prior to the development and publication of the POP and supporting SA Interim Report.

#### **Carbon Emissions Reduction**

- 3.18 Regarding impacts from the emerging Local Development Plan on 'climatic factors' (Table 2 p35), the SA Scoping Report states *"the increasing number of houses and other development, along with the increasing car ownership, will result in production of greater levels of CO<sub>2</sub>... this will make the effect of the plan on climate significantly negative in the long-term. The protection of peatland and woodland can serve to check CO<sub>2</sub> emissions."*
- 3.19 The long-term increase in CO<sub>2</sub> emissions predicted to result from the LDP conflicts with the fair contribution to the UK's fifth carbon budget required of Northern Ireland by



which emission reductions of at least 35% against 1990 levels will be needed by 2030, and fails to recognise opportunities for the central role of sustainable energy generation (including wind) in delivering the transition to a low carbon economy.

- 3.20 Key findings of the Committee on Climate Change February 2019 report 'Reducing emissions in Northern Ireland'<sup>(4)</sup> include for example that existing policies are not sufficient to deliver this reduction; that excellent opportunities exist to close this gap and go beyond 35%, and; that meeting the cost-effective path to decarbonisation in Northern Ireland will require action across all sectors including ensuring a route to market for new low-cost renewables including onshore wind.
- 3.21 ABO Wind considers the Draft Plan Strategy fails to recognise its responsibility to support CO<sub>2</sub> emissions reduction in pursuit of Northern Ireland and UK carbon budgets, as well as the central role of onshore wind in this process.

#### **Proposed Policy Approach**

- 3.22 The policy approach proposed by the Mid Ulster SA Report in relation to wind energy development and ABO Wind's concerns with this approach are discussed in the following sections.

#### *Environmental Protection*

- 3.23 Para 5.49 of the SA Report explains that the POP identified three options for the strategic approach to Environmental Protection:
- (1) Each case **determined on its merits** - developer led approach;
  - (2) Constraints Approach - Plan led; and
  - (3) Presumption in favour of sustainable development - Plan led with scope for developer led schemes.
- 3.24 Para 5.50 goes on to state the Council considered there to be no discernible difference between Options 2 and 3 and that, following feedback from the Department for Infrastructure (DfI) on this issue, these two options are combined to form a single option for the purposes of the SA. Therefore, the following two options subject to the SA are as follows:
- (1) Adopt existing policy approach i.e. all applications **considered on their merits** against criterion based policies, taking account of existing international, national and local environmental designations; and
  - (2) Adopt existing approach with introduction of spatial constraints i.e. each case is assessed on its merits, but with introduction of new spatial designations such as, Special Countryside Areas, Areas of Constraint on Wind Turbines and High Structures and Areas of Constraint on Mineral Development.

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<sup>(4)</sup> <https://www.theccc.org.uk/wp-content/uploads/2019/02/Reducing-emissions-in-Northern-Ireland-CCC.pdf>



- 3.25 Regarding combining Options 2 and 3 into a single preferred option, no information is provided on why these options are considered the same, or on the feedback from DfI on this point and as a result ABO Wind is unable to follow this reasoning. Para 2.22 of the ODPM SA/SEA guide states *"It is desirable to provide sufficient commentary to justify the conclusions arrived at, with reference to the baseline information wherever possible."*
- 3.26 Under the preferred approach, Special Countryside Areas (SCA's) would be designated at 'most exceptional' landscapes to protect them from 'inappropriate development'. These would complement with Areas of Constraint (AoC) in other environmentally sensitive areas to control specific types of development namely wind turbines and other high structures.
- 3.27 Environmental Protection Option 1 (retain existing policy approach) is not found to result in adverse effects on any SA objective, with a minor positive effect identified for object 12 (landscape). No justification or supporting evidence for rejecting option 1 on landscape grounds is provided, despite it clearly relating to wind energy and performing positively against this SA objective.
- 3.28 SA guidance and associated case law requires SA Reports to document the choice of preferred alternatives and explain why other reasonable alternatives are rejected and also requires that alternatives are considered to the same extent as the preferred option. ABO Wind considers this failure to be a flaw in the applied SA process.
- 3.29 In *Ashdown Forest*, the Inspector found (para 5.14) *"The alternatives chosen should be realistic. Part of the reason for studying alternatives is to find ways of reducing or avoiding the significant adverse environmental effects of the proposed plan or programme"*. Given no adverse impacts are identified in relation to retaining existing policy for environmental protection (including wind energy), hence the consideration of alternatives is not justified.

***Telecommunications, Overhead Cables, High Structures and Other Utilities***

- 3.30 The focus of the policy text is telecommunications and overhead cables, with a single reference to wind energy in the final sentence which sets out the preferred Option 2 (Adoption of Policy TOHS 1 – Outside of Areas of Constraint on Wind Turbines and High Structures). Reference is made within the SA matrix to PPS 10 (Telecoms) and 11 (Waste Management), but not to PPS 18 (Renewable Energy), for example.
- 3.31 It is therefore unclear whether the minor adverse effect (not significant) from retaining existing policy (Option 1) identified by the SA includes wind energy development, and how this conclusion is derived. No explanation is provided for example on the inconsistency between the adverse landscape effect reported from retaining existing policy for this 'issue, compared with the positive landscape effect reported for retaining existing policy for environmental protection as a whole given both refer explicitly to wind energy development.

***Areas of Constraint on Wind Turbines and High Structures***

- 3.32 The SA Report explains the Preferred Option Paper (POP) proposed Areas of Constraint on Wind Turbines and High Structures (AoC's) and associated designations under the topics of 'Renewable Energy' and 'Telecommunications, Overhead Cables and High

Structures'. Following publication of the POP, three AoC's are proposed: the Sperrins, Slieve Beagh and Brougher Mountain.

