LDP-PS-REP-53

Chloe Duddy

From: Emma Walker <emma.walker@turley.co.uk>
Sent: 27 January 2020 16:57
To: Local Development Plan
Subject: Derry City & Strabane Draft Plan Strategy - ABO Wind Representations
Attachments: ABO DCSDC dPS Representation.pdf; DCSDC LDP Form ABO.pdf

Dear Sir/Madam

On behalf of our client, ABO Wind Ltd, please find attached representations to the Draft Plan Strategy and Sustainability Appraisal. We enclose:

- Completed form; and
- Representation report prepared by Turley

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

Kind regards

Emma

Emma Walker
Associate Director

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Derry City & Strabane District Council

Comhairle Chathair Dhoire & Cheantar an tSratha Báin

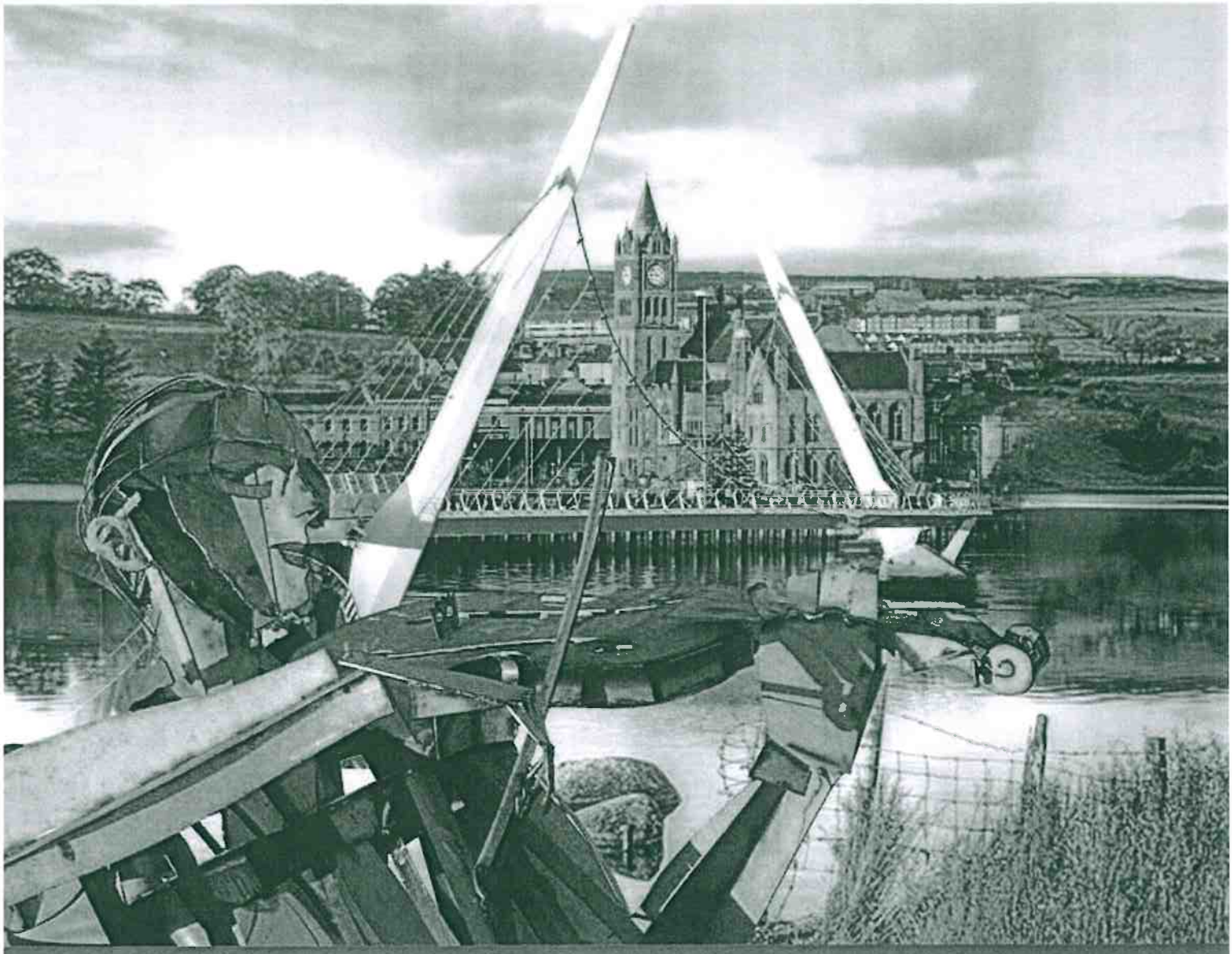
Derry Cittie & Strabane Destrict Council

Derry City & Strabane District Council

Local Development Plan

(LDP) 2032

Representations Form for the LDP Draft Plan Strategy & Associated Appraisal / Assessments



December 2019

http://www.derrystrabane.com/Subsites/LDP/Local-Development-Plan

Introduction

Derry City and Strabane District Council is planning for the future. It is the start of a challenging and exciting journey. It will be a long-term and collaborative process, driven by the Council which is committed to grasping the opportunities and addressing the challenges that face us, some unique to our situation and others generated by global forces beyond our control.

United by a shared vision, the Council's Local Development Plan (LDP) and our Community Plan - the Strategic Growth Plan, will drive this process as we seek together to strategically grow and improve social, economic and environmental wellbeing for all. The publication of the LDP draft Plan Strategy is the next step on this journey.

What is the Local Development Plan (LDP)?

The new LDP will guide land-use development and set out Planning policies and proposals for the use, development and protection of our settlements and countryside across our District to 2032. Crucially, it will help to deliver the outcomes in the Strategic Growth Plan. Once the LDP is adopted, its Planning policies, zonings and development proposals will be used to determine planning applications across the District. The LDP will comprise of two development plan documents: this LDP Plan Strategy and, in due course, the LDP Local Policies Plan.

What is the LDP Plan Strategy (PS)?

This LDP draft Plan Strategy sets out the Council's strategic Planning objectives, designations and policies for the District in line with regional strategies and policies, but tailored to the local needs of this City and District.

The preparation of the PS has been informed by the Council's LDP Preferred Options Paper (POP – May 2017) which provided the basis for consulting with the public and stakeholders on a series of options for dealing with key issues in the Plan area. It set out the Council's initial proposals and policy direction, therefore aiming to stimulate public comment and help interested parties to become involved in a more meaningful way at the earliest stage of Plan preparation. The published draft LDP PS fully reflects a consideration of all the representations made during the POP consultation period and all engagement with stakeholders, consultees and elected Members of the Council.

How We Are Consulting

The best way to submit a representation is by completing our online representations form: https://haveyoursay.derrystrabane.com/mkt/ldpconsultation

Alternatively, complete this draft Plan Strategy Representations Form and either return by email to **LDP@DerryStrabane.com** or download a copy and post to:

Local Development Plan Team,
Council Offices,
98 Strand Road,
Derry,
BT48 7NN

Hard copies of the form will be available at the above address and our other main office at 47 Derry Road, Strabane, Tyrone, BT82 8DY. Please note that if you are making a representation in any other format, it must include the requested information set out in this form and address the Tests of Soundness

The draft Plan Strategy is published for formal public consultation for a period of eight weeks beginning on **Monday 2nd December 2019** and closing on **Monday 27th January 2020**. Please note that in order for comments to be considered valid, you must include your contact details. We will use these details to confirm receipt of comments and to seek clarification or request further information. Anonymous comments or comments which do not directly relate to the draft Plan Strategy will not be considered as part of the consultation process.

Section A: Data Protection

Local Development Plan Privacy Notice

Derry City and Strabane District Council is a registered data controller (ZA119397) with the Information Commissioner's Office and we process your information in accordance with the General Data Protection Regulation and Data Protection Act 2018 (GDPR).

