

DERRY CITY AND STRABANE DISTRICT COUNCIL

LOCAL DEVELOPMENT PLAN (LDP) 2032



EVIDENCE BASE EVB 9

NATURAL ENVIRONMENT (Updated May 2017)

This Document is one in a series, which builds up to form the 'evidence base' that informs the preparation of the Local Development Plan (LDP).

It comprises initial Workshop Paper(s) on this Planning topic that were presented to Council Members during 2016 / 2017, which have been subject to Member discussion and input, before further discussion at the Planning Committee (LDP) and in turn feeding into the LDP Preferred Options Paper (POP) and then the Plan Strategy (PS) and eventually the Local Policies Plan (LPP) which together form the LDP.

Therefore, the afore-mentioned evidence base will be continually updated, to additionally include the latest information, input from public engagement, statutory consultees, stakeholder groups, Sustainability Appraisal and from other Departments within the Council, including Community Planning.

The Evidence Base is published as a 'supporting document' in accordance with Article 10(a) and 15(a) of the Planning (LDP) Regulations (NI) 2015



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Appendix 1 – Map 1 Derry City and Strabane District Environmental Designations

Paper 2:	Natural Environment and the Local Development Plan
Purpose of Workshop:	The purpose of this report is to advise Members on the following: an overview of the legislation / policy and how the natural environment designations should be considered in the LDP; a summary of the natural environment / heritage features in the District; then to consider how these can affect our LDP designations, zonings, proposals and policies. Members' input is invited.
Content:	<p>The paper provides information on:-</p> <ul style="list-style-type: none">(i) The legislative hierarchy in place to protect our rich natural environment;(ii) The natural environment designations within our Council area; and(iii) The scope of the Local Development Plan (LDP) for the future management, protection and enhancement of our natural environment.
Conclusion:	Councillors should note the contents of this paper in relation to our natural environment and provide input / feedback on how this aspect should contribute to our LDP.

1.0 Introduction to Paper

- 1.1** This Paper is one in a series, building up the ‘evidence base’ that will inform the preparation of the Local Development Plan (LDP). The LDP will have a new approach to protecting our environment and promoting appropriate development in line with the Community Plan, moving away from the reactive planning of the past, towards a more proactive approach.
- 1.2** The discussion and input from Council Members at Workshop 3 will then feed into a forthcoming ‘options’ Paper on these matters to the Planning Committee (LDP) - for decision, which will in turn feed into the LDP Preferred Options Paper (POP) which is due out in March 2017.
- 1.3** This Paper relates to our ‘natural environment’ and particularly to our designated areas – European, National and Local designations. Whilst there is obviously overlap, the related Paper 3 considers in greater detail the wider landscape characteristics of our District and Paper 4 focusses on the main European / national legislative requirement for Sustainability Appraisal and Strategic Environmental Assessment within the LDP process.
- 1.4** Therefore, this Paper mainly provides Members with an overview of the legislation and policy covering designated natural environment, summarises our natural environment features and considers how they can influence and be integrated into the designations, zonings, proposals and policies of the new LDP for our District.

2.0 Background

- 2.1** The richness of our natural environment, both in terms of landscape, natural environments and biodiversity across the Derry City and Strabane District is recognised in the significant number of international and regionally designated important sites. We are the custodians of our District and it is our responsibility to protect them for future generations.
- 2.2** At many levels, development can potentially adversely impact on our environment - both terrestrial and marine. Accordingly it is incumbent on all those involved in the planning process to ensure that any potential environmental impacts, whatever their scale, are identified to enable potential effects to be considered, avoided or mitigated for. To ensure that this process is done in a consistent, transparent, informed and proportionate manner, an environmental statutory framework of European Directives, national and regional legislation and policy has been developed. It is worth stressing that the relevant European environmental Directives and their associated processes are specialist areas of expertise with associated costs and risk of legal challenge if not undertaken correctly.
- 2.3** This Paper provides a background to this framework, its interrelationship and resulting commitments on the Development Plan and Development

Management process, the various legally required environmental assessments and appraisals; and finally outlines, these environmental obligations.