- 3.33 Each of these three AoC's are subject to SA, however the SA fails to include a reasonable alternative to this policy approach, being retention of existing policy and not introducing AoC's. This failure to include the reasonable alternative of retaining existing policy in the SA proposing the introduction of AoC's is a further significant flaw in the SA given the importance of alternatives in informing the SA process and resulting policy positions.

#### **Renewable Energy**

- 3.34 The SA Report considers three policy options for dealing with renewable energy, as follows;

- (1) Adopt the current policy approach i.e. PPS 18 Renewable Energy;
- (2) Reconfigure existing policy contained within PPS 18 and the SPPS and include the following;
  - Introduction of Areas of Constraint on Wind Turbines and High Structures; and
  - A minimum separation distance of 500 metres for all wind energy development.
- (3) Reconfigure existing policy contained within PPS 18 and the SPPS and include the following;
  - Introduction of Areas of Constraint on Wind Turbines and High Structures; and
  - Policy provision for energy storage and the 'reuse, refurbishment, repair and repowering of turbines'.

- 3.35 Option 3 is identified as the preferred approach to protect Mid Ulster's most important landscapes and assets. This option effectively seeks to sterilise wind energy development within these designations, thereby preventing the assessment of all proposals on a case by case basis (including wider environmental, social and economic factors) as required by the SPPS.

- 3.36 The preferred option therefore conflicts with national policy and guidance including the SPPS and Wind Energy Development in Northern Ireland's Landscapes: Supplementary Planning Guidance (2010)(5). Both documents provide that, whilst a cautious approach is needed, with judicious design and site selection wind energy development can be accommodated within sensitive landscapes.

- 3.37 SPPS para 6.228 states *"In decision-taking, the planning authority must carefully consider all development proposals for renewable energy development... Consideration of all renewable energy proposals will take account of their contribution to the wider environmental benefits arising from a clean, secure energy supply; reductions in*

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(5) [https://www.planningni.gov.uk/index/policy/planning\\_statements\\_and\\_supplementary\\_planning\\_guidance/spg\\_other/wind\\_energy\\_development\\_in\\_northern\\_irelands\\_landscapes\\_spg\\_for\\_pps18-2.pdf](https://www.planningni.gov.uk/index/policy/planning_statements_and_supplementary_planning_guidance/spg_other/wind_energy_development_in_northern_irelands_landscapes_spg_for_pps18-2.pdf)



*greenhouse gases and other polluting emissions; and contributions towards meeting Northern Ireland's target for use of renewable energy sources."*

- 3.38 The SA Report states in relation to renewable energy Option 1 (retain existing policy) *"there are no landscapes into which a wind turbine/farm will not introduce a new and distinctive feature into the landscape"*. However SPPS states (para 6.229) *"the factors to be considered on a **case by case basis** will depend on the scale of the development and its local context"* and (para 6.230) *"It will not necessarily be the case that the extent of visual impact or visibility of wind farm development will give rise to negative effects; wind farm developments are by **their nature highly visible yet this in itself should not preclude them as acceptable features in the landscape**. The ability of the landscape to absorb development depends on careful siting, the skill of the designer, and the inherent characteristics of the landscape such as landform, ridges, hills, valleys, and vegetation"*.
- 3.39 The position of the SPPS is expanded by 'Wind Energy Development in Northern Ireland's Landscapes; Supplementary Planning Guidance (2010)', which states (section 1.1) *"... it is important to note the purpose and scope of the guidance...is intended to provide broad, strategic guidance in relation to the landscape and visual impacts of wind energy development. Every development proposal is unique, and there remains a need for detailed consideration of the landscape and visual impacts of individual applications **on a case by case basis**, as well as for consideration of other issues referred to in PPS18 and other regional policy."*
- 3.40 The position is further corroborated by the 3rd October 2016 Appeal Decision Notice for Mullaghturk Wind Farm where the Commissioner states (para 25) *"... it is important to recognise that there is **no embargo on wind energy development within AONBs**"*. It is evident that the existing policy has been effective in regulating development within the AONB. This has been demonstrated<sup>6</sup> in both approvals and refusals for wind energy development in the area.
- 3.41 Preferred Options 3 therefore contradicts national policy set out by SPPS in relation to wind energy development by seeking to sterilise wind energy development within certain designated areas rather than assessing them on a case by case basis. RTPI 2018 SA/SEA guidance states (p12) in relation to the assessment of alternative options that *"going against Government policy is generally not 'reasonable'"*. The Quality Assurance Checklist of the ODPM's SA/SEA guide (p84) requires any inconsistencies between alternatives and relevant plans, programmes or policies to be identified and explained which the SA Report fails to do.
- 3.42 ABO Wind therefore considers the conflict between preferred Option 3 and national wind energy policy means it is not a reasonable alternative to the rejected Option 1 (retain existing policy). Combined with a lack of explanation on this inconsistency and the reasons for rejecting Option 1, the SA process carried out to date is considered flawed.
- 3.43 The POP explains *"**Option 1 Adopt current policy** would adopt a policy approach in line with current policy... it is envisaged this approach will not fit with the approach that*

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<sup>6</sup> Application Ref: H/2010/0009/F (Approved) & LA09/2015/0459/F (Refused).