Derry City and Strabane District Council only collects and processes personal information about you in order to fulfil our statutory obligations, to provide you and service users with services and to improve those services. Your personal information will be used to populate the LDP Representations Database.

If you wish to find out more about how the Council processes personal data and protects your privacy, our Corporate Privacy Notice is available at:
https://www.derrystrabane.com/Footer/Privacy-Policy

It contains the standards you can expect when we ask for, or hold, your personal information and an explanation of our Information Management Security Policy. All representations received will be published on our website and made available at our Local Planning Office, 98 Strand Road, Derry BT48 7NN, for public inspection and will be will be forwarded to the Department for Infrastructure (DfI) and hence to the Independent Examiner / PAC.

Why are we processing your personal information?

- To enable the preparation of the Council's Local Development Plan;
- To consult your opinion on the Local Development Plan through the public consultation process;
- To ensure compliance with applicable legislation;
- To update you and/or notify you about changes; and
- To answer your questions.

If you wish to find out more information on how your personal information is being processed, you can contact the Council's Data Protection Officer:

Data Protection Officer
47 Derry Road
Strabane
BT82 8DY
Telephone: **028 71 253 253**
Email: **data.protection@derrystrabane.com**

Section B: **Your Details**

Q1. Are you responding as an individual, as an organisation or as an agent acting on behalf of individual, group or organisation? (Required)

Please only tick one

☐ Individual (Please fill in Question 2, then proceed to Section C)

☐ Organisation (Please fill in the remaining questions in the section, then proceed to Section D.)

☒ Agent (Please fill in the remaining questions in the section, then proceed to Section E.)

Q2. What is your name?

Title: Ms

First Name (Required): Emma

Last Name (Required): Walker

Email: emma.walker@turley.co.uk

Q3. Did you respond to the previous LDP Preferred Options Paper?

☐ Yes

☐ No

☒ Unsure

Section C: **Individuals**

Address (Required):

Town (Required):

Post code (Required):

On completion, please proceed to Section F

Section D: **Organisation**

If you have selected that you are responding as an organisation, there are a number of details that we are legally required to obtain from you. If you are responding on behalf of a group or organisation, please complete this section, then proceed to Section F.

Organisation / Group Name (Required)

Your Job Title / Position (Required)

Organisation / Group Address (if different from above)

Address (Required)

Town (Required)

Postcode (Required)

On completion, please proceed to Section F

Section E: **Agents**

If you have selected that you are responding on behalf of another individual, organisation or group there are a number of details that we are legally required to obtain from you. Please provide details of the individual, organisation or group that you are representing.

Client Contact Details

Title / First Name (Required) Ms Tamasin

Last Name (Required) Fraser

Organisation / Group Address (if different from above) ABO Wind (NI) Ltd

Address (Required) [redacted]

[redacted]

Town (Required) [redacted]

Postcode (Required) [redacted]

Email address (Required) Tamasin.Fraser@abo-wind.com

On completion, please proceed to Section F

Agent Contact Details

Title / First Name (Required) Ms Emma

Last Name (Required) Walker

Organisation / Group Address (if different from above) Turley

Address (Required) Hamilton House

3 Joy Street

Town (Required) Belfast

Postcode (Required) BT2 8LE

Email address (Required) emma.walker@turley.co.uk

On completion, please proceed to Section F

Q4. Would you like us to contact you, your client or both in relation to this response or future consultations on the LDP? Please only select one

[X] Agent [ ] Client [ ] Both

Section F: Soundness

The LDP draft Plan Strategy will be examined at Independent Examination (IE) in regard to its 'soundness'. Accordingly, your responses should be based on soundness and directed at specific strategic policies or proposals that you consider to be unsound, along with your reasons. The tests of soundness are set out below in Section J.

Those wishing to make representations seeking to change the draft Plan Strategy should clearly state why they consider the document to be unsound having regard to the soundness tests in Section J. It is very important that when you are submitting your representation that your response reflects the most appropriate soundness test(s) which you believe the draft Plan Strategy fails to meet. There will be no further opportunity to submit information once the consultation period has closed unless the Independent Examiner requests it.

Those who make a representation seeking to change the LDP draft Plan Strategy should also state below whether they wish to be heard orally at the Independent Examination (Please see **www.pacni.gov.uk** for further details on the IE procedures.)

Section G: Type of Procedure

Q5. Please indicate if you would like your representation to be dealt with by: (Required)
Please select one item only

☐ Written (Choose this procedure to have your representation considered in written form only)

☒ Oral Hearing (Choose this procedure to present your representation orally at the public hearing)

Unless you specifically request a hearing, the Independent Examiner will proceed on the basis that you are content to have your representation considered in written form only.

Please note that the Independent Examiner will be expected to give the same careful consideration to written representations as to those representations dealt with by oral hearing.

Section H: **Is the draft Plan Strategy Sound?**

Your comments should be set out in full. This will assist the Independent Examiner to understand the issues you raise. You will only be able to submit further additional information if the Independent Examiner invites you to do so.

Sound

If you consider the Plan Strategy to be Sound and wish to support the LDP Plan Strategy, please set out your comments below.

N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section I: **Unsound**

In this section, we will be asking you to specify which part(s) of the draft Plan Strategy you consider to be unsound.

Note: If you wish to inform us that more than one part of the draft Plan Strategy is unsound each part should be listed separately, and Sections J and K filled out for each separate part of the draft Plan Strategy. (i.e. if you believe that multiple parts of the draft Plan Strategy are unsound, please fill out multiple copies of Sections J & K.).

Q6. If you consider that the LDP draft Plan Strategy is unsound and does not meet one or more of the tests of soundness below, you must indicate which test(s) you consider it does not meet, having regard to Development Plan Practice Note 6 available at:

https://www.planningni.gov.uk/index/news/dfi_planning_news/news_releases_2015_onwards/development_ plan_practice_note_06_soundness__version_2___may_2017_.pdf

Please note that if you do not identify a test(s), your comments may not be considered by the Independent Examiner. Continued on next page.

Section J: Tests of Soundness (Required)

State which Chapter / Policy / Paragraph / Map that this Section refers to:

Spatial Strategy, Draft Designation WECA 1, SCA 1, AHLI 1, Draft Policies RED 1, NE 5, NE 6, NE 7, & UT 3

This should relate to only one section, paragraph or policy of the LDP draft Plan Strategy. If you wish to inform us that you consider more than one part of the LDP draft Plan Strategy is unsound, you can submit further representations by completing and submitting additional copies of this section.

Procedural tests

- [ ] **P1. Has the plan been prepared in accordance with the Council's timetable and the Statement of Community Involvement?**
- [ ] **P2. Has the Council prepared its Preferred Options Paper and taken into account any representations made?**
- [X] **P3. Has the plan been subject to Sustainability Appraisal including Strategic Environmental Assessment?**
- [ ] **P4. Did the Council comply with the regulations on the form and content of its plan and on the procedure for preparing the plan?**

Consistency tests

- [X] **C1. Did the Council take account of the Regional Development Strategy?**
- [ ] **C2. Did the Council take account of its Community Plan?**
- [X] **C3. Did the Council take account of policy and guidance issued by the Department**

Coherence and effectiveness tests

- [X] **CE1. The plan sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant, is it in conflict with the plans of neighbouring Councils.**
- [X] **CE2. The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.**
- [X] **CE3. There are clear mechanisms for implementation and monitoring.**
- [ ] **CE4. The plan is reasonably flexible to enable it to deal with changing circumstances.**

Section K: **Which part(s) of the draft Plan Strategy are you commenting on?**

This should relate to only one section, paragraph or policy of the LDP draft Plan Strategy. If you wish to inform us that you consider more than one part of the LDP draft Plan Strategy is unsound, you can submit further representations by completing and submitting additional copies of this section.

