

Hannah Flynn

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Sent: 03 February 2022 17:14
To: Maura Fox
Cc: Proinsias McCaughey; Local Development Plan
Subject: DFI comments to DCSDC Proposed Changes Consultation - 03.02.22
Attachments: DCSDC DPS Proposed Changes Consultation Response Cover Letter.pdf; Dfi comments to DCSDC Proposed Changes Consultation FEB 2022.pdf; TPMU - DCSDC Schedule of Proposed Changes to DPS.pdf; Rivers - DCSDC Schedule of Proposed Changes to DPS.pdf; Roads - DCSDC Schedule of Proposed Changes to DPS.pdf; WDPD - DCSDC Schedule of Proposed Changes to DPS.pdf

Good afternoon Maura

Please see attached letter and Encls from Alistair Beggs, Director of Strategic Planning Directorate, Dfi for your attention.

Kind regards.

Fiona



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Introduction

1. The Department for Infrastructure would like to thank the Council for the opportunity to comment on proposed changes relating to the Derry City and Strabane District Council Local Development Plan 2032 draft Plan Strategy.
2. In addition to our original representation on the draft Plan Strategy (PS) in January 2020 and the repeat representation in relation to the re-consultation exercise in November 2020, and in keeping with its oversight role, the Department offers this representation in the interest of good practice and to assist the Council in minimising the risk of submitting an unsound Development Plan Document (DPD). In developing this response, the Department has looked for clear evidence that the tests set out in Development Plan Practice Note (DPPN) 06 'Soundness' have been addressed. All comments are offered without prejudice to the Minister's discretion to intervene later in the plan process or to the Independent Examination (IE) of the draft Plan Strategy.
3. We acknowledge the consideration the Council's Local Development Plan team have given to the Department's Development Plan Practice Note (DPPN) 10 'Submitting Development Plan Documents for Independent Examination', which was published in December 2019. This focuses on the key legislative requirements for the submission of a DPD by a council to the Department for it to cause an IE. DPPN 10 was written for councils to consider the period prior to the submission of a DPD to the Department to cause an IE. It provides guidance for councils while they are considering the issues raised in representations or in light of other changes that may have occurred, and provides a process to bring forward focussed changes (and in some cases minor changes), which would then be subject to public consultation prior to submission and IE.
4. If the Council is bringing forward minor changes only, they should be satisfied that these fall within the description provided in DPPN 10. It will be the remit of the Planning Appeals Commission (PAC) to consider if it is appropriate for these to be discussed at IE.

5. As with the publication of the Council's draft Plan Strategy, the Department would urge the Council to ensure that all the procedural requirements have been met, including Sustainability Appraisal (SA), Strategic Environmental Assessment (SEA), and Habitats Regulation Assessment (HRA). Responsibility for these matters rests with the Council. Furthermore, in undertaking a further consultation regarding changes to the draft PS, the Council should also be satisfied that paragraphs 4.9 and 6.10 of DPPN 10 have been considered in relation to the updating of supporting evidence for the changes.

COVID-19 Recovery and the Climate Emergency

6. In the period following the publication and original consultation of the Council's dPS, local, regional and global circumstances have been impacted by the COVID-19 pandemic. The pandemic has had a profound social and economic impact in Northern Ireland as it has elsewhere. While there remains some uncertainty in relation to the medium and long term implications, the immediate impacts upon the retail, hospitality and tourism sectors of our economy have been significant, and are well documented. Other impacts include a widespread increase in homeworking; greater use of telecommunications technology; a substantial reduction in commuter traffic and a corresponding increase in active travel, including walking and cycling.
7. The planning system has a key role to play in supporting sustainable economic recovery from these effects. The Local Development Plan in particular is an important document that aims to provide certainty for the public and developers, and will play a vital role in guiding investment decisions as part of a longer term recovery. The Chief Planner's Updates of March, May and December 2020 acknowledged this by stressing the importance of continuing to liaise with statutory consultees as well as continuing to undertake any necessary technical work in order to progress plans.
8. As set out above, some of the impacts of the pandemic have also created new ways of working and going about our daily lives. Some of these changes have been positive. For example, the reduction in commuting by private car and the corresponding increase in active travel can, if encouraged and maintained, contribute to tackling the Climate Emergency as part of an accelerated green recovery from the pandemic.