*Mid Ulster wishes to take in relation to protection of sensitive landscapes.” ABO Wind considers a robust evidence base should underpin the divergence from existing national wind energy policy that is proposed by the Draft Plan Strategy, rather than simply the wishes of the Council.*

- 3.44 ABO Wind agrees with statement (para 4.8) in the Mid Ulster’s Development Pressure Analysis Position Paper (2015) that *“It should be noted... that under current policy PPS 18, Northern Ireland is on course to meet the targets of 40% set out by the Strategic Energy Framework and 20% as set out by the NI Executive. **Consequently, a more restrictive policy in this regard may hinder the progress made thus far and reverse the positive trends experienced to date.**”*

**Significant Adverse Landscape Impacts from Retention of Existing Wind Energy Policy**

- 3.45 The rejected renewable energy Option 1 (retain existing wind energy policy) is for the first time in the SA process found by the SA Report to result in significant adverse effects on SA Objective 12 (landscape). Para 5.633 states *“The SEA/SA appraisal... highlights that if current policy continues, there is potential for significant impacts on SA/SEA objective 12... in the long term.”*
- 3.46 However the Development Pressure Analysis Position Paper concludes (para 4.6) that whilst wind energy approvals have increased since the introduction of PPS 18 in 2008, *“... to a large extent, those landscapes identified as being particularly vulnerable have not experienced significant development pressure from wind energy development”*. Indeed the analysis *“... shows little evidence of significant pressure across the district, suggesting PPS18 has been generally effective in maintaining rural character”* and that, if PPS18 (or similar policies) are retained over the plan period, *“no conflict with local plan strategic objectives are anticipated”*.
- 3.47 The SA Interim Report itself recognises that potential negative effects of Option 1 on landscape character *“... could be mitigated through the considered application of policy to achieve the sensitive siting of renewable energy development”*.
- 3.48 No evidence is provided in support of the SA Report conclusion in respect of renewable energy, that *“continuation of current policy is likely [to] increase the risks of cumulative impacts impact on the Mid Ulster’s most sensitive landscapes in the longer term”*, especially given the need to consider potential cumulative effects is a key requirement of existing policy.
- 3.49 ABO Wind is concerned that the conclusion of significant adverse landscape impacts from the retention of existing wind energy planning policy contradicts the Development Pressure Analysis and earlier stages of the SA process and is not supported by evidence or therefore justified.
- 3.50 Further, the Environment Agency’s SEA & Climate Change guidance (2011) states *“climate change is a synergistic impact that can only be dealt with through multiple actions. Principles for identifying appropriate mitigation and adaptation measures include... Keep options open and flexible... and avoid decisions that will make it more difficult to manage climate risks in the future.”*



- 3.51 These principles would be best supported by adopting policy that, in accordance with national policy and related case law, does not seek to sterilise wind energy development within certain areas but instead considers proposals on a case by case basis when assessing the ability of the landscape (and other environmental assets) to accommodate them.
- 3.52 ABO Wind consider this approach represents a reasonable and policy-compliant alternative that should be considered by the Local Plan Strategy and associated SA.

#### **Tourism**

- 3.53 The Utilities Position Statement Paper introduces Mid Ulster's proposals to develop a more restrictive policy for wind energy development "... *having regard to concerns relating to impacts on AONBs and sensitive landscapes, bio-diversity and tourism.*" Reference is made to a single letter of concern submitted by The Sperrins Forum, a group aiming to promote recreation and tourism activities within the Sperrin AONB.
- 3.54 It is unclear whether this single letter is the source of para 4.7 of the Development Pressure Analysis Position Paper which states "*Concerns have been previously expressed with regard to the proliferation of turbines within the Sperrins AONB and the potential negative impact on local tourism and neighbouring amenity. The introduction of Special Countryside Area Status may be an option to ensure that these areas are protected from potentially obtrusive wind energy development.*" If additional concerns have been raised beyond this single letter, they are not documented.
- 3.55 Although focused on Scotland, the October 2017 research report by BiGGAR Economics 'Wind Farms and Tourism Trends in Scotland'<sup>(7)</sup> concludes that, overall, "*published national statistics on employment in sustainable tourism demonstrates that there is no relationship between the development of onshore wind farms and tourism employment at the level of the Scottish economy, at local authority level nor in the areas immediately surrounding wind farm development.*"
- 3.56 The SA Report itself finds, in relation to environmental protection and also energy, no difference in effect on SA objective 20 (economic performance) from retaining existing policy (e.g. PPS18) or implementing a more restrictive policy.

#### **Summary of Representations**

- 3.57 ABO Wind's representation can be summarised as follows:
- The proposed sterilisation of wind energy development within certain landscape designations is not supported by national policy or guidance;
  - The proposed divergence from existing national policy is not justified or supported by a robust evidence base;
  - The position that significant adverse landscape impacts will occur in the long term from the continuation of existing national wind energy policy is not justified or supported by a robust evidence base;

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<sup>(7)</sup> <https://biggareconomics.co.uk/wp-content/uploads/2017/11/Wind-Farms-and-Tourism-Trends-in-Scotland-Oct17.pdf>

- The proposed restrictive wind energy policy may hinder progress on renewable energy development in Northern Ireland and reverse positive trends experienced to date as concluded by Mid Ulster's Development Pressure Analysis;
- Failure to consult on the SA Scoping Report prior to the development and publication of the POP and SA Interim Report;
- Failure to include the reasonable alternative of not introducing AoC's within the SA process.
- No evidence to support the assertion that wind energy development is likely to adversely affect local tourism and what appears to be only a single letter of concern received by Council;
- Failure to recognise the key role of the Draft Plan Strategy in helping to drive CO<sub>2</sub> reductions in Mid Ulster as part of Northern Ireland's carbon budgets; and
- Failure to assess alternatives sufficiently and to the same extent at the preferred option.

3.58 For these reasons the ABO Wind is concerned the SA process underpinning the Draft Plan Strategy is flawed and therefore unsound in relation to wind energy development.