Relevant Chapter number(s)

See enclosed report

(and/ or) **Relevant Policy number(s)**

See enclosed report

(and/or) **Relevant Paragraph number(s)**

See enclosed report

(and/or) **District Proposals Map**

See enclosed report

Please give full details of why you consider this part of the LDP draft Plan Strategy to be unsound, having regard to the tests(s) you have identified above. Please be as clear and concise as possible.

See enclosed report

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

If you consider the LDP draft Plan Strategy to be unsound, please provide details of what changes(s) you consider necessary to make the LDP draft Plan Strategy sound.

See enclosed report

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section L: Sustainability Appraisal

If you wish to submit an 'expression of opinion' in relation to the Sustainability Appraisal (SA) of the LDP draft Plan Strategy (incorporating the Strategic Environmental Assessment (SEA)) please state them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the SA.

See Chapter 3 of enclosed representation

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section M: Draft Habitats Regulation Assessment (HRA or AA)

If you have any comments or opinions in relation to the Draft Habitats Regulation Assessment (HRA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the HRA.

N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section N: Draft Equality Impact Assessment (EQIA)

If you have any comments or opinions in relation to the Draft Equality Impact Assessment (EQIA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the EQIA.

N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section O: Draft Rural Needs Impact Assessment (RNIA)

If you have any comments or opinions in relation to the Draft Rural Needs Impact Assessment (RNIA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the RNIA.

N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Representations to Derry City & Strabane District Council Draft Plan Strategy

On behalf of ABO Wind (NI) Ltd

January 2020

Turley

Contents

Emma Walker
emma.walker@turley.co.uk

Client
ABO Wind (NI) Ltd

Our reference
ABOB3002

January 2020

Executive Summary

1. This representation is submitted on behalf of ABO Wind (NI) Ltd in response to consultation on the Derry City & Strabane 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.
Spatial Strategy	The introduction of landscape designations including SCA's, AHLI's and WECA is not supported by a robust evidence base and it not necessary or appropriate. **The draft policy fails against soundness test C3 and CE2.**	Paragraph 4.1 to 4.6
Draft Designation WECA 1	The introduction of a WECA is not supported by evidence and is unduly restrictive on wind energy development. The intent of the WECA conflicts with the RES and regional planning policy. **The draft designation fails against soundness tests C1, C3 and CE2**	Paragraph 4.7 to 4.15
Draft Designation SCA 1	The Council's own evidence demonstrates that the area of the proposed SCA is not under significant pressure and therefore is unjustified. **The draft designation fails against soundness test CE2.**	Paragraph 4.16 to 4.17
Draft Designation AHLI 1	The Council's own evidence demonstrates that the area of the proposed AHLI within the AONB is not under significant pressure and therefore is unjustified. **The draft designation fails against soundness test CE2.**	Paragraph 4.18 to 4.19
Draft Policy RED 1	It is evident that draft policy has not been developed on the basis of robust evidence and seeks to unduly restrict energy development, particularly wind energy development. The approach proposed is in conflict with prevailing planning policy. No consideration is given to the ability of the applicant	Paragraph 5. 1 to 5.32

	to implement elements of the draft policy. **The draft Policy fails against soundness tests C3, CE1, CE2, CE3.**	
Draft Policy NE 5	The draft policy seeks additional restriction on development that can occur within the AONB and is inconsistent with regional planning policy. **The draft policy fails against soundness test C3.**	Paragraph 6.1 to 6.9
Draft Policy NE 6	No robust evidence is provided to justify the introduction of a SCA which seeks to further restrict development within the AONB. **The draft policy fails against soundness test CE2.**	Paragraph 6.10 to 6.14
Draft Policy NE 7	No robust evidence is provided to support the re-designation of Countryside Policy Areas and Areas of High Landscape Value as AHLIs. Furthermore, the Councils own evidence shows that there is no need for an AHLI within the AONB. **The draft policy fails against soundness test CE2.**	Paragraph 6.15 to 6.19
Draft Policy UT 3	The implementation of this draft Policy has not been properly considered and the provision of electricity infrastructure is often outside the control of the Renewable Energy provider. **The draft policy fails against soundness tests CE2 and CE3.**	Paragraph 7.1 to 7.3

1. Introduction

1.1 This representation is submitted on behalf of ABO Wind (NI) Ltd in response to the consultation on the Derry City & Strabane District Council draft Plan Strategy (dPS).

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 now in Lisburn. Across Northern Ireland ABO Wind have a total of 71.4MW of wind farm projects and 50MW of battery storage that have received planning permission, with a further c.86.2MW 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 Derry City & Strabane District and whilst some specific locations are identified, the comments apply to the relevant policies across the District.

1.8 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.

1.9 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 on the Spatial Strategy for the Derry City and Strabane District;

- Section 5: Details our representations on the draft policies relating to Renewable and Low Carbon Energy Development;
- Section 6: Details our representations on the draft policies relating to Natural Environment; and
- Section 7: Details our representations on draft policies relating to Utilities Development.

2. Legislative Compliance

2.1 In preparing their draft Plan Strategy (dPS), Derry City & Strabane 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 Local Development Plan (LDP) Timetable, as approved and published on their website is dated July 2019. We note that the Council did publish the dPS within the timeframes indicated (Q3 & Q4 2019/2020). We note that this timeframe is also to include for the review of representations received and the consultation period for site specific counter-representations. In line with guidance issued by DfI, we recommend that Council carefully monitors this time period to ensure that all phases of the LDP are undertaken within the approved timelines agreed by DfI.

2.5 In preparing a Plan Strategy, legislation sets out that 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."

2.6 This representation identifies specific instances where policy issued by the Department has not been adequately assessed.

2.7 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."

2.8 We have identified significant flaws with the Council's Sustainability Assessment and identify them in this representation in Section 3.

3. Strategic Environmental Assessment and Sustainability Appraisal

3.1 A review of the Sustainability Appraisal (SA) documents produced in support of the Derry City & Strabane District Council Local Development Plan 2032 has been undertaken on behalf of ABO Wind.

3.2 The documents that have been reviewed are:

- Derry City & Strabane District Council Local Development Plan 2032 SA Scoping Report, Draft Plan Strategy, December 2019;
- Derry City & Strabane District Council Local Development Plan 2032 Sustainability Appraisal (SA), Draft Plan Strategy, December 2019; and
- Derry City & Strabane Council Local Development Plan 2032 Evidence Paper EVB 25: Renewable Energy and Low Carbon Energy Development.

3.3 For Northern Ireland the relevant guidance with respect to Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) is;

- Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 (the EAPP Regulations); and
- Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment, April 2015.

3.4 Given the complexity of the SA process and the experience (including relevant case law referenced in these representations) of its application in England, Scotland and Wales, it is also recommended by the guidance above[1] refer to the following guidance where necessary;

- A Practical Guide to SEA. Department of Communities and Local Government, September 2005;
- National Planning Practice Guidance. Strategic Environmental Assessment and Sustainability appraisal. (http://planningguidance.communities.gov.uk/).
- 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.

[1] https://www.planningni.gov.uk/index/advice/practice-notes/dp_practice_note_4_sa.pdf. Page 42.

3.5 ABO Wind are fully supportive of the principles of sustainable development and the need to positively tackle the climate crisis by radically increasing the percentage of energy we generate from renewable sources and reducing the combustion of fossil fuels.

3.6 Indeed Paragraph 6.216 of the SPPS states that:

"Renewable energy reduces our dependence on imported fossil fuels and brings diversity and security of supply to our energy infrastructure. It also helps Northern Ireland achieve its targets for reducing carbon emissions and reduces environmental damage such as that caused by acid rain. Renewable energy technologies support the wider Northern Ireland economy and also offer new opportunities for additional investment and employment, as well as benefitting our health and well-being, and our quality of life."

The Importance of Renewable Energy to Northern Ireland

3.7 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[(2)] 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.

3.8 Indeed, a 2017 analysis by NIRIG 'Onshore wind: Economic benefits in Northern Ireland'[(3)] estimated that onshore wind created 500 jobs and £32 million in gross value added (GVA) in the Northern Irish economy in 2014.