3.0 Natural environment Policy Context

3.1 The purpose of the planning system is to secure the orderly and consistent development of land with the objective of furthering sustainable development and improving well-being. Planning authorities should therefore simultaneously pursue economic and social priorities alongside the careful management of our natural environment.

3.2 In essence, the following statutory framework seeks to ensure that in future when preparing its Local Development Plan (LDP), the Council will take full account of the implications of proposed land use zonings, locations for development and settlement limits on natural environment features within or adjoining the plan area.

(a) European Legislation & International Conventions

3.3 The relevant European statutory framework is as follows:

- The Birds Directive - 1979 EC Directive on the Conservation of Wild Birds.
- Environmental Impact Assessment (EIA) Directive - 2014
- The Habitats Directive - 1992 EC Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora.
- Water Framework Directive – 2000
- Strategic Environmental Assessment (SEA) Directive 2001
- Marine Strategy Framework Directive - 2008

European Designations / International Conventions

3.4 The relevant European / International designated sites arising from the above legislation are as follows:

- European sites - Special Protection Areas (SPA's)
- European sites – Special Areas of Conservation (SAC's)
- Global networks – Ramsars

(b) National Legislation

3.5 The relevant UK and NI legislation for transposing EC Directives in relation to natural environment is as follows:

- The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (the 'Habitats Regulations') transpose the Birds Directive and the Habitats Directive into NI legislation

- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 apply the EIA Directive to the planning process in Northern Ireland (under review – there was a recent public consultation for 2014 amendments by DfI).
- The Water Environment (Water Framework Directive) Regulations (NI) 2003 transposes the Water Framework Directive.
- The Environmental Assessment of Plans and Programmes Regulations (NI) 2004 transpose the SEA Directive into NI legislation.
- The UK Marine Strategy Regulations 2010 transposes the Marine Strategy Framework Directive into UK legislation.

3.6 Other relevant UK and NI legislation is as follows:

- The Wildlife (NI) Order 1985
- Nature Conservation and Amenity Lands (NI) Order 1985
- Planning (NI) Order 1991 – Tree Preservation Orders
- Environment (NI) Order 2002 – for designating ASSI's
- The Wildlife and Natural Environment (NI) Act 2011
- UK Marine & Coastal Access Act 2009
- The Marine Act (Northern Ireland) 2013

(c) Regional Planning Policy

3.7 Regional Development Strategy 2035 (RDS): The RDS sets out the spatial strategy of the Executive. Regionally the guidance in the RDS includes to reduce our carbon footprint and facilitate mitigation and adaptation to climate change whilst improving air quality (RG9); to conserve, protect and, where possible, enhance our natural environment (RD11); and promote a more sustainable approach to the provision of water and sewerage services and flood risk management (RG12). Spatial Framework Guidance (SPG) 9 sets out the key concepts for the protection and enhancement of the quality of the setting of Londonderry City and the North West and its environmental assets.

3.8 PPS2 (2013) – Natural Heritage: This Policy Statement furthers the Executive's commitment to sustainable development and to conserving and where possible enhancing and restoring our natural heritage.

3.9 Strategic Planning Policy Statement (SPPS) (September 2015): Under the provisions of the SPPS, in the preparation of Local Development Plans (LDPs) and in the determination of planning applications, planning authorities should apply the precautionary principle when considering the impacts of a proposed development on national or international significant landscape or natural heritage resources.

(d) Current Area Plans

3.10 Derry Area Plan 2011: Chapter 4 contains the relevant text for the plan and its natural environment. The plan defines 'Areas of High Scenic Value' as well as 'Areas of Local Nature Conservation and Amenity Importance' at various

locations. Policies regarding landscape requirements and development adjacent to rivers and open water bodies are also contained.

- 3.11 Strabane Area Plan 1986-2001:** Section 19.0 contains relevant text for environmental protection and conservation. The SAP 1986-2001 states the conservation of the natural and man-made environments has been a major consideration in the formulation of all policies and proposals.

