

Chloe Duddy

From: Catriona Blair <catriona.blair@turley.co.uk>
Sent: 27 January 2020 12:11
To: Local Development Plan
Cc: Angela Wiggam
Subject: Submission of representation to dPS - Heron Bros
Attachments: Heron DCSDC dPS Representations.pdf

Dear Sir/Madam

Please find attached representation to the draft Plan Strategy on behalf of Heron Bros.

We would be grateful if you could acknowledge receipt of this representation by return of e-mail.

Kind regards

Catriona

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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 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

First Name (Required)

Last Name (Required)

Email

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)

Last Name (Required)

Organisation / Group Address (if different from above)

Address (Required)

Town (Required)

Postcode (Required)

Email address (Required)

On completion, please proceed to Section F

Agent Contact Details

Title / First Name (Required)

Last Name (Required)

Organisation / Group Address (if different from above)

Address (Required)

Town (Required)

Postcode (Required)

Email address (Required)

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

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:

Growth Strategy, HOU1, HOU5, HOU6, HOU7, HOU25, Economic Development Areas & Draft ED4

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?
- 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

- C1. Did the Council take account of the Regional Development Strategy?
- C2. Did the Council take account of its Community Plan?
- C3. Did the Council take account of policy and guidance issued by the Department
- C4. Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?

Coherence and effectiveness tests

- 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.
- CE2. The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.
- 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.

N/A

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.

Derry City & Strabane District Council Draft Plan Strategy

Representations on behalf Heron Bros

January 2020

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Angela Wiggam

Client

Heron Bros

Our reference

HERB3001

January 2020

Executive Summary

1. This representation is submitted behalf of Heron Bros in response to consultation on the Derry City & Strabane District Council draft Plan Strategy (dPS).
2. We appreciate that this dPS Strategy is the first, Local Development Plan prepared by the Council and offer these comments as a 'critical friend' who is keen to see the smooth progression of the dPS Strategy from a consultation document to an adopted Plan Strategy.
3. The dPS is unsound as the legal compliance tests have not been met as we consider that there are weaknesses within the Council's Sustainability Appraisal (SA) and therefore 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.
Growth Strategy & Draft Policy HOU1	<p>There is a lack of evidence to support Council's Strategic Housing Allocation of 9,000 homes and confirmation that consideration has been given to other alternatives.</p> <p>The draft plan fails to demonstrate that it has been formulated on robust evidence having given consideration to alternatives and that the Plan period is realistic.</p> <p>The growth strategy and HOU 1 fail soundness test P1, C1, C4, CE1 and CE2.</p>	Section 3
Draft Policy HOU5	<p>There is no evidence is provided to robustly justify the thresholds as set out in draft policy and no evidence is provided to support the view that the policy would deliver sufficient affordable housing.</p> <p>The policy fails to confirm a strategic position on the provision of affordable housing which would provide assurances to private developers and housing associations on the requirements for affordable housing.</p> <p>The draft policy fails against soundness tests P2, P3, CE1, CE2, CE3 and CE4.</p>	Paragraphs 4.1 to 4.26
Draft Policy HOU6	<p>Elements of the policy duplicate the policy provisions outlined under HOU5 and there is a lack of evidence to support the policy as currently worded. There is also no information to</p>	Paragraphs 4.29 – 4.41

	demonstrate how other alternatives were considered. The draft policy fails against soundness tests CE1 and CE2.	
Draft Policy HOU 7	There is lack of evidence to support the policy. The policy fails soundness test CE2.	Paragraphs 4.42 -4.45
Draft Policy HOU25	The draft policy is overly restrictive of the provision of social housing adjacent to small settlements and villages and fails to take account of potential changes in the level of need or the deliverability of land within settlements. The draft policy fails against soundness test CE4.	Paragraphs 4.46 to 4.29
Economic Development Areas	This aspect of the dPS Strategy is unsound in that the allocations are not realistic or appropriate having considered the evidence presented. The draft policy fails against soundness test CE2.	Paragraphs 5.1 – 5.7
Draft ED 4	The draft policy fails to take account of current policy and the evidence which supports the dPS. The draft policy fails against soundness tests C3 and CE1.	Paragraphs 5.8 – 5.14