3.9 Planning Policy Statement 18 (PPS18) Renewable Energy[(4)] 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.

3.10 At a strategic level, ABO Wind agrees with the economic development objective which states that:

To recognise the North West's significant renewable energy resource and encourage the use of sustainable energy both as a means of generating money for the local economy, attracting investment in enterprise and providing sustainable and affordable electrical power for the population.

3.11 The dPS contains several policies which, directly and indirectly control the feasibility, viability and location of renewable energy infrastructure and particularly wind turbines. These policies are:

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(2) https://www.planningni.gov.uk/index/policy/spps_28_september_2015-3.pdf

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

(4) https://www.planningni.gov.uk/index/policy/planning_statements_and_supplementary_planning_guidance/planning_policy_statement_18__renewable_energy.pdf

- Draft Policy RED1 – Renewable and Low Carbon Energy Development – General Criteria
- Draft Policy Designation WECA1 – Wind Energy Capacity Areas (WECAs)
- Draft Policy NE6 – Development within Special Countryside Areas (SCAs)

3.12 These policies have been reviewed by ABO Wind for both soundness and legal compliance with the SPPS and SEA Regulations.

Concerns relating to the SA process

3.13 Given the national climate emergency and the pressing need to mitigate the impacts of climate change by reducing carbon emissions, ABO Wind believe that the dPS and its associated SA should take a strong and proactive approach to maximising the assets of Derry City and Strabane (DCS) by encouraging all forms or renewable energy development but particularly wind energy which remains the most efficient and cleanest mechanism for the generation of large quantities of on-shore renewable energy.

3.14 ABO Wind's overriding concern with the dPS and the SA process is that the policies significantly restrict the development of renewable and low carbon energy, specifically wind turbines in the DCSDC plan area. This approach is contrary to the SPPS which does facilitate wind energy development provided that it can demonstrate it meets the relevant planning criteria.

3.15 It is also of note that DCSDC have not published an SA scoring framework accompanying the SA. It would have been helpful to have sight of this to better understand the scoring criteria used in the SA against which the policies were assessed.

3.16 ABO Wind's concerns in relation to the SA and SA process are detailed below as part of the review of the individual policies listed above. This is in the wider context of concerns regarding the draft policies and the soundness of the dPS as legal compliance tests have not been met.

Draft Policy RED1 – Renewable and Low Carbon Energy Development – General Criteria

3.17 Policy RED1 is the principal policy that guides the spatial distribution of renewable energy infrastructure in DCSDC. It identifies requirements for wind energy development, solar farms, anaerobic digesters and hydro-electric schemes.

3.18 The draft SA Report summarises the assessment of Policy RED1 against the SA objectives to which ABO Wind have the following comments:

- No reasonable alternatives to this Policy have been considered. The SEA Regulations and Development Plan Practice Note (DPPN)[5] require the

[5] Regulation 12 (2) of the Environmental Assessment of Plans and Programmes Regulations (2004)

consideration of reasonable alternatives to policies that are practical and deliverable. ABO Wind fully supports the development of renewable and low carbon energy provided individual rigorous testing is done to fully assess the possibilities within the Policy. The failure to consider reasonable alternatives to this policy is evident given the SA scoring which is discussed in detail below.

- ABO Wind has a particular concern that Policy RED 1 scores only a minor positive against SA Objective 10 (reducing the causes of and adapt to climate change). Given that the policy has the ultimate aim of permitting *"a diverse range of Renewable Energy Development across the District to align with the Strategic Growth Plan, the Council's Climate Change Adaptation Plan and the need to facilitate decarbonisation of energy supply"*, ABO wind believe that the policy fails to maximise its sustainability benefits by only securing a minor positive.

3.19 Page 364 of Appendix 4 of the SA provides the detailed appraisal of Policy RED 1 with the commentary against SA Objective 10 (Preventing climate change) stating:

"The policy supports, promotes and enables renewable energy projects and may help to increase overall renewables generation. It may indirectly help to reduce greenhouse gas emissions by reducing the requirement to burn fossil fuels for power."

3.20 ABO Wind considers it a failure of Policy RED 1 if the SA believes it *"may help to increase overall renewables generation."* This uncertainty in the effectiveness of the Policy is as a result of the considerable barriers (including multiple spatial restriction) to the development of wind energy in an area with nationally significant wind assets.

3.21 Given that the SA identifies that RED 1 *"may help to increase overall renewables generation"* it is clear that additional reasonable policy alternatives are needed to increase the effectiveness of the policy. ABO Wind believe that at the very minimum these policy alternatives should have included:

(i) Utilising the Policy Framework within the SPPS to solely guide renewable energy development; and

(ii) Setting a specific target for further renewable energy generation within DCS to help combat climate change.

3.22 ABO Wind has significant concerns with the 30 year time limit condition imposed in relation to wind energy development. As indicated in Section 5 of this report, the Council does not provide any justification in the supporting evidence based for the introduction of a timeframe restriction. No reasonable alternatives have been considered in drafting this policy, with the justification for the preferred (only option) being that it is *"the only realistic option to meet the aims of the draft PfG targets, the RDS and SPPS and current policy framework."* ABO Wind do not believe this is a suitable justification as it has failed to meet the requirements of the SEA Regulations by not identifying reasonable alternatives to this policy.

3.23 Given that the Council does not provide any justification for the introduction of a timeframe restriction, especially as a longer time frame may be appropriate as

technology advances, it is entirely reasonable for the policy to consider other timeframes which apply to large scale wind turbines.

- Furthermore, there is established SEA Case Law which confirms the need for the SA to test all reasonable alternatives to a policy or allocation. Whilst it is acknowledged that the selection of these reasonable alternatives are the responsibility of the plan maker there is a clear obligation to test more than one reasonable alternative.

- By failing to identify any alternatives to the time frame within Policy RED1 the SA has failed to meet the legal requirements of the SEA Regulations.

3.24 In summary, ABO Wind believe that Policy RED1 is unsound and ineffective as it does not guarantee the development of renewable energy within Derry City and Strabane District.

Draft Policy Designation WECA1 – Wind Energy Capacity Areas (WECAs)

3.25 Draft Policy Designation WECA1 creates Wind Energy Capacity Areas (WECA), areas that have experienced pressures from wind farms and turbines and so require consideration before any further proposals are considered.

3.26 Notwithstanding ABO Winds overriding concern that the WECA are an unnecessary policy designation that is contrary to SPPS policy, there are also significant concerns with respect to the assessment of this policy by the SA.

3.27 The policy indicates that the locations and detailed boundaries of the WECAS will be shown at the LDP Local Policies Plan stage. For clarity, the DCSDC website indicates that the LDP Local Policies Plan will not be prepared until after the adoption of the LDP Plan Strategy.[6] The text states the following:

"The new Timetable clearly sets out when the Council expects to reach key stages of the process, from the initial stages of the Preferred Options Paper (May 2017) through to the preparation and adoption of the LDP Plan Strategy and the subsequent LDP Local Policies Plan."

3.28 ABO Wind are concerned with the plans failure to identify the location of WECAS as the success of this reasonable alternative is entirely dependent on the location of the WECAS. ABO Wind believe that it is *critical* for the District Council to establish this information *prior* to the adoption of the Plan Strategy so the policy and any reasonable alternatives can be assessed.

3.29 Of equal concern to ABO Wind is the fact that Policy Designation WECA 1 has been assessed as part of Policy RED 1 and therefore introduced without any independent appraisal by the SA. Ultimately this policy will guide the spatial location of renewable energy development and so must be appraised along with suitable reasonable

[6] DCSDC Local Development Plan Revised Timetable Released (30 July 2019), Derry City Strabane District Council Website (Available at https://www.derrystrabane.com/Council/News/Local-Development-Plan-Revised-Timetable-released)

alternatives to meet the requirements of the SEA Regulations. Without appraisal of the *identified* WECAs the environmental, social and economic implications of this policy designation cannot be identified. It is also significant that these areas are based on landscape capacity only with no reference to the contribution that potential wind energy could make to mitigating climate change. If specific WECAs contained a high wind resource then this should have been considered as factors to support their use for wind energy.