## 4. Telecommunications, Overhead Cables, High Structures and Other Utilities Policies

### Draft Policy TOHS 1 – Outside of Areas of Constraint on Wind Turbines and High Structures

- 4.1 The Council is proposing to introduce a new designation in the form of ‘An Area of Constraint on Wind Turbines and High Structures’ (ACWTHS). Within this area, the development of wind turbine and high structures over 15m will not be permitted, with the exception of essential electricity transmission equipment or telecommunications apparatus.
- 4.2 The policy goes on to state that higher structures, in excess of 25m in height, will only be considered if it is demonstrated that the proposal is of regional importance. It is unclear how the Council proposes to define ‘regional importance’ and clarification should be provided on this point so that there is a consistent approach to the policy interpretation. If it is intended that ‘regional importance’ relates to those development which would fall within Section 26 of the Planning Act (Northern Ireland) 2011 then this should be clarified in policy or the supporting text. We would however, set out that a project may not fall within the scope of Section 26, but could still be of regional importance. For example the delivery of renewable energy developments in the form of wind turbines is regionally important as it will contribute towards the regional target for renewable energy.
- 4.3 Without clarification on what is meant by regional importance the policy fails to meet soundness test CE3.
- 4.4 We note that DfI raised a similar concern in response to the POP. This has not been adequately addressed within the dPS and as such the draft Policy fails soundness test P2.
- 4.5 The proposed areas of constraint relating to ABO Wind’s interest at Slieve Gullion has been informed by the Council’s technical paper on ‘High Sperrins and Clogher Valley Areas of Constraint in Wind Turbines and High Structures’ which has been published alongside the dPS. The introduction sets out that the purpose of the technical paper is:
- “to provide the background, rationale and methodology for the designation of Areas of Constraint on Wind Turbines and High Structures within the Mid Ulster District.”*
- 4.6 In setting the background the technical paper states<sup>8</sup> that:
- “The Regional Development Strategy (RDS) requires the protection of designated areas of countryside from inappropriate development.”*

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<sup>8</sup> High Sperrins and Clogher Valley Areas of Constraint on Wind Turbines and High Structures (AoC) , Paragraph 2.1.



- 4.7 We note that the RDS does not define 'inappropriate development'. Paragraph 2.4 of the Council paper then quotes the SPPS<sup>9</sup>, stating that:
- "Depending upon a council's objectives and local circumstances, it may also be appropriate to include additional strategic policies and proposals, zonings and designations specific to issues pertaining to the plan area, provided they are of a strategic nature."*
- 4.8 The Renewable Energy policies within the SPPS does not make any provisions for the introduction of an area of constraint on wind turbines. Instead the SPPS, paragraph 6.223, advocates a 'cautious approach' to renewable developments within designated landscapes. This does not endorse the creation of an additional designation to restrict turbine development. Had the SPPS sought to identify such areas, it would have identified so, as it has done in the case of areas of constraint on mineral developments.
- 4.9 For this reason the proposal to introduce an area of constraint in this case conflict with the SPPS and therefore fails soundness test C3.
- 4.10 In preparing this draft policy the Council has considered that all high structures in excess of 15m are inappropriate forms of development within a designated ACWTHS, yet no evidence is provided within the dPS or supporting papers to demonstrate that this is the case. On this basis the draft policy would fail soundness test CE2. Outside of a proposed ACWTHS taller structures are not an inappropriate form of development and the wording of draft policy TOHS1 suggests that taller structures of regional importance are not inappropriate.
- 4.11 The Council has assumed that the appearance of high structures and turbines within an ACWTHS is inappropriate due to landscape capacity, however the SPPS<sup>10</sup> sets out that:
- "it will not necessarily be the case that the extent of visual impact or visibility of windfarm development will give rise to negative effects; windfarm developments are by their nature highly visible yet this in itself should not preclude them as acceptable features in the landscape."*
- 4.12 The view taken by the Council is therefore in conflict with the SPPS and would fail soundness test C4.
- 4.13 The Council's on position paper on Renewable Energy sets out that the average turbine height in the district is 50m. Based on this and the vast extent of the proposed ACWTHS, the majority of wind turbine proposals in the future would be in conflict with the draft policy. As such the policy is in conflict with the Council's own objectives to:
- *Encourage energy efficiencies and promote use of renewable energy; and*
  - *To accommodate investment in power, water and sewerage infrastructure and waste management particularly in the interests of public health.*

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<sup>9</sup> SPPS, Paragraph 5.23

<sup>10</sup> SPPS Paragraph 6.230



- 4.14 For this reason the policy fails soundness test CE1.
- 4.15 A review of the Landscape Assessment has been undertaken by the Council. The report entitled 'Landscape Character Assessment Review' (LCAR) is not dated but it is noted that photographs within the assessment are dated Late 2017 and Early 2018. Following completion of the LCAR, the Council then instructed an external review of their report. This was undertaken by GM Design Associates. Following an initial review of the LCAR the consultant identified a number of weaknesses in the Council's assessment, which were reported to the Council in August 2018. Then, following the completion of the review of the LCAR a final list of weaknesses were set out by GM Design Associates<sup>11</sup>, as set out below:
- *"No reference to specific planning policy statements, for instance PPS21 Development in the Countryside. PPS21 sets out the policies for managing development in the countryside with an emphasis on protecting the landscape. It identifies the four interrelated strands of the Countryside Assessment, including the Landscape Assessment.*
  - *A lack of reference to the Corine Database and associated document 'Land Cover of the UK' within each LCA review, despite it being identified as a source of data to inform the review of the LCA's.*
  - *Limited reference to SPG Wind Energy Development in NI's Landscape document (2010), particularly within Table 2. The SPG provides detailed information on the key landscape and visual characteristics and values of each LCA. The SPG also provides guidance on the sensitivity and ideal siting of wind energy development within each LCA.*
  - *Lack of review of LCA information on 'Landscape Condition and Sensitivity to change', Principles for Landscape Management and Principles for Accommodating New Development' contained within NICLA 2000.*
  - *Conservation Areas, Areas of Townscape Character, Areas of Archaeological Potential, Archaeological Sites/Monuments, Local Landscape Character Areas and Historic Parks, Gardens & Demesnes have not been identified as 'Key features' of the LCA's. These features play an integral role in many landscapes and any change to these could significantly affect the character and integrity of the landscape.*
  - *Limited use of visual information (photos) throughout the review with only 4 photos used in the assessment of the LCA's."*
- 4.16 As a result of the weaknesses identified, the consultant team made a number of suggested improvements that would result in a more comprehensive and sound