(e) Biodiversity Action Plan

- 3.12 Wildlife Action in Derry~Londonderry & Strabane 2008-2013 (Local Biodiversity Action Plan):** While not planning policy, this Council-supported publication highlights our area's wealth of plants, animals and important natural landscapes, many of which are threatened and need protection and seeks an integrated approach to their future management. It relates biodiversity to the landscape and seeks a holistic response to addressing the local threats to our wildlife through a Local Biodiversity Action Plan which follows the Northern Ireland Biodiversity Strategy. The document also stresses the importance of local biodiversity to health and the local economy.

4.0 Current Natural Heritage Designations in our District

- 4.1** Our Council area is one rich in natural and landscape heritage. Development at whatever scale has the potential to adversely impact on our environment. There is therefore a significant responsibility on all involved in the planning process to ensure that any potential environmental impacts, whatever their scale, are identified to enable effects to be considered, avoided or mitigated.
- 4.2** Planning will contribute to economic regeneration and regrowing our local economy will be the Council priority, though it cannot be at the expense of our natural environment. As the planning authority, we must pursue our economic and social priorities while simultaneously being aware of our legislative obligations in relation to our environmental assets.
- 4.3** This will require Council to take full account of all proposed land use zonings and potential developments on natural environment features:
- Within the LDP area.
 - In adjacent Member States; and
 - On our marine environment.

Proportionate weight will be accorded to designations and protected species dependent on the scale of the development proposed, within the context of no net loss of biodiversity.

Nature Conservation Designated Sites within our District

- 4.4** The following main designations are shown on the Appendix maps:
- 1 International (RAMSAR) site,
 - 6 European (SPA's / SAC's) designated sites,
 - 27 ASSI's,

- 3 National Nature Reserves,
- 4 Local Nature Reserves,
- 7 Areas of Local Nature Conservation and Amenity Importance (defined within the DAP2011)

See <https://www.daera-ni.gov.uk/topics/biodiversity-land-and-landscapes/protected-areas>

Landscape Character within our District

- 4.5** Our District's landscape provides a rich resource of productive agricultural land, settlements, sites for nature conservation and archaeological and historical features. It also provides for many recreational needs and has the potential to become an increasingly important tourist asset.
- 4.6** Landscapes of national importance have merited designations as Areas of Outstanding Natural Beauty (AONB). A significant part of the Sperrin AONB (re-designated / extended in 2008) lies within the District. The purpose of designation is to protect and conserve the scenic qualities of the area and promote their enjoyment. Within the Council area, the following landscapes are designated / defined:
- Sperrin AONB (part of)
 - Areas of High Scenic Value (AoHSV) at:
 - Both banks of the Foyle, north of the City;
 - Both banks of the Foyle, south of the City; and
 - Faughan Valley, south east of Drumahoe to Burntollet Bridge.
- 4.7** All of the NI landscape has been classified by the Northern Ireland Landscape Character Assessment (NILCA or ERM Study, 1999-2000). This uses accepted systematic methods of landscape character assessment. The NI landscape has been subdivided into 130 different landscape character areas, each with a distinctive character, based upon local patterns of geology, land form, land use, cultural and ecological features. (See Paper 3 for further details.)
- 4.8** The Northern Ireland Regional Landscape Character Assessment (NIRLCA) Report (see link below) and provides an evidence base which can be used by planners, developers and the public. The NIRLCA provides a strategic view of the landscape, which can be complemented by more detailed local studies in future. It aims to draw together information on people and place, and the combinations of nature, culture and perception which make each part of Northern Ireland unique. This report comprises 26 Regional LCA's covering all of NI. Whereas the former Derry and Strabane council areas would have contained (in part or in full) 18 LCA's, the new Council District now contains 5 (in part or in full) Regional LCA's.
<http://doeni.maps.arcgis.com/apps/MapJournal/index.html?appid=dee491ff43c0415fbb986f74c92f39a9>
- 4.9** Derry District includes parts of the Sperrin Mountains, the exposed moorland summits of Loughermore Hills, the deep wooded valleys of the River Faughan system and the lower reaches of the scenic River Foyle, where it flows into

Lough Foyle. Strabane District also includes parts of the Sperrin Mountains, Killeter Forest, Monegal Bog, Baronscourt, the deep wooded valleys of the Owenkillew River, Glenelly River, and the upper reaches of the scenic River Foyle. The district has the longest valley (Glenelly Valley) and largest coniferous woodland (Killeter Forest) in Northern Ireland.