3.30 ABO Wind believes that to make this policy sound the WECAs must be identified and appraised by the SA.

Draft Policy NE6 – Development within Special Countryside Areas (SCAs)

3.31 From an SA perspective, Policy NE6 is assessed within the draft SA for which ABO Wind would make the following comments:

- No other reasonable alternatives to the preferred option (Policy NE6) appear to have been considered. The SEA Regulations and Development Plan Practice Note (DPPN) require the consideration of reasonable alternatives to policies that are practical and deliverable.

- Given the existence of the AONB designation as a mechanism to protect sensitive landscapes then a reasonable alternative should have been to retain this designation and not introduce a further landscape classification based upon flawed evidence.

- DCSDC states in the dPS that the SCAs will be defined in the Local Policies Plan. For clarity, the DCSDC website indicates that the LDP Local Policies Plan will not be prepared until after the adoption of the LDP Plan Strategy.[7] The text states the following:

"The new Timetable clearly sets out when the Council expects to reach key stages of the process, from the initial stages of the Preferred Options Paper (May 2017) through to the preparation and adoption of the LDP Plan Strategy and the subsequent LDP Local Policies Plan."

3.32 DCSDC must be questioned as to why the location of SCAs has not yet been established at this point in the process; it is *critical* for the District Council to establish this information *prior* to the adoption of the Plan Strategy. Without this information, it would be difficult for DCSDC to make an informed conclusion when assessing the policy within the SA. Although DCSDC has undertaken an assessment of Policy NE6 within the SA Report, its credibility must be brought into question without the exact locations of the SCA's.

3.33 The draft SA presents the SA scoring of Policy NE6 against the SA objectives. The assessment against the SA objectives for Policy NE6 however, has been undertaken

[7] DCSDC Local Development Plan Revised Timetable Released (30 July 2019), Derry City Strabane District Council Website (Available at https://www.derrystrabane.com/Council/News/Local-Development-Plan-Revised-Timetable-released)

alongside the assessments of both draft Policy NE7: Development within Areas of High Landscape Importance (AHLIs) and draft Policy NE8: Development within Local Landscape Policy Areas (LLPAs). The SA states that they have been assessed together *"as they all seek to achieve the same aim, the protection of sensitive landscapes."*

3.34 Given that the policy precludes development within the SCAs, ABO Wind have identified the following flaws in the SA Scoring:

- SA Objective 5 - Enable Sustainable Economic Growth - Given the presumption against any development (such as buildings or infrastructure) within the SAC then we do not believe that the policy can achieve a minor positive impact upon the local economy. Without new infrastructure to support economic growth there can only be a **significant negative impact** upon the local economy in the SCAs.

- Several significant positive environmental effects are noted against SA Objective 7 (Physical Resources) 10 (Climate Change), 11 (Water Resources), 12 (Biodiversity) and 13 (Landscape Character). These scores are recorded simply by virtue of the Policy preventing any new development in the SAC which is not in the pursuit of sustainable development and contrary to Paragraph 6.65 of the SPPS which states:

"The aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS."

3.35 The impact of this could hence reverse any positive effect on climate change by preventing any form of wind energy development in these areas.

"The aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS."

3.36 From a sustainability perspective Policy NE6 is unsound as it is not justified by the SPSS nor is it appraised correctly by the SA.

Summary of Representations to the Draft Derry City & Strabane District Council Sustainability Appraisal

3.37 ABO Wind have reviewed the draft SA supporting the DCSDC Local Development Plan and have a number of significant concerns which result in an unsound SA which does not meet the requirements of the SEA Regulations. These are:

- The draft SA fails to identify and assess reasonable alternatives to any of the draft policies. The SEA Regulations and Development Plan Practice Note (DPPN) require the consideration of reasonable alternatives to policies that are practical and deliverable. The need for reasonable alternatives is also clearly

demonstrated by the fact that Policy RED 1 is identified by the SA as *'may encourage the development of renewable energy'*.

- The location of key areas, including WECAs and SCAs have not yet been published, and will not be until the preparation of the Local Policies Plan. This has, in effect, led to inaccurate conclusions being drawn around draft policies.
- The draft SA fails to recognise that the policies as set out will result in a presumption against any wind turbine development in DSC which is contrary to the policies of the SPPS and the urgent need to create renewable energy in response to the climate emergency.

3.38 To ensure the SA is sound and legally compliant the Council must undertake remedial action to amend both the draft polices and SA scoring prior to any independent examination.

4. Chapter 2 – Spatial Strategy for the Derry City and Strabane District

4.1 The draft Spatial Strategy identifies the following objective:

"Key environmental designations such as Special Countryside Areas (SCAs) and Areas of High Landscape Importance (AHLIs) to protect important landscapes and proposed Green Belts around Derry and Strabane to contain urban sprawl and development pressure. The LDP will also define Development Pressure Areas, which are focussed areas of development pressure in the countryside. A number of Wind Energy Capacity Areas (WECAs) are also designated to reflect certain local areas that are considered to be at or reaching capacity with wind turbines/wind farms."

4.2 We are opposed to the introduction of additional constraints on the development of renewable energy schemes and in particular the introduction of WECAs which seek to unduly restrict wind energy development. It is considered that such a designation would conflict with the provisions of the existing policy set out in PPS 18 and the SPPS. Both PPS18 and the SPPS acknowledge the visual prominence of wind turbines, however the SPPS[8] goes on to state:

"it will not necessarily be the case that the extent of visual impact or visibility of wind farm developments 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."

4.3 It is therefore considered that a designation restricting development on the basis of visual prominence would conflict with soundness test C3. We also consider the evidence base to support the draft designation flawed for the following reasons:

- It is unclear whether the Landscape Character Review presented at EVB 6b[9] has been prepared in accordance with best practice; and
- The Landscape Character Review fails to consider:
  - The life span of existing single turbines and wind farms which could see some turbines removed during the plan period;
  - The potential for the repowering of existing wind farms as a valuable contributor to the production of renewable energy in Northern Ireland; and
  - The potential impact of advances in technology which could allow for less more efficient turbines to be erected as part of repowering proposals.

[8] SPPS Paragraph 6.230

[9] EVB 6b: Landscape & Seascape Character Review – December 2019

4.4 As such we consider that the introduction of WECAs is unsupported by robust evidence and would fail against soundness test CE2.

4.5 Furthermore, we consider that the proposed WECAs are unnecessary when the prevailing planning policy set out in the SPPS already endorses a more cautious approach to development within existing landscape designations and identifies landscape and visual impact as a key policy consideration for all wind energy developments. It is therefore considered inappropriate to introduce WECAs and to do so would result in the dPS failing against soundness test CE2.

4.6 In relation to the proposals to introduce an SCA, we would highlight that the area of SCA that is proposed is already afforded protection as an AONB and as demonstrated within the Councils evidence at EVB 6c, this area of the AONB has not been under substantial development pressure. As such we do not consider the introduction of an SCA within the AONB necessary or appropriate and therefore the current proposal would conflict with soundness test CE2. This would also apply to the introduction of an AHLI within the extent of the AONB. Again there is no justification for the further protection of this area given that EVB 6c does not show that the area is under development pressure. The Council has also failed to consider the landscape value of former Countryside Protection Areas and Areas of High Landscape Value which will be re-designated at AHLIs. We consider that the absence of this assessment is a weakness in the Council's evidence.