9. Therefore the impacts of the pandemic and the need to secure a green recovery serve to reiterate the importance of appropriate LDP policies and allocations that take account of the Strategic Planning Policy Statement (SPPS) and in particular the 5 Core Planning Principles that are fundamental to the achievement of sustainable development.

Ongoing Departmental Reviews

Review of Strategic Planning Policy on Renewables & Low Carbon Energy

10. The Council will be aware that on 21 April 2021 Minister Mallon announced her decision to review strategic planning policy for renewable & low carbon energy. The Department is committed to addressing the climate emergency and supporting the economy and a green recovery from this pandemic.

11. The aim of review is to ensure that the new policy is up to date, fit for purpose and furthers sustainable development in the long term public interest. The key challenge will be to facilitate appropriate renewable & low carbon energy development which is acceptable to our communities and also protects the environment.

12. A detailed policy development process will be required taking account of the Executive's Energy Strategy, the previous planning policy call for evidence, the independent consultant's report that the Department commissioned and wider research. An 'Issues Paper' was issued to targeted stakeholders on 15 December 2021 for a period of 8 weeks consultation, which will end on 11 February 2022. Anyone is welcome to respond and the responses received will help inform the way forward. A draft revised policy document for full public consultation will follow in due course this year.

Review of Strategic Planning Policy on Oil and Gas development, including development involving fracking

13. The Council will be aware that on the 27th September the Minister announced her decision to commence a review of strategic planning policy on oil and gas development. This will include consideration of unconventional hydrocarbon development (commonly referred to as fracking). The Department firmly believes that the planning system has a key role to play in helping to mitigate and adapt to climate change and protect our environment. It is important to ensure that the planning approach to this category of development remains appropriate in the context of the climate emergency and the Department's ambitions for a green recovery from the pandemic.
14. Previously permitted development rights for petroleum exploration were removed and this review is to ensure that the current planning policy approach on hydrocarbon development, as contained within the Strategic Planning Policy Statement, remains up-to-date, fit for purpose and has the support of local communities.
15. The review will follow established policy making best practice, and will involve background research and scoping work, which is ongoing, as well as engagement with a wide range of stakeholders. As this review is a priority for the Department, preparation for a public consultation draft revised policy document for publication is under consideration. It is essential to steer the policy in the right direction, informed by the evidence, which serves the long term public interest of communities across the North.
16. Preceding the outcome of the policy review, a planning 'Direction' has been issued requiring council planning authorities to notify the Department when they propose to grant planning permission for all types of conventional and unconventional petroleum development. The direction will allow the Department to maintain a close and careful watch over this controversial category of development. It will stop any such applications from being unilaterally approved by councils and gives the Department the opportunity to intervene and 'call in' an application, if and as appropriate.
17. The Minister is committed to ensuring that the Department, and the wider planning system, do everything possible to help address the climate emergency, protect our environment and enable a green recovery from the covid pandemic; and, that includes

providing clarity and consistency on how any future planning applications for petroleum development are to be determined, should any be submitted.

Dfl Comments in relation to proposed changes.

18. Please see comments set out below in relation to the Consultation on proposed changes. This was issued by the Council for an 8-week period between 9 December 2021 and 3 February 2022.
19. If the Council has made proposed changes in respect of either of the Department's representations, and the proposed change now satisfies the concerns raised, then no comment will be provided below. However, if the Department still has an issue in relation to a proposed change, additional comment will be provided, and/or reference to the respective representation will be included, and therefore should be read in conjunction with them.

PC09 - Growth Strategy

20. It is noted that the Council proposes to change the heading of Table 6 to read, 'Table 6: Overall Growth Strategy for District, as Proposed at LDP POP Stage'.
21. This proposal has been based on the representation submitted by Dfl, and seeks to clarify the table heading to avoid misunderstanding. However, with regard to Table 6, the Department's Strategic response to the LDP dPS outlined (para. 28) that '...the POP previously referred to 7-12k new homes although the reason for this revision is not immediately clear and clarification would be helpful'.
22. It still remains unclear why the Council amended the number of new homes from '7-12k' (in the POP) to '8-10k' (in the dPS). The proposed change to the title of Table 6 does not provide the clarification sought by the Department. Furthermore, the figure stated in the POP is different to that presented in Table 6 of the dPS.