Rivers

- 4.10** Derry District has 3 rivers that enter Lough Foyle – Foyle, Faughan and Muff. The Foyle and Faughan rivers are particularly significant, because they support Atlantic salmon, brown trout and sea trout. Part of the Foyle estuary and the whole of the Faughan estuary fall within the SPA, ASSI and RAMSAR designations of Lough Foyle. These estuaries and tidal rivers provide essential spawning sites for the following priority species shad, European smelt and lampreys. Also, the rivers provide an important habitat for otters, kingfishers and sand martins.
- 4.11** Strabane District has several rivers, which flow to the River Foyle. The River Foyle constitutes the focus of the Lower Foyle Catchment, as it flows from its confluence of rivers Mourne and Finn to Derry. Burn Dennet and Glenmornan rise in the Sperrins and flow west to the River Foyle. The River Finn rises in Co. Donegal and flows east to Strabane to join with the River Mourne. The River Mourne is a transitional river, constituting the middle section of the Foyle catchment, extending from its origins where the River Strule and River Derg meet near Ardstraw, to its confluence with the River Finn and the formation of the River Foyle at Strabane. The River Derg rises in the Killeter Uplands and flows to its confluence with the Strule River near Ardstraw. The River Strule is the upper main spine of the Foyle catchment, originating in Omagh, flowing north to its confluence with the River Derg. It is fed by two major tributaries, the Owenkillew River located east of Newtown Stewart and the Fairy Water, north west of Omagh. The Glenelly River originates in the Sperrin Mountains and flows to the Owenkillew River.
- 4.12** In addition to the designated sites, the other ‘ordinary’ land, urban and rural, is also very important to protect and enhance, for its own beauty and biodiversity. The LDP will therefore also consider all such land.

5.0 Statutory Framework and Interrelationship with the LDP

- 5.1** Combined with the comprehensive coverage of European Directives, is a legal requirement on any planning authority to ensure that plans, programmes and projects likely to have significant effects on the environment are made subject to an environmental assessment, prior to their approval or authorisation. Consultation with the public is a key feature of environmental assessment procedures. The level of environmental assessment is proportionate to the scale of the plan, programme or project proposed.

(a) Local Development Plan Obligations

- 5.2** The Planning Act (Northern Ireland) 2011 now places a statutory duty on those planning authorities producing a LDP to undertake a Sustainability Appraisal (SA). This incorporates the principles of sustainable development when preparing such plans and assesses not just the potential environmental impacts of the plan but any economic and social impacts as well. (See Paper 4 for further details.)
- 5.3** To assess the environmental implications, the SA will incorporate a Strategic Environmental Assessment (SEA). The objective of SEA is to provide for a high level of protection of the environment and to contribute to the integration of environmental consideration into the preparation and adoption of plans and programmes with a view to promoting sustainable development.
- 5.4** SEA must be carried out in conjunction with, and parallel to, the development of any plan and integrated with the plan process. Under the provisions of the SEA Directive and the Regulations, an Environmental Report is published with the draft plan and must be taken into account before the adoption of the LDP.
- 5.5** Under the provisions of the Habitats Regulations, plan-making authorities are required to undertake an Appropriate Assessment for any development plan (or development proposal) which either individually, or in combination with other plans or projects, is likely to significantly affect a European Site such as a SPA or SAC.
- 5.6** The purpose of an Appropriate Assessment is to assess the impacts of a land-use plan against the conservation objectives of a European site. The purpose of an appropriate assessment is to ascertain whether the plan is likely to adversely affect site integrity. Where significant negative effects are identified, alternative options should be examined to avoid any potentially damaging effects. This Appropriate Assessment will be prepared by SES on behalf of the Council.
- 5.7** The SPPS states that in plan-making councils should take full account of the implications of proposed land use zonings, locations for development and settlement limits on natural environment features and landscape character within or adjoining the plan area. Natural environment features and designated sites should be identified as part of the plan-making process. Where appropriate, policies should be brought forward for their protection and / or enhancement. LDPs should also identify and promote the design of ecological networks throughout the plan area which could help reduce the fragmentation and isolation of natural habitats through a strategic approach. It states that LDPs should seek to protect and integrate certain features of the natural environment when zoning sites for development through ‘key site requirements’. In addition LDPs should seek to identify and promote green and blue infrastructure where this will add value to the provision, enhancement and connection of open space and habitats in and around settlements.