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<sup>11</sup> Review and Audit of Mid Ulster District Council Landscape Character Assessment Review for Local Development Plan Preparation, 16 October 2018 (GM Design Associates)

document. These are set out at Page 28 of the consultant report<sup>12</sup> and are identified below:

- *“PPS21 Sustainable Development in the Countryside should be considered and reviewed as a relevant planning policy document relating to the protection of our landscapes.*
- *Increased reference and utilisation of the Corine Database and associated ‘Landcover of the UK’ for each LCA is suggested.*
- *It is suggested that an increased emphasis should be placed on the Landscape Condition of each LCA and its Sensitivity to Change.*
- *The report would benefit from additional photos, increasing the readers’ visual appreciation of each LCA.*
- *Conservation Areas, Areas of Townscape Character, Areas of Archaeological Potential, Archaeological Sites/Monuments, Local Landscape Character Areas and Historic Parks, Gardens and Demesnes should be considered as ‘Key Features’ of the LCA’s.*
- *It should be considered whether existing policy controls are being implemented effectively regarding various development types throughout the District including new residential developments, extensions to agricultural developments and single turbine applications.”*

4.17 As noted previously, the Landscape Character Assessment Review as published in support of the dPS is not dated. As such it is unclear if the published version post-dates the recommendations made above. We note that it does include one paragraph on PPS21 which would suggest that it may be, however this is a light touch approach. In relation to bullets 2 and 3 above, it is unclear to what degree these comments have been taken on board as the version of the LCAR assessed by GM Design Associates is not available to view. The LCAR as published refers only to Corine in one small section and with one Corine land use map for the District provided as an appendix. We would also point out that only 2 photos per LCA are provided within the published LCAR and that they pre-date the completion of the review by GM Design Associates. It is considered that the weaknesses identified in relation to the poor usage of photos remains as 2 photos of each LCA cannot provide a real appreciation of the character of an LCA.

4.18 Finally, whilst Table 2 of the published LCAR does include a suggested policy response it fails to meet the required improvement suggested by GM Design Associates. The final recommendation by GM Design Associates sets out that the Council should consider whether existing policy control is being implemented effectively. This should include a review of how existing policy has been implemented and the impact that approvals and completed developments have had on the landscape. This is not the same as an opinion by the Council on whether additional policy control is required. The

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<sup>12</sup>Review and Audit of Mid Ulster District Council Landscape Character Assessment Review for Local Development Plan Preparation, 16 October 2018 (GM Design Associates)



information provided at Table 2 or the remainder of the LCAR, does not demonstrate that the Council has considered the effectiveness of existing policy implementation.

- 4.19 Based on the observations above we consider that the LCAR and therefore draft Policy TOSH 1 fails soundness test CE2 as the evidence on which the extent of the proposed areas of constraint have been defined is flawed.
- 4.20 The methodology for defining the High Sperrins and Clogher Valley ACWTHS is set out in the Council's technical report<sup>13</sup>. According to the methodology the Council identified the sensitivity of the landscape from the Northern Ireland Landscape Character Area 2000 (NICLA2000). The Council's Landscape Character Assessment Position Paper (September 2015) included a review of the landscape character areas defined within NICLA 2000 and at that time the Council recognised<sup>14</sup> that this assessment could lack rigour as there may be considerable variances in the level of landscape vulnerability given the strategic nature of the NICLA.
- 4.21 The LCAR identifies that the landscape character of the area around Slieve Gallion had experienced substantial change as a result of wind turbine development (Paragraph 36.0).
- 4.22 In relation to LCA41, Slieve Gallion the assessment review sets out an update on the landcover, landscape condition and sensitivity and the intervening changes. The review sets out that the southern and eastern slopes of Slieve Gallion are the more sensitive locations and that slopes and summit are very visible. The western side is identified as being of a lesser quality and we would highlight that this includes ABO Wind's land interests. The reports set out that the key change since NICLA 2000 has been the introduction of 6 No. turbines at Crockandun Windfarm, and we would highlight that the impact of this development was considered acceptable despite there being long and mid distant views as identified by the Council. We refer to the SPPS where it states that visual prominence may not be an adverse impact.
- 4.23 The Council has concluded that the change in the landscape since 2000 requires a need for greater policy control in this LCA. This position fails to acknowledge the Council's own assessment that the western slopes of Slieve Gallion where the landscape quality has deteriorated. It also fails to recognise that planning permission was previously granted within the western slopes for the windfarm at Crockandun. . Despite the overall conclusion that the landscape quality is generally 'good' and not exceptional the council has determined that this location is sensitive to change due to the visual prominence of the slopes and summit of Slieve Gallion. Despite this, the turbines at Crockandun were permitted, indicating that this location is suitable for wind turbine development. Again we refer to the view set out in the SPPS. We also note that the higher slopes and summit of Slieve Gallion are to be included within the proposed Special Countryside Area (SCA) under draft policy SCA 1.
- 4.24 We note that the current SPG on Wind Energy Development in Northern Ireland Landscapes (2010) has identified this LCA as being of medium to high sensitivity,

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<sup>13</sup> High Sperrins and Clogher Valley Areas of Constraint on Wind Turbines and High Structures (AoC) , Section 3.0

<sup>14</sup> Landscape Assessment Position Paper (September 2015), paragraph 2.1)

however the same SPG goes on to say that there is variation within each LCA and that a high sensitivity would not necessarily mean no capacity for wind development. This would suggest that proposals should be considered on a case by case basis where a more detailed assessment of landscape and visual capacity can be carried out.

- 4.25 In order to consider the boundary of the ACWTHS further, the Council has then considered the landscape capacity of the LCA based on a desk top visual assessment which relied upon natural features. This approach would conflict with the SPPS, where it states that:

*“the ability of the landscape to absorb development depend on careful siting, the skill of the designer, and the inherent characteristics of the landscape such as landform, ridges, hills, valleys and vegetation.”*

- 4.26 The Council has been unable to assess landscape capacity taking account of the bespoke elements of individual proposals and therefore the conclusions reached within the assessment cannot be robustly upheld and the policy which it informs fails soundness test CE2.