PC50 - Policy ED 4 - Protection of Zoned and Established Economic Development Land and Uses – Re: Incompatible Uses

23. Proposed change appears to partially address the queries raised in the Department's representation. While the policy might facilitate development that is neither economic development, nor sui generis employment use, the additional wording has been proposed to emphasise that such proposals are an exception however the comments in the Department's original representation remain relevant.

PC52 - Policy ED 5 Small Scale Economic Development in the Countryside

24. Additional text to para. 9.33 is welcomed as this emphasises the requirement for the re-use (in the first instance) of an existing building. A number of paragraphs are proposed in the J&A relating to Category a, b and c proposals. These are of such significant detail that the Council should be satisfied that this does not amount to policy requirement rather than J&A.

PC54 - Designation HC 1 (Now Designation NC 1 - 'Designation NC 1: Proposed Hierarchy Network of Centres')

25. The Department notes that the Council has amended the designation to confirm that it outlines a network of centres rather than a hierarchy (which is set out in Policy RP 1), however no further changes have been made to the policy, which continues to consider District and Local Centres on the same tier as town centres. This suggests that the Council's approach is to consider a District and Local Centre site before those on the edge of a town centre. The Council should consider this in light of regional policy.

PC55 Policy RP 1 Town Centre First Re: Sequential Approach

26. The proposed changes have been noted however in light the SPPS para 6.281 the council should be satisfied that the sequential approach has been applied that any divergence from regional policy is supported with robust evidence

27. In relation to the proposed changes to provide additional context on 'Edge of Town Centre', the Department would refer to comments made in our previous representation

i.e. consideration of District and Local Centre sites before that of edge of town centre sites, which includes Derry City Centre.

PC57 - Policy RP 2 Derry Primary Retail Core (PRC) and City Centre Re: Demonstration of (un)availability of alternative sites

28. The requirement to demonstrate that there are no suitable sites available in the PRC and city centre is clearly set out. However, the degree of detail required to satisfy this requirement doesn't appear to be outlined. Does the Council intend to address this in SPG?

PC59 - Policy RP4 Other Towns and District Centres

29. The Department acknowledge the council's intention to address previous concerns, however as highlighted above, under comments on PC 54 & 55, concerns remain regarding the treatment of District centres, and the unintended consequences for town centres.

PC61 - Policy RP 5 Local Centres

30. Proposed change seeks to refer to additional Local Centres that may be proposed in the LDP at LPP stage. Rather than using the word 'proposed', there might be benefit in confirming that all Local Centres will be 'identified' at LPP stage.

PC77 - TAM 3 Access to Protected Routes

31. The Council states that it proposes to 'remove criteria c) from TAM 3' in response to the Department's representation to the dPS.

32. Whilst DfI queried the relevance of criterion (c) in the context of 'Other Protected Routes – Within Settlement Limits', there is also a criterion (c) associated with 'Other

Protected Routes – Outside Settlement Limits’. For clarity the Council should be clear about which criteria is being deleted.

PC100 - Policy TOU 5 Major Tourism Development in the Countryside – Exceptional Circumstances

33. The proposed change improves alignment with the SPPS in terms of ‘may be permitted’. However, the three criterion set out the exceptional circumstances where a development proposal may be permitted if ‘it can demonstrate’ stated requirements. For ease of reading there may be benefit in amending the wording of the three ‘exceptional circumstances’ to read ‘it demonstrates...’ rather than ‘it can demonstrate...’.

PC101 - Policy TOU 5 Major Tourism Development in the Countryside – Exceptional Circumstances

34. Proposed change may not provide the clarification sought. Whilst ‘District’ is presumed to refer to the Council area, the term ‘Region’ could still be interpreted as Northern Ireland or in relation to the North-West (which extends beyond the Council’s boundary).

PC120 - Policy AGR 3 (now ODC 4)

35. The detail of the proposed change is not immediately clear from the schedule. Is the Council's intention to have policy wording to read along the lines of ‘...use/re-use or conversion...’?

PC 209 - Policy RED 1 – All Renewable and Low Carbon Energy Development – General Criteria

36. Whilst some changes to this policy have been brought forward, the Department consider there are outstanding issues that have not been addressed, in particular to

Wind Energy policy provision. Previous comments made within the Department's representation to the draft PS are still applicable.