1. Introduction

- 1.1 Turley submits this representation on behalf of Heron Bros, and welcomes the opportunity to return comments on the Derry City & Strabane District Council draft Plan Strategy (dPS).
- 1.2 In line with Council's procedures, each representation is set out on a separate page within each of the Chapter headings with the policy clearly identified.
- 1.3 The structure of the submission is as follows:
 - **Chapter 2:** Provides an assessment of how the dPS Strategy addresses the legislative compliance tests;
 - **Chapter 3:** details our response to the Growth Strategy and Policy HOU 1;
 - **Chapter 4:** details our response to housing policies HOU 5 – 7; and
 - **Chapter 5:** details our response to Economic Development Areas and policy ED4.

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 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 flaws with the Council's Sustainability Assessment and identify them in this representation.

3. Growth Strategy for District & HOU 1 - Strategic Housing Allocation

- 3.1 The draft Plan Strategy (dPS) contains two key objectives relating to housing:
- *To achieve balanced growth across the District's settlement hierarchy. To grow and strengthen Derry City as the regional capital of the North West metropolitan, cross-border city region and also Strabane town as the linked main hub town. To direct appropriate developments to the local towns, villages and small settlements across the District as a focus for sustaining vibrant rural areas, including sustainable development in the countryside.*
 - *To provide for approximately 9,000 new, quality homes by 2032, in private and social housing, in a variety of formats designed to meet the needs of families, including single-parent families, small households, the elderly and disabled and single people, at sustainable locations accessible to community services, leisure and recreational facilities, for those people with and without a car. Housing schemes in Derry city, Strabane and the other settlements will require imaginative and innovative design, including mixed use schemes and mixed tenure, to ensure that they link into the existing urban fabric. Rural houses also need to be of quality design and siting, with a focus on sustainable development.*
- 3.1 Policy HOU1 Strategic Allocation seeks to deliver 9,000 new homes. This draft policy is unsound as the policy fails the tests of:
- CE1 and CE2 Coherence and Effectiveness
 - C1 and C4 Consistency
 - P1 Procedural
- 3.2 HOU1 fails to identify a sufficient number of new homes with the effect that the under-allocation could potentially undermine the dPS key housing objectives and the core principle of sustainable development by not promoting an appropriate number of new homes.
- 3.3 The dPS has failed to take account of the RDS insofar as its direction on the role and scale of growth envisaged for Derry and accordingly fails soundness test C1. The dPS also fails test C4 as insufficient information has been provided to explain why Council has departed from the growth ambitions detailed in the Community Plan. In preparing the overall housing number, consideration was given to other factors which influence housing growth and Council commissioned independent analysis undertaken by the University of Ulster. However, despite having considered other options, Council failed to provide a clear justification as to how it formulated its preferred option.
- 3.4 Notwithstanding the above, the plan fails to demonstrate that sufficient consideration has been given to the impact of the scale of affordable housing need on the overall strategic housing allocation and that plan *can* provide a range of housing types. Failure

to provide a justification and demonstrate that alternative options have been thoroughly tested results in the plan failing Coherence and Effectiveness Tests CE1 and 2.

- 3.5 The delays in having an operational Development Plan Document in place is of considerable concern. Based on current projections, it will be 2025/2026 until the Local Policies Plan (LLP) is adopted. At this point, the Plan will have 6 years remaining until the lifespan of the plan has lapsed. With this in mind, it we would suggest that the plan period should be extended in tandem with the earlier comments regarding the level of housing supply.