- 4.27 The Council has also failed to take account of the variations of the landscape and visual character within the various parts of the character areas. Views in to and from the Sperrins are highly variable, with the upland areas encircling the AONB so that views in to the AONB from the surrounding lowland areas can be restricted.

- 4.28 There is no consideration within the LCAR or the Council’s technical report given to the principle of clustering of wind farms together to minimise cumulative effects despite this being a commonly applied approach in the siting of wind farms in Northern Ireland. These approvals would demonstrate that there are areas within the Council area which would be suitable for wind energy development. It is ABO Wind’s view that the clustering of development will assist in minimising cumulative landscape and visual impacts. This should be considered further within the dPS.

- 4.29 Despite the Council’s methodology and proposed assessment of landscape character and landscape capacity the technical report clearly sets out that:

*“the proposed AoC has been primarily informed by ‘Prominent Ridges’ and ‘Key Views’ as identified in the NILCA Landscape Analysis and Settlement Settings’ maps and associated LCA description.”*

- 4.30 This would suggest that the council has continued to rely upon information dated from 2000 which does not take account of the current landscape position. As such the draft policy and designation fails to take account of up to date information and fails soundness test CE2.

- 4.31 The Council’s methodology for defining the areas of constraints has had no regard to the locational requirements for the siting of wind farm developments. The upland areas of the Sperrins are highly suitable for wind turbines when considered against the principles of wind farm siting and design set out in the SPG, however this has been overlooked in the Council’s designation of the ACWTHS.



**Recommendation**

- 4.32 It is recommended that the Council removes any areas of constraint proposed for wind turbines as this approach conflicts with the SPPS in that it fails to support a diverse range of renewable energy developments as is promoted in the SPPS. The proposed approach to restrict turbine development also prevents other material considerations for renewable energy proposals to be taken into account.

## 5. Renewable Energy Policies

### Draft Policy RNW 1 – Renewable Energy

- 5.1 Draft Policy RNW1 set out at the outset that outside of SCAs development for the generation of energy from renewable sources will accord with the development plan. However, the same policy then goes on to contradict the opening line to set out that wind energy development will only accord with the development plan outside of SCAs and ACWTHS. This approach is inconsistent within the draft policy but is also inconsistent with the support for renewable energy proposals set out in the SPPS.
- 5.2 As such the draft policy fails soundness test CE2 and C3.
- 5.3 Draft Policy RNW1 cross refers to the proposed SCAs and ACWTHS. We refer the Council to our comment on Draft Policy TOH 1 and SCA 1 in Section 4 and 7 of this representation and confirm our position that the proposed approach is unsound.
- 5.4 Draft Policy RNW1 goes on to set out that:
- “For windfarm development, as separation distance of 10 times rotor diameter or 4 times the tip height (whichever is the greater) an occupied property will apply, with a minimum separation distance of 500m between the windfarm and occupied property being required.”*
- 5.5 We note that this will introduce a more restrictive policy wording than that which is currently endorsed within PPS 18 and the SPPS. The current policy wording in PPS18 and the SPPS states<sup>15</sup>:
- “For windfarm development a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply.”*
- 5.6 The use of the word ‘required’ within the draft policy does not allow for flexibility to the approach and does not reflect the wording or tone of Policy RE1 of PPS18 and the SPPS. As such the draft policy fails soundness test CE4 and C3.
- 5.7 Most concerning to ABO Wind is that in combination the approach being proposed by the Council will sterilise wind energy development across the district. This is most clearly demonstrated within Appendix 3 of Renewable Energy position paper where the Council has plotted the extent of the proposed ACWTHS and the impact of the proposed 500m buffer. ABO Wind have also undertaken a similar exercise which demonstrates that draft Policy TOHS 1, SCA 1 and RNW 1 would result in the sterilisation of 9.7.25% of the District from wind energy development (See Figure 5.1). This is clearly in conflict with the objectives of the SPPS and with the Council’s own objectives to:
- Encourage energy efficiencies and promote use of renewable energy;

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<sup>15</sup> PPS18 Policy RE1 & SPPS Paragraph 6.227

- To accommodate investment in power, water and sewerage infrastructure and waste management particularly in the interests of public health.