(b) Marine Consideration

5.8 In recent years, legislation has been introduced to ensure that for the first time marine activities and resources within our marine waters are planned and managed in a coherent manner. The following three interlocking pieces of legislation have been introduced to help deliver the UK vision of having “clean, healthy, safe, productive and biologically diverse oceans and seas”:

- UK Marine and Coastal Access Act (MCAA) 2009
- UK Marine Strategy Regulations 2010
- The Marine Act (Northern Ireland) 2013

5.9 In addition, the UK Marine Policy Statement (MPS) 2011 is the framework for preparing Marine Plans and taking decisions affecting the marine environment. Of particular relevance, is the legislative requirement that all public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area to do so in accordance with the MPS unless relevant considerations indicate otherwise. Accordingly, in future, Council will not only have those legal implications in relation to terrestrial planning but also for marine matters as well.

6.0 Implications of Natural Environment for our LDP

6.1 In line with the Community Plan, the LDP allows a consideration of how we want our future natural environment to look, as we seek to positively promote appropriate development and the protection of our natural environment.

6.2 It is necessary to consider how to look after our natural environment assets and how such features can affect our LDP designations, zonings, proposals and policies. Members’ input is invited.

6.3 In preparing the LDP, the Council should take into account the implications of local policies and proposals on all features of natural environment and the implications of proposed land use zonings, locations for development and settlement limits on natural environment features within or adjoining the plan area. The LDP should identify the range of natural environment features within the Plan area and bring forward policies or proposals for their protection and conservation and enhancement. Positive measures to develop ‘blue and green infrastructure’ and enhance bio-diversity should be considered.

6.4 Where appropriate, the LDP will show for information the statutory designations as provided by Protected Sites branch of DAERA. These will be included on relevant maps and referred to in Key Site Requirements, development limits, zonings, designations, etc.

6.5 Members may also want to consider:

- Do you consider that the current statutory protection is adequate?
- Do you consider that the current planning policies are generally adequate?
- Do you consider natural environment designation as positive or negative?
- Are there are other areas that could be considered for local or national designation?
- Do we need to be more proactive in terms of Enforcement within our designated areas?
- How would additional rural housing, renewable energy proposals, etc. impact on our natural environment?
- Should we seeking more from developers in terms of local biodiversity - appropriate planting, green areas etc. as part of developments.

7.0 Conclusions / Feedback

7.1 The research findings contained in this paper together with Members views and advice from the relevant parties/consultees have informed the following options which have been taken forward and subjected to Sustainability Appraisal (SA) (incorporating Strategic Environmental Assessment (SEA)) as part of the Preferred Options Paper (POP) process.

7.2 In considering the options, **Option 1** is the ongoing protection of existing designated sites and protected species in line with SPPS. In addition to the previous option, **Options 2** proposes to designate new local designations, and preclude all development likely to adversely impact on such sites. **Option 3** proposes to protect only existing designations and species of designation and, where possible, allow for appropriate development.

	Option 1	Option 2	Option 3
A - Natural Environmental	Existing designated sites / protected species are identified / protected, with Policies as per SPPS. Other habitats, species or features of natural heritage importance will also be protected in line with the SPPS	In addition to Option 1, designate additional local designations and preclude inappropriate development likely to have significant adverse impacts on such sites	Protect only those currently designated sites / protected species and accommodate development in all other locations

7.3 In the absence of firm proposals from the relevant authorities, further feedback will be required to enable the LDP to be fully informed of future proposals which can subsequently be subjected to the SA/SEA.

Appendix 1

Map 1: Derry City and Strabane District Environmental Designations