Plan Duration

- 3.6 We note the amended timetable for preparing the LDP dated July 2019. Observing the ongoing programme to adopt a new LDP for Derry and Strabane District we are increasingly concerned about whether the timetable is realistic and whether steps should be taken now to ensure this plan will have a sufficient remaining lifetime to deliver change and influence growth.
- 3.7 Based on the current programme, the dPS strategy will be adopted within 7 years of powers being devolved to the Council but only requires 1 year to adopt the draft Local Policies Plan (LPP), with the LPP adopted in the fourth quarter of 2023 / 2024.
- 3.8 Realistically, considering the programme/workload involved, the LPP is highly unlikely to be adopted until 2025/2026. In practice this means there will be only 6 years remaining in the life of the plan. Further to this the LDP timetable advises that there will be 5 and 10 year review, with public consultation, carried out for the LDP. Based on the Councils own timetable the likelihood is that these reviews will be reviewing a LDP that is nearing its expiry date.
- 3.9 These issues call into question the ability of the dPS to meaningfully influence growth, which if curtailed will result in the dPS failing to deliver on its objectives. Accordingly, the plans fails soundness tests:
- P1 (plan been prepared in accordance with the council's timetable);
 - CE1 (plan sets out a coherent strategy from which its policies and allocations logically flow); and
 - CE2 (the strategy, policies and allocations must be realistic and appropriate).
- 3.10 These soundness issues can be overcome by establishing a realistic and achievable timetable, adjusting projections for growth accordingly, establishing meaningful ambitions for growth and making a proportionate allocation for new homes.

The Council's Proposed Growth Strategy

- 3.11 We note that the dPS has been prepared within the context of the Council's Community Plan (the inclusive Strategic Growth Plan 2017- 2032). The key targets within this document are:

- Delivery of 9,000 new homes
- Increasing the population by 10,000 more people
- Creating 15,000 more jobs

- 3.12 In the justifying text the dPS confirms that reference has been made to the Strategic Growth Plan (SGP 2017-2032) for the District, which establishes the basis for an ambitious ‘planned growth’. It is noted in this context, however, that whilst the population and job targets are consistent, the 9,000 homes proposed to be provided for in the dPS falls short of the Growth Plans reference to the requirement for ‘10,000’ new homes over the same period¹.
- 3.13 The inconsistency in this specific key element of the Growth Strategy is not sufficiently explained or justified. We have concerns that the provision of 10,000 new homes will not support the ambition to deliver 15,000 new jobs. Irrespective of this, the Council must provide further robust justification to explain why the dPS (policy HOU 1) proposes that the Strategic Housing Allocation for the District is 9,000 new homes, as opposed to 10,000. Where this justification is not forthcoming it is not reasonable for the targeted level of housing to be reduced but the other targets to remain consistent. This represents an important point of soundness.
- 3.14 In considering this justification it is important for the Council to reflect on its own presentation of the evidence in Table 6 of the dPS. This is replicated below as Table 3.1. From this it is clear that whilst the ‘Growth Strategy’ is set out as a range, the job target represents the upper level of this range but the housing target is set at a mid-point. We would contend, that there is no evidential basis for ‘mixing and matching’ the selection of these aspects. Indeed in reality there are a number of shortcomings in the evidence which would strongly indicate that in reality the 10,000 homes associated with supporting 15,000 new jobs under-estimates the full impact of need pressures which would arise where the authority is successful in realising its economic ambition.