Draft Designation WECA 1: Wind Energy Capacity Areas

4.7 Draft Policy RED 1 states:

"Within designated Wind Energy Capacity Areas (WECAs), any further wind energy development proposals, including re-powering, will need to be very carefully considered so that they do not unacceptably intensify existing adverse landscape impacts in these areas."

4.8 We are opposed to the introduction of this designation. As set out above, the extent of WECAs will be based upon the Council's EVB 6b which is considered to be flawed as is cannot be demonstrated that the review has been undertaken in accordance with best practice.

4.9 Furthermore, the extent of the WECA's has been determined on the basis of the Council's view on the existing landscape character of the area. The assessment of landscape character and capacity for further development does not consider:

- The life span of existing single turbines and wind farms which could see some turbines removed;
- The potential for the repowering of existing wind farms as a valuable contributor to the production of renewable energy in Northern Ireland; and
- The potential impact of advances in technology which could allow for less more efficient turbines to be erected as part of repowering proposal.

4.10 Having reviewed EBV 24 and EBV 6b it is clear that the introduction of the WECA designation is in response to:

- Data[10] showing that the District is the largest contributor of renewable energy in Northern Ireland. The feedback from Members, set out in EBV 24 suggests a mentality of *'we have done our bit'* yet no consideration has been given to the need to work across boundaries to ensure that regional targets are met. There are locations within Northern Ireland which are not suitable for wind energy development and therefore it is important that those locations which offer the appropriate climate and environment for such development are not unduly restricted. To do so would conflict with the provisions of regional policy;
- The assumption that the 40% target set out in the Renewable Energy Strategy has been met is also a key consideration for the establishment of the renewable energy policy within the dPS[11]. The Council has had no regard to this target not being a ceiling and has failed to recognise the ongoing need to ensure the delivery of renewable energy to meet future targets; and
- We note that Section 6 of EVB 24 summarises the feedback received from Members, which indicates concerns about the capacity for wind energy

[10] EVB 24 – Table 1 and Paragraph 5.2
[11] EVB 24 – Section 5 Key Considerations

development in the district and we are concerned that this unsubstantiated view has been influential on the introduction of the draft designation.

4.11 It is our view that the draft designation fails against soundness test C1, C3 and CE2 as it fails to support the ambitions of the RDS and RES in the provision of renewable energy. Furthermore the designation is unduly restrictive on wind energy development and conflicts with the Regional planning policy.

4.12 Draft Policy RED 1 and the supporting text suggest that the reason for the designation is to protect the landscape and visual harm. This assumes that all turbines result in visual harm to the landscape and conflicts with the SPPS which whilst acknowledging that turbines are visible sets out that:

"It will not necessarily be the case that the extent of visual impact or visibility of wind farm developments 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."[12]

4.13 Furthermore, the SPPS does not make any provisions for the introduction of an area of constraint for wind energy development. Instead the SPPS, paragraphs 6.223, advocates a cautious approach to renewable developments within designated landscapes. Had the SPPS intended for such designations to be introduced it would have specifically identified the use of such designations, as it has done in the case of areas of constraint on minerals development.

4.14 For this reason the proposal to introduce an area of constraint is in conflict with the SPPS and therefore fails against soundness test C3.

4.15 It appears from the evidence presented in EVB 6b and EVB 24 that the extent of the WECAs will not be determined until the Local Policies Plan stage, however broad locations of the WECA are shown at Appendix 1 of EVB 6b. The majority of the proposed locations are located within the existing Sperrins AONB. Given the existing policy position set it the SPPS which endorses a cautious approach to renewable development in such locations, it is not considered necessary to further restrict development. The existing policy provisions provide sufficient protection for this landscape.

[12] SPPS Paragraph 6.230

Draft Designation SCA 1 – Special Countryside Area (SCA)

4.16 We are opposed to the designation of the SCA as shown on Proposals Map 2. As set out in our response to the Spatial Strategy, the Council's own evidence within EVB 6c demonstrates that the area of the proposed SCA is not under significant pressure. The SCA is therefore not justified and fails against soundness test CE2.

4.17 Furthermore the proposed SCA is included within the extent of the Sperrins AONB which is already afforded appropriate protection and is therefore unnecessary.

Draft Designation AHLI 1- Area of High Landscape Importance (AHLI)

4.18 We are also opposed to the designation of AHLIs within the dPS. These areas largely comprise Countryside Protection Areas and Areas of High Landscape Value which will be carried over from the extant development plans for the district. The Council has failed to provide a robust assessment of these existing designations to justify their re-designation within the emerging plan and would therefore fail soundness test CE2.

4.19 Furthermore EVB 6c clearly shows that the AHLI proposed within the Sperrins is not under development pressure from buildings or turbines and as such is not necessary or appropriate in that location. For this reason the policy would again fail soundness test CE2.

5. Chapter 24 –Renewable and Low Carbon Energy Development

Draft Policy RED 1: Renewable and Low Carbon Energy Development – General Criteria

5.1 The Council's draft Policy RED 1 relates to all forms of renewable energy development, including wind energy. This draft policy is supported by evidence presented by the Council in EVB 6b Landscape and Seascape Character Review and EVB 24 Renewable Energy and Low Carbon Energy Development.

5.2 Having reviewed EVB 24 it is concerning to see the following statement in the Council's consideration of the draft Policy included within the dPS[13]:

*"This policy has been **significantly amended to reflect the Member's wishes** for positive controls in areas where the landscape is considered to be at or very close to reaching capacity from wind energy development."*

5.3 This statement is concerning as it undermines any suggestion that the draft policy was formulated on the basis of a sound evidence base, as per soundness test CE2.

5.4 At this stage we note the introduction of Wind Energy Capacity Areas (WECAs) and our detailed response to this proposed designation is set out in our response to draft designation WECA 1 below. However we would make comment about the inclusion of the following text within draft Policy RED 1:

"In the first instance, proposals for renewable energy development must accord with the relevant LDP landscape designations (Refer also to Chapter 21 Natural Environment):

- *Wind Energy Capacity Area (WECA)*
- *Special Countryside Area (SCA)*
- *Area of High Landscape Importance (AHLI)*
- *Area of Outstanding Natural Beauty (AONB)*

Subsequent to meeting the above, development proposals that generate energy from renewable resources will be permitted where the proposal, and any associated buildings and infrastructure, will not result in unacceptable adverse impact on..."

5.5 Notwithstanding our response to the landscape designations identified we consider that it is inappropriate that development should have to meet those relevant policies before being considered under draft Policy RED 1. As drafted the policy identifies a

[13] EVB 25 Renewable and Low Carbon Energy Development, December 2019 (Page 55, paragraph 6.15)

series of criterion for the assessment of energy proposals. This would suggest a gateway test is being introduced which is inappropriate. Policies contained within the dPS should be considered holistically and in a balanced approach. The approach proposed at the outset of draft Policy RED 1 is inconsistent with existing policy contained within the SPPS and would fail against soundness test C3.

5.6 It is evident that some elements of draft Policy RED 1 have sought to carry forward the policy requirements contained within existing Policy RE 1 of Planning Policy Statement 18 (PPS18) and the SPPS. The second part of draft Policy sets out six criterion against which all renewable energy development proposals will be assessed. These reflect the provisions of existing Policy RE 1 of PPS 18, with the exception of criterion b) and d) and the addition of criterion f).

5.7 Under criterion b) of the draft Policy, development will be permitted where it will not result in an unacceptable adverse impact on:

"b) visual amenity, landscape character and designated/protected areas:"

5.8 The introduction of reference to *'designated/protected areas'* in this criterion is not necessary. Notwithstanding the comments made above in relation to the first part of draft Policy RED 1, if the policy as drafted was adopted then in order to have passed the gateway test it must have already been demonstrated that the development would not have an adverse impact on the designated/protected areas. In any event policies which seek to ensure that all forms of development do not have a significant adverse impact on landscape designations are already proposed within Chapter 21 of the dPS. As such it is considered that the draft policy is overly onerous on applicants and duplicates policies contained elsewhere in the dPS and indeed the SPPS which will remain extant planning policy once the dPS is adopted.