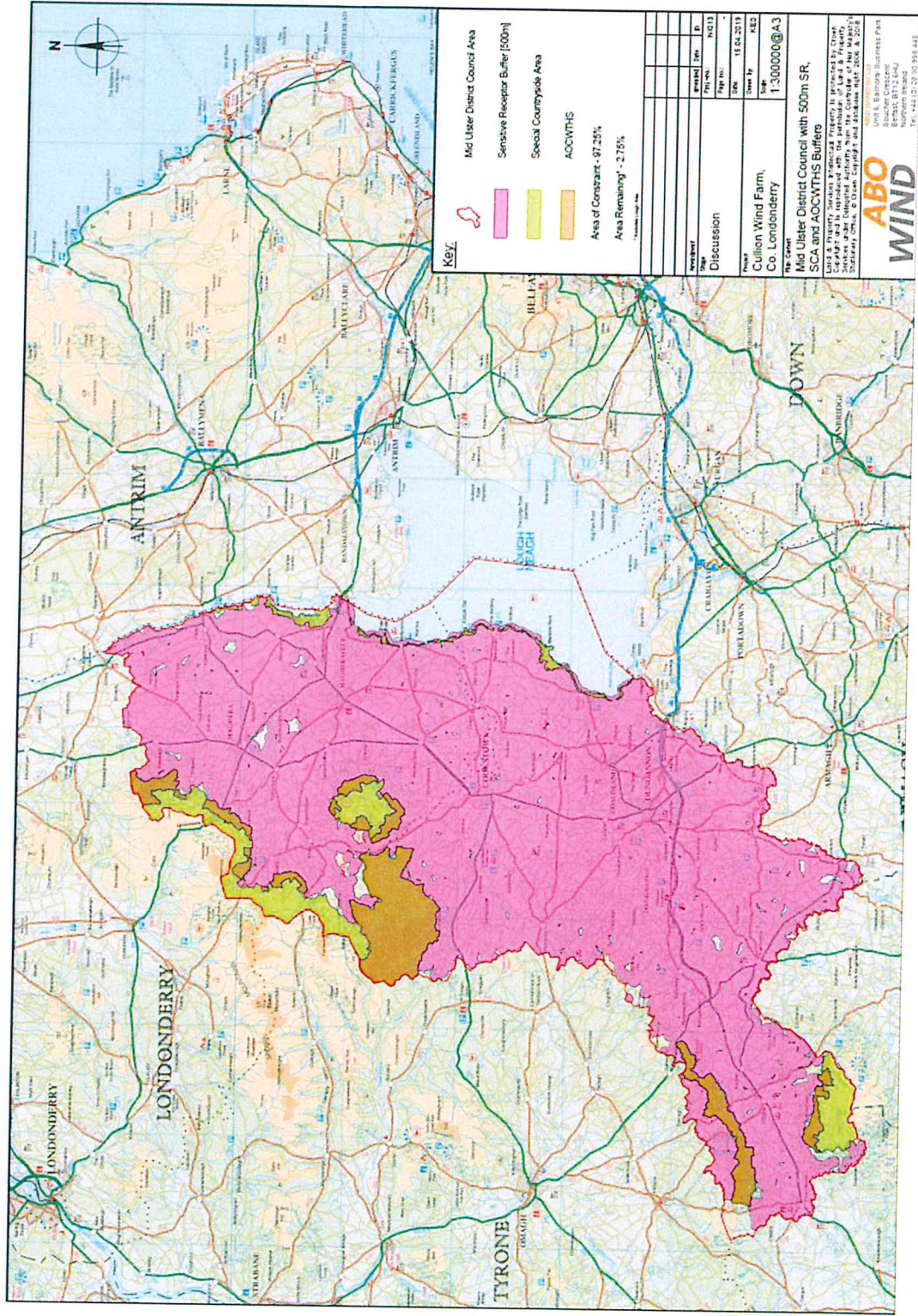
5.8 For this reason the draft policy fails soundness test CE1. It is noted that DfI had previously commented on the objective to encourage energy efficiencies and promote use of renewable energy at the POP stage, stating that

*“Policy options should clearly relate to the proposed objectives and this linkage should be adequately demonstrated in order to show consistency/coherence of approach.”*

5.9 It is considered that the draft policy is not consistent with the objectives set out in the dPS. Furthermore this point has previously being raised by DfI in response to the POP and has not been addressed. As such the draft policy fails soundness test P2.



Figure 5.1: Figure 5.1 – Mid Ulster District Council with 500m SR, SCA and ACWTHS Buffer





- 5.10 Whilst the Council acknowledges this in the same technical report it states that the current Government targets have been met and refers to the example of Milton Keynes supplementary planning guidance where the inability of a council area to meet a national renewable target was not a reason to quash the adoption of an SPD.
- 5.11 We would highlight that the consideration of policy within an SPD cannot be compared to policy that is considered with the dPS.
- 5.12 More specifically, the Renewable Energy position paper sets out that it is the Council's preferred option to include reference to separation distances within the supporting text to the draft policy rather than within the draft policy wording. The paper states that:
- "We recognise that in some cases it may be appropriate to vary this threshold as a consequence of site specific circumstances such as orientations of views, land cover or topography and where it can be demonstrated through evidence that there will not be any unacceptable impacts on residential amenity. Variation of the threshold will also be acceptable where local residents are supportive of the proposal. This will be a key feature of the policy because it is important that turbine development will still be facilitated within the district in order to promote sustainability and to enable use to contribute to the regional renewable energy targets."*
- 5.13 It is concerning then to see that the separation distance is set out as a 'required' element within the draft policy wording. This does not reflect the flexible approach that appears to be endorsed within the supporting information. As such the draft policy fails soundness test CE2 and CE4.
- 5.14 The proposed policy approach is also in conflict with paragraph 3.10 of the Council's visions where it states:
- "We will remain a low carbon economy and will be an important energy producer."*
- 5.15 The overly restrictive policy approach proposed by draft Policy RNW 1 does not reflect this vision. As such the draft Policy fails soundness test CE1.
- 5.16 Finally we note that draft Policy RNW1 sets out that:
- "The supplementary planning guidance for 'Wind Energy Development in Northern Ireland's Landscapes' will be taken in to account in assessing all wind turbine proposals."*
- 5.17 This wording is too restrictive and should be revised to state:
- "The supplementary planning guidance for 'Wind Energy Development in Northern Ireland's Landscapes' or other more up to date publication/s will be taken in to account in assessing all wind turbine proposals."*
- Recommendation**
- 5.18 It is recommended that the wording of the policy is revised to be consistent with the approach endorsed in the SPPS and PPS18. In relation to separation distances a more

flexible approach should be introduced to better reflect the approach set out in the SPPS and to support the flexible approach that is identified within the Renewable Energy position paper.