Table 3.1 Overall Growth Strategy for Derry City & Strabane District

Growth Strategy – Key Elements	Current Baseline, 2017	Current Projections – Modest Growth	LDP Growth Strategy – Planned Growth	Potential Growth – as a City Region
Population	150,000	149-150k	155-160k	160-170k
Jobs	55,800	+ 4k	+ 8-15k	+16-18k
Homes	61,000	+ 4.1k	+8-10k	+11-15k

Source: Replicated from Table 6 of the dPS (2019)

¹ Refer to paragraph 5.10, page 52 of dPS Strategy and Table 3.1

- 3.15 Finally, in reviewing Table 3.1 the final column is also considered to present an important context for the establishment of the growth strategy in the dPS. This column represents a recognition that *‘if the local economy really were to reach its full potential growth ambition, with full implementation of the SGP as well as favourable wider economic climate, with inward migration (which is considered to be very possible post-Brexit), significant levels of inward investment and exponential job growth, it could be anticipated that the District’s population could actually growth to 170,000, with 16 – 18,000 new jobs created and up to 15,000 new homes would be required to meet that growth.’²*
- 3.16 Irrespective of the extent to which a judgement is made as to whether it is reasonable to plan for this higher scenario or the more modest 15,000 job growth target, the Council’s acknowledgement that such a scenario *‘could be anticipated’* further undermines its decision to apply an unjustified reduction in the planned housing target.
- 3.17 This approach must be considered in the context of the specific test set in Development Plan Practice Note 6, which states:
- “The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base – CE2”*
- 3.18 Equally, Practice Note 5 confirms:
- “There should be a sufficient level of detail / technical evidence about the various options to enable a clear understanding of the different outcomes of options considered and how a Council’s preferred options are justified”*
- 3.19 Failure to have provided sufficient justification results in the plan being unsound as test CE2 cannot be met.

Headline Review of the Evidence Base

- 3.20 The Council’s commitment to updating important aspects of its evidence-base to seek to present a positive position with regards the provision of housing and job growth is strongly supported.
- 3.21 Specifically the Council’s publication of technical evidence which clearly identifies and challenges the limitations of the HGIs for the purpose of providing an appropriate basis from which to plan for a reasonable level of representative housing growth is acknowledged and welcomed³. This recognises the inherent limitation of these projections in so much that they are deliberately ‘policy neutral’ and do not therefore take any account of planned growth strategy or investment; principally the RDS the role of Derry within the RDS (policy SFG7).

² Local Development Plan (LDP) 2032 – DPS Strategy, paragraph 5.11

³ Senior Economist Derry City & Strabane District Council, Comments on Housing Growth Indicators 2016-based – publication by NISRA (October 2019)

- 3.22 In presenting an evidence-based justification to support a departure from the HGI's the evidence presented by the University of Ulster⁴ is also considered to provide, on balance, an important contribution to affirm the extent to which higher job growth will in turn result in a stronger migration into the area and therefore a level of population growth which departs from recent short-term trends.
- 3.23 Specifically in the context of the above evidence we agree:
- Full consideration must be given to the impact of planned investment and growth strategies. This includes the delivery of the Strategic Growth Plan, the announcement of a North West City Deal and the accompanying Inclusive Future Fund.
 - This investment will support at least 15,000 new jobs over the plan period.
 - A growing economy will lead to the population growing at a higher rate than that seen over recent years and therefore projected forward in the more recent NISRA population and household projections.
 - This in turn will lead to a greater need for new homes to accommodate a growing population.
- 3.24 Whilst the above points of principle are agreed, our review of the published evidence base reports, set in the context of the analysis and modelling prepared to inform our representations on the POP, leads us to identify a number of quite specific limitations in the approach followed. Cumulatively, it is considered that these suggest that there is a risk that the evidenced need for 10,000 homes being required to support the growth in population associated with 15,000 new jobs being accommodated under-estimates the true and full need for housing. Further details on this point are set out below and overleaf.

Translating population into household growth and therefore housing need

- 3.25 Whilst the University of Ulster Policy Centre (UUEPC) evidence based reports provide a detailed consideration of the relationship between employment growth and the associated changes to the population of Derry & Strabane there appears to be no real reflection or consideration on the methodology for the translation of population into households in these reports.
- 3.26 The Evidence Base Paper EVB5 'Growth Strategy' (December 2019) acknowledges following on from a summary of the evidence of job growth and population growth that: *'However, the target level of new home is the most contentious variable in the Growth Strategy'*⁵. However, despite the recognition of the importance of this aspect of the evidencing of need there is an absence of transparency as to the approach adopted to translate the projected growth of 10,000 people on the existing population into a level of household growth / housing need.