5.9 In this regard, the draft policy would conflict with soundness test CE1 and CE2 and we would recommend that the wording *'designated/protected areas'* is removed from the draft policy.

5.10 The wider draft Policy also states:

"The potential for significant adverse impacts from renewable and low carbon energy development proposals on designated sites across the District, including Special Countryside Areas (SCA), Areas of High Landscape Importance (AHLIs) and Areas of Outstanding Natural Beauty (AONB) will be a priority consideration. The impact of proposals on designated natural and historic environment assets will also be a priority consideration."

5.11 Again, it is our view that this statement is a duplication of text already contained within the draft Policy or covered in Chapter 21 and 22 of the dPS and is not required. We recommend that this wording is removed.

5.12 Criterion d) of draft Policy RED 1 introduces a requirement for the applicant to demonstrate that the development will not impact on water quantity. This requirement is not contained within the prevailing planning policy contained within PPS18 and the SPPS and no justification for the inclusion of such a requirement is

provided. As such the draft policy would conflict with soundness test CE2 and C3. This additional requirement should be removed.

5.13 The Council is proposing to introduce an additional criterion for renewable energy development. As drafted the policy will only permit development where it will not have an adverse impact on flood risk. We note that Chapter 25 of the dPS relates to 'Development and Flooding' and in particular policies to reduce risk of flooding. As such the additional requirement under draft Policy RED 1 is a duplicate of the policy tests set out Chapter 25 and this duplication is considered inappropriate given that Chapter 25 policies relate to all forms of development. The inclusion of this additional requirement would fail against soundness test CE2. We would recommend that this criterion is removed as it is already addressed within other chapters of the dPS which would also be relevant to renewable energy proposals.

5.14 Draft Policy RED 1 includes the following requirement:

"Sufficient detail shall be provided, i.e. adequate to allow assessment of the overall impact, of all consequent electricity infrastructure (power-lines, sub-stations, cabinets, batteries etc) required to service the development. This shall be provided at the outset of the submission of any planning application for renewable and low carbon energy development so that the overall impact of the project can be fully assessed."

5.15 We would stress that outside of on-site provision, the location of any electricity infrastructure required to service the development is out-with the control of the renewable energy provider. The location of any transmission routes, grid connections and the form of any infrastructure is established and agreed by the electricity provider and is not normally agreed until a planning approval for the main element of the development has been issued. This requirement is therefore out-with the gift of the applicant and therefore this element of the draft policy cannot be implemented. As such the draft policy would fail against soundness test CE3.

5.16 The approach endorsed within PPS 18 Best Practice Guide (BPG)[14] would be more appropriate as it enables developers to provide indicative details on grid connections, both in terms of the potential route/s and type of connection whilst recognising that final details are to be determined by a third party. We would therefore recommend that the wording of this part of draft Policy RED1 is amended as follows:

"Indicative detail shall be provided, i.e. adequate to allow assessment of the overall impact, of all consequent electricity infrastructure (likely routes and the anticipated method of connection) required to service the development. This shall be provided at the outset of the submission of any planning application for renewable and low carbon energy development so that the overall impact of the project can be fully assessed."

5.17 We would however highlight that any electricity infrastructure associated within wind farms is likely to be subject to a separate planning application process and environmental assessment. As part of any environmental assessment undertaken it

[14] PPS 18 Best Practice Guide Paragraph 1.5.1

would be necessary for that applicant (NIE) to consider cumulative impacts of committed development, which will include the main windfarm. Given that neither will happen without the other, the Council can be assured that the full project will be assessed.

5.18 In relation to all renewable energy proposals the draft policy states:

"All proposals involving the production of renewable and low carbon energy (including repowering of existing wind farm development) must have regard to the 'LDP Landscape Character Review' and 'Wind Energy Development in Northern Ireland's Landscapes' and have regard to the publication 'Best Practice Guidance to Planning Policy Statement 18 Renewable Energy' as Supplementary Planning Guidance'."

5.19 We consider that the LDP Landscape Character Review, provided as EVB 6b of the dPS is flawed. It is unclear what methodology has been applied in the preparation of this review and whether it has been undertaken in accordance with best practice guidance. Furthermore this review has not been subject to any independent consultation and as such cannot be relied upon as a material consideration in the determination of planning applications. Further comments on the contents of EVB 6b are set out in our response to draft designation WECA 1.

5.20 The final paragraph of the general policy element of draft Policy RED 1 states:

"Renewable energy development proposals require particular scrutiny through Environmental Impact Assessment (EIA) and Habitat Regulations Assessment where appropriate."

5.21 Given that these assessments are subject to their own legislation it is not appropriate or necessary for them to be required by planning policy with the dPS. As such this wording should be removed from the draft Policy to ensure that the policy is consistent with soundness test CE2.

5.22 Draft Policy RED 1 includes additional policy requirements relating specifically to wind energy development. This element of the policy relates to both new wind farms and the repowering of existing wind farms which we consider is not appropriate in all cases and therefore the draft text should be reworded to state:

"proposals for wind energy development will be required to meet all of the following criteria"

5.23 This will align with the existing wording in PPS 18 and also allows a more flexible approach to the assessment of proposals for the repowering of existing operations where some key development principles will already have been considered at the previous application stage. For example the careful siting and scale of turbines. This would ensure that the policy does not conflict with soundness test C3 and CE2.

5.24 Existing policy for the development of wind energy is set out in Policy RE 1 of PPS 18. Policy RE 1 sets out seven criteria for development proposal. We note that the wording of draft Policy RED 1 is more onerous than the existing policy, introducing

two additional criteria for wind energy proposals and tightening some existing requirements. Our comments are sets out below:

5.25 Criterion three of draft Policy RED 1 states:

"it is demonstrated that development will not create significant risk of landslide or bog burst; nor will it exacerbate existing surface water flooding."

5.26 Notwithstanding the comments set out above in relation to the general policy requirements of draft Policy RED 1, the inclusion of the wording *'will not exacerbate existing surface water flooding'* is a duplication of criterion f) and is therefore unnecessary under the Council's own drafting and would fail soundness test CE1 and CE2. As per our previous comment in relation to criterion f) we also consider that policy relating to flooding for all development proposals is duly considered within Chapter 25 of the dPS and should not be replicated within draft Policy RED 1.

5.27 Criterion vii) of draft Policy RED 1 is additional to the criterion set out in existing policy contained within PPS18. It states:

"turbine proximate to any occupied or occupiable buildings are set back a minimum distance of the fall over distance plus 10% from the curtilage of the same."

5.28 The wording of this policy is unclear as it there is no clear definition of an *'occupiable building'*. This wording is vague and could unduly prohibit wind energy development and therefore would fail against soundness test CE2 and CE3.

5.29 Footnote 54 of the dPS defines fall over distance as 'total height + turbine blades'. This is conflicting with the definition in PPS 18 BPG[15] which defines the fall over distance as 'the height of the turbine to the tip of the blade'. In order to ensure clarity and to avoid conflict with soundness test C3 we would recommend that footnote 54 of the dPS is amended to state:

"Fall over distance – height of the turbine to the tip of blade."

5.30 Criterion ix) of the draft policy states:

"above ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location. A time limit condition of 30 years will normally be attached."

5.31 Whilst it is acknowledged that most proposals for wind energy development will not be permanent the introduction of a 30 year limit is unduly restrictive. As technology advances the lifespan of infrastructure may increase meaning that a longer time frame may be more appropriate. It is also unclear whether the proposed 30 year time frame includes the time for construction and decommissioning of development which could take several years.

[15] PPS 18 Best Practice Guide Paragraph 1.3.52

5.32 The Council does not provide any justification in the supporting evidence base for the introduction of a time frame restriction and therefore the draft policy would fail against soundness test CE2. We recommend that the timeframe is removed from the draft policy wording.