## 6. Built Heritage Policies

### **Draft Policy HE1 – Beaghmore Stone Circles – Area of Significant Archaeological Interest; Draft Policy HE2 – Creggandevesky – Area of Significant Archaeological Interest; Draft Policy HE3 – Tullahogue– Area of Significant Archaeological Interest**

- 6.1 The Council is proposing to have three policies within the Plan Strategy relating specifically to Areas of Significant Archaeological Interest (ASAI) within the district. Draft Policy HE 1, HE2 and HE 3 set out that development which would adversely impact on the distinctive heritage values and landscape of the particular ASAI will conflict with the development plan.
- 6.2 The policies fail to identify the specific values and landscape merits of the ASAI and there is limited information with the justification and amplification text. As such it is unclear against what baseline development proposals will be considered and therefore the policy fails soundness test CE3.
- 6.3 The draft policies go on to specifically identify masts, pylons, wind turbines and large scale development as being the type of development that would have adversely impacted on the distinctive qualities of the archaeological remains and the historic landscapes.
- 6.4 The use of the word ‘would’ within the proposed policy wording suggests that there is evidence that any of these forms of development will result in an adverse impact. There is no evidence of this provided within the Council’s assessment of Landscape Capacity or the methodology for the establishment of Areas of Constraint on Wind Turbines and High Structures. There is no allowance within the proposed policy wording for mitigation measures that may change the potential impact of wind turbine development or specific siting and design measures that may reduce impacts.
- 6.5 The draft policies therefore fail soundness test CE2.
- 6.6 The supporting justification texts for draft policy HE 1 sets out that:
- “The landscape of this ASAI has been shaped by traditional farming activity, but is characterised by open, distant vistas with a distinct absence of modern development.*
- The landscape of this ASAI is sensitive to change which would adversely affect those distinctive qualities outlined above. The erection of masts, pylons, turbines and other large scale development, including larger agricultural sheds, or quarrying and mining activities, within this distinctive landscape would adversely impact the historic landscape character and the contribution it makes to setting, experience and significance of the stone circles and heritage values of archaeological remains within the ASAI.”*
- 6.7 The approach proposed by the Council is based on their opinion that the visual appearance of a turbine or other high structure is adverse. Furthermore sensitivity to

change does not correlate directly with no capacity for development or adverse impacts.

- 6.8 It is inappropriate for the Council to assume that an impact on landscape capacity or character will have an impact on the ASAI. This has been demonstrated within a decision<sup>16</sup> by the Planning Appeals Commission (PAC). In this case it was concluded that the proposed wind farm development would have a detrimental impact on the landscape, however when assessing the impact on the ASAI, the Commissioner stated:

*“The historic landscape comprising the ASAI and the scheduled monuments is rugged in character, large in scale and has remained relatively unchanged. The proposed development would introduce an incongruous form of modern development into the landscape which, as I have already concluded, would have a detrimental visual impact on its character. The turbines however, would be dispersed over a wide area and because of their narrow elongated design, would not impede views of the wider landscape to such an extent as to prevent appreciation of its pre-existing scenic character of its historic context.”*

*Consequently, while I accept that the proposed development would have a detrimental visual impact on the surrounding landscape, I do not consider that this would have an unacceptable adverse impact on the archaeological quality and integrity of the setting of either the ASAI or the scheduled monuments.”<sup>17</sup>*

- 6.9 This position reinforces the importance of considering proposals on a case by case basis and the assumption that all wind turbine development within an ASAI would be harmful, as set out in the dPS is incorrect and it not supported by evidence.
- 6.10 The draft policies therefore fail soundness test CE2.

#### **Recommendation**

- 6.11 It is recommended that future work is carried out by the Council to provide justification for the strong statement that wind turbines would have an adverse impact on the ASAI.
- 6.12 In any event the wording of the policy should be revised to ‘could have’ as this would make allowance for mitigation measures and more detailed site assessments carried out as part of the planning application process.

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<sup>16</sup> Planning Appeals Commission Reference: 2014/A0285, decision dated 6 July 2016

<sup>17</sup> Planning Appeals Commission Reference 2014/A0285 Paragraph 38 & 39

## 7. Natural Heritage Policies

### **Draft Policy SCA 1 –Special Countryside Areas**

- 7.1 The draft policy sets out that within Special Countryside Areas (SCAs) there will be a presumption against all forms of development. The Council is proposing to designate the upper slopes of Slieve Gallion as an SCA.
- 7.2 As with the Council’s proposed ACWTHS, the extent of the SCA has been determined on the basis of:
- NICLA 2000; and
  - Mid Ulster Landscape Character Assessment Review.
- 7.3 The boundary for the extent of the SCA has been defined based on a desktop assessment and land forms and natural features identified in NICLA2000. It is disappointing that the Council has not undertaken a detailed landscape character assessment of the district, particularly considering that the council has identified weaknesses within the sensitivities identified in NICLA2000 because of its strategic nature.
- 7.4 We also note that the SCA, in combination with other policy restrictions and the ACWTHS would sterilise over 97% of the District from wind energy development. The Council has failed to adequately assess the cumulative impact of these policies.
- 7.5 To rely upon out of date and such strategic evidence which is not bespoke to the context of the local area is flawed and the dPS fails against soundness test CE2.

### **Recommendation**

- 7.6 It is recommended that the proposed SCA is reviewed in light of more update to and robust evidence that the Council should prepare.
- 7.7 The Council should also assess the cumulative impact of such designations on the deliverability of the dPS objectives to deliver renewable energy.

### **Draft Policy NH 6 – Areas of Outstanding Natural Beauty**

- 7.8 The draft policy sets out that development will be required to be sensitive to the character and landscape quality of the AONB. It goes on to refer to the assessment of proposals for renewable proposals and draft Policy RNW 1.
- 7.9 We have identified a number of weaknesses in draft policy RNW 1 and the soundness tests that it currently fails to meet. Until such times as those comments can be addressed the cross reference within draft Policy NH6 renders this policy also unsound.
- 7.10 Furthermore, the justification and amplification text for draft Policy NH 6 sets out that account will be taken of landscape character assessments produced as part of the Development Plan process when considering proposals within the AONB. As set out in



Section 4 and 5 of this representation the landscape evidence provided by the Council in support of the dPS is not considered to be robust. Therefore this fails soundness test CE2.

**Recommendation**

- 7.11 The Council should undertake a robust assessment of the AONB and further local level assessments of the landscape character to provide a baseline against which development proposals can be assessed.

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August 2019

DALB3001