⁴ This includes two reports: EVB 5a 'Community Plan capital expenditure forecasting and analysis' (October 2016) and EVB 5b 'Review of the population forecasts for Derry City & Strabane District Council, 2017 – 2032' (October 2018)

⁵ EVB5 'Growth Strategy' page 15

- 3.27 To this extent, it is unclear as to which household formation data set has been applied; 2016-based household projections or an earlier dataset. The evidence base paper recognises that the official projections *'reflect that household size is falling'*, however it is unclear whether this assumption is based on historical trends or new data regarding demographic changes. There is an acknowledged wider concern that projections of household formation rates based on more recent trends mis-represent the future needs of younger households in particular, with evidence of historic rates of formation of these groups being constrained by a housing market which has failed to provide the homes needed for them to exercise choice.
- 3.28 It is widely accepted, for example in the equivalent English guidance for assessing housing needs that it is necessary to apply an 'affordability adjustment' to the household projections to recognise that *'household formation is constrained to the supply of available properties – new households cannot form if there is nowhere for them to live'*⁶. This was acknowledged in the context of clarification being provided by the Office of National Statistics (ONS), who produce the official household projections in England, to the Government in the context of a lowering of household growth in the most recent projections that: *'This is because the projections are based on recent actual numbers of households and are not adjusted to take account of where homes have been needed in recent years but have not been available. Therefore, if more homes are built, the increased availability of homes may result in more households forming. The opposite is also true – if fewer homes are built then fewer households are able to form'*⁷.
- 3.29 It is considered that the evidence base should be updated to provide clarification as to the extent to which the Council is confident that its projection of need takes adequate account of this issue, i.e. that adequate provision has been made to address hidden households. Where, as suspected, official projections around household formation have been used with no adjustment it is considered that this will under-estimate the true extent of housing need associated with the targeted population growth of 10,000 people.
- 3.30 The UUEPC evidence-based paper EVB5b is, as noted above, provides a detailed consideration of the relationship between population and employment growth in Derry & Strabane. The paper includes reference to the UUEPC local government forecast model, which it is noted is a 'top-down' model built from the UUEPC NI model. This model is demand-led with job growth linked through to alternative population forecasts where labour-force is brought in as required to accommodate an increase in employment opportunities.
- 3.31 The merits and robustness of this model is not questioned, however, the evidence-base does not provide a sufficient level of detail to understand the nature of assumptions in the model with regards labour-force behaviour changes around for example, changing economic activity rates, unemployment or commuting factors. Without this information it is challenging to understand the extent to which the model relies on job

⁶ PPG Reference ID: 2a-006-20190220

⁷ <https://blog.ons.gov.uk/2018/10/19/what-our-household-projections-really-show/> cited in the MHCLG 'Technical consultation on updates to national planning policy and guidance' (October 2018)

growth being supported through a use of the potential latent labour-force versus an in-migration of labour.

- 3.32 These represent important informing factors in understanding the extent to which the associated plan policies are sufficiently integrated to recognise potential changed assumptions around the travel patterns of the population and the nature and types of jobs which are to be accommodated through the provision of new employment land. Recognising the reliance placed on this aspect of the research in informing the selected housing provision figure it is considered reasonable for additional clarification to be provided to allow for a greater level of scrutiny to build further confidence in its robustness.
- 3.33 We welcome the additional research commissioned by Council, undertaken by the University of Ulster. However, key evidence underpinning this dPS has not shared as part of this consultation. Urban Capacity Assessments are only summarised and, despite a request for access to the data, we were advised that it is not available. This information is the starting point to any assessment of current land availability and hence informs any new allocation.
- 3.34 It is impossible therefore to meaningfully comment on this aspect of the Housing Growth and Spatial Strategies and we must reserve our position until the information becomes available.