6. Chapter 21 – Natural Environment

Draft Policy NE 5: Development within or affecting the Setting of the Sperrin AONB

6.1 The Council is proposing to introduce a policy which specifically relates to development within or affecting the AONB. Whilst there is existing policy within PPS2 and the SPPS pertaining to development within the AONB they do not reference development within the setting of the AONB. The Sperrins AONB is an established designation. As set out in the Councils dPS the AONB was designated in 1968 and was subsequently revised in 2008 following a review of the boundary. Paragraph 4.5 of EVB 6b clearly states:

"The Sperrin AONB was subsequently re-designated in 2008 under the 1985 Nature Conservation and Amenity Lands Order (NCALO) with a revised boundary, now covering some 118,206 hectares. The boundary review:

Excluded areas that no longer met the AONB criteria – having been degraded by development or land use change;

Included additional areas – particularly outstanding valley landscapes – that do meet the AONB criteria; and

Considered change to be required if existing boundaries were ill-defined on the ground."

6.2 The AONB boundary therefore takes account of all areas considered to merit the AONB designation. There is no reference to the introduction of a further area of setting. There is no boundary shown to indicate the setting of the AONB. For example an ASAI (Area of Special Archaeological Interest) is an area which includes the setting of various historic assets. Whilst an AONB is an environmental feature, there is no plan showing the extent of its setting.

6.3 As such we would recommend that the policy title is redrafted to *'Development within the Sperrin AONB'*. This approach would be consistent with Policy NH 6 of PPS2 and Paragraph 6.187 of the SPPS and would ensure that the draft policy would not fail soundness test C3.

6.4 The first part of draft Policy NE 5 states:

"The Council will not permit development that will adversely impact or erode the intrinsic appeal of the Sperrin AONB, including its landscape character and setting, when considered individually or cumulatively alongside existing or approved development."

6.5 It is our view this this wording does not relate to the specific reasons for the designation of the AONB. The *'intrinsic appeal'* of the Sperrins is open to wide interpretation as it will appeal to different groups for different reasons. Rather the policy test should be whether the development proposal would adversely impact on

the features which contributed to the designation of the AONB. This approach would better align with the existing policy provision of the SPPS and PPS2 which reference the *'special character'* and features of the AONB.

6.6 Part two of the draft Policy states:

"All proposals must demonstrate how they have considered siting, massing, shape, design, finishes and landscaping in order to positively enhance our important AONB landscape."

6.7 The requirement to *'positively enhance'* the landscape is too onerous for all forms of development and fails to take account the fact that some forms of development can only occur in the countryside and the AONB. This requirement also conflicts with the provisions of existing policy within the SPPS, which will be retained following the adoption of the dPS. The SPPS requires that:

"Development proposals in AONBs must be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife, and be in accordance with relevant plan policies."

6.8 The SPPS does not endorse a requirement for all forms of development to enhance character, but rather to conserve it. This is the approach set out in Policy NH6 of PPS 2. This conflict with the SPPS means that the draft policy would fail against soundness test C3.

6.9 It is our view that where it can be demonstrated on balance that a development does not adversely impact on the AONB then it should be acceptable. This would align with the approach set out in prevailing planning policy.

Draft Policy NE 6: Development within Special Countryside Areas

6.10 The Council is proposing to designate Special Countryside Areas (SCAs), within which development will be further restricted. We note that the proposed SCAs are located within areas which already benefit from the policy protection afforded by the AONB. The Council is seeking to designate those areas of the AONB which they deem to be of a higher character than an AONB and afford them a greater level of protection.

6.11 As set out in our response to the Spatial Strategy and draft designation WECA, we consider that the Council's assessment of the landscape, set out in EVB 6b is flawed. As such any reliance upon it to inform the extent of the SCA will fail against soundness test CE2.

6.12 Paragraph 21.38 of the dPS sets out that:

"The 2005 Sperrin AONB boundary review highlighted the extreme sensitivity of the open mountain landscape."

6.13 We wish to highlight that the 2005 review is referenced within the Council's evidence base and the dPS, however it is not presented as evidence to support dPS and therefore it cannot be robustly demonstrated that the conclusions of the review have properly informed the plan preparation. In the absence of all evidence the dPS would fail against soundness test CE2.

6.14 The extent of the proposed SCA is shown at Appendix 1 of EVB 6b. Map 2 of the same report shows the rural development pressure analysis for the district. When comparing the two maps it is clear that there is little development pressure located within the extent of the area proposed as a SCA. This clearly demonstrates that the existing policy protection afforded to the AONB and its use in the assessment of development proposal for that particular part of the AONB has been effective. As such it is not appropriate or necessary to introduce further policy and to do so would result in a conflict with soundness test CE2.

Draft Policy NE 7: Development within Areas of High Landscape Importance

6.15 As part of the Spatial Strategy for the LDP, the Council is proposing to introduce designated Areas of High Landscape Importance (AHLIs). We note from the supporting text in the dPS that this will incorporate Country Protection Areas and Areas of High Scenic Value that are currently identified in the existing development plans for the District.

6.16 If the Council is intending to carry forward existing designations then we would expect to see an assessment demonstrating that those existing areas are still worthy of designation. No such assessment is provided in support of draft Policy NE7 and therefore would fail against soundness test CE2.

6.17 Whilst the supporting text to draft Policy NE7 indicates that detailed boundaries for the AHLIs will be determined at the Local Policies Plans we note that broad areas are identified at Appendix 1 of EVB 6b. As per our comments in response to the proposed SCA within extent of the AONB we would refer to the Council to consider the need for an AHLI within the Sperrins AONB. Given that the Council's own data[16] shows that the area proposed as an AHLI is not under pressure from development, we consider this is not appropriate and is not supported by evidence. As such the designation would fail soundness test CE2.

6.18 The first part of draft Policy NE7 states:

"Proposals for development which would adversely affect or adversely change either the quality or character of the landscape, including its intrinsic nature conservation interest, within the Areas of High Landscape Importance will not normally be permitted."

6.19 Given that the justification and amplification text associated with draft Policy NE 7 clearly sets out that the intention for the designation is to protect landscapes and views, we do not believe that it is appropriate to include the wording *'intrinsic conservation interest'* within the policy wording. The protection of nature conservation is already a requirement for development within the AONB and there are other policies proposed within the dPS which provided adequate protection to protected habitats and species.

[16] EVB 6b –Appendix 1 & EVB 6b Map 1

7. Chapter 19 – Utilities Development

Draft Policy UT 3: Telecommunications & Connectivity, including Broadband

7.1 Draft Policy UT 3 is relevant in relation to proposals for wind energy development as they will require telecommunication masts, pylons and high structures. The opening text to draft Policy UT 3 states:

"Proposals for telecommunications masts, pylons and other high structures will be considered having regard to the potential for impact on landscape and visual amenity and should avoid areas of landscape sensitivity such as AONBs, Special Countryside Areas and Areas of High Landscape importance."

7.2 Furthermore, in relation to the development of infrastructure within the AONB, SCAs and AHLIs the draft policies requires:

"Proposals are accompanied by a Statement detailing how they have considered and mitigated for any potential landscape/visual amenity impact. Such Statements will need to provide a commensurate level of detail for proposals in areas of high landscape sensitivity such as the Sperrin AONB, Special Countryside Areas, Areas of High Landscape Importance or on the Natural and / or Historic Environment."

7.3 The draft policy also requires that the applicant demonstrates that consideration has been given to the sharing of existing masts or infrastructure. We note that this is not reflective of the prevailing policy contained with the SPPS and therefore conflicts with soundness test C3. Furthermore, in the case of proposals relating to renewable energy developments, the applicant will be reliant upon the utilities provider to determine what network capacity is available and to determine the route for network connections. It is therefore considered that this policy requirement could be not be met in any event and therefore fails soundness tests CE3 and CE2.

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