Affordable Housing Need

- 3.35 The delivery of sustainable and mixed communities forms an important policy objective at a national and local level. In order to recognise these objectives, the scale of calculated affordable housing need must be adequately accommodated and planned for. Ensuring a sustainable balance of market and affordable properties is an important consideration.
- 3.36 The Evidence Base Paper EVB5 '*Growth Strategy*' (December 2019) includes reference to the fact that NIHE advise that almost 4,000 social houses will be required. Where it is assumed that these homes are required over the plan period it is of note that this would represent approximately 44% of the total housing target.
- 3.37 The Council has not provided evidence to confirm the extent to which such a proportion of provision will be able to be delivered viably whilst also supporting the creation of sustainable and mixed communities. Provision to accommodate a higher level of housing growth of 10,000 homes or indeed at the higher rates acknowledged as being potentially required (see Table 4.1) would offer the considerable benefit of being able to support a greater mix of tenures and assist in delivery where affordable homes are subsidised through market housing. It is noted in this regard that the SA, when considering the higher Option 3 in the POP, acknowledged that: '*This option should enable the widest range of new housing types, tenures and sizes to be delivered, leading to a significant positive impact on this objective over the long term.*⁸'

⁸ EVB5 '*Growth Strategy*' page 18

3.38 In this context, it is important to recognise as highlighted in our previous representations to the POP that the district has historically delivered levels of housing growth on an annual basis which are notably higher than the target now set in the dPS (600 per annum). Indeed over the period 1999 to 2013 the district saw an average net completion of around 1,400 homes per annum. This serves to reinforce the extent to which the setting of a higher housing requirement is both reasonable but also more likely to reflect the demand and need for housing across all tenures as required by draft plan policies HOU 5 and 6.

Recommendations

3.39 In reviewing the Growth Strategy the Council's positive approach to seek to provide for a higher level of job growth and housing provision than that suggested under the HGI's is strongly supported.

3.40 This recognises specifically the significant planned investment in the area and the consequences of the successful realisation of its Growth Plan.

3.41 Whilst the Council has evidently reinforced its evidence base since the publication of the POP on this aspect a number of concerns remain which suggest that the full need for housing required to support the planned level of job growth is under-estimated.

3.42 Proceeding to plan for only 9,000 homes is considered to contravene the outcomes of its own evidence-base and run the risk of constraining the delivery of its Growth Plan and the economic aspects of the Local Plan.

3.43 It is strongly recommended in this context that:

- The Council elevates its housing target to at least align with its own evidence base but also give greater consideration to the benefits of providing for a higher housing target. It is considered that our previous recommendation for the Council to provide for at least 12,000 homes remains relevant in the context of the sustained ambition of the Council and the points raised above; and
- In justifying its housing requirement the Council should provide additional information and/or evidence to specifically address the potential limitations identified above. This will ensure that greater confidence can be placed on the evidential base upon which it relies that the full need for housing is acknowledged and planned for.

4. Chapter 16 – Housing in Settlements and in the Countryside

Draft Policy HOU5 – Affordable Housing in Settlement

- 4.1 Draft Policy HOU5 relates specifically to the provision of affordable housing within defined settlement limits. At the outset, the policy sets out that “affordable housing should consist of social rented and/or intermediate housing”. Heron Bros welcomes the introduction of a policy to secure the provision of social and intermediate housing across the district. We also welcome the recognition within the dPS that the definition may change as new products emerge, however there are concerns regarding the evidence supporting the proposed approach and the practical implementation of the draft policy.
- 4.2 The draft policy can be considered in four elements:
- Affordable housing within settlements;
 - Affordable housing in rural villages and small settlements;
 - Alternative provision of affordable housing; and
 - Tenure blind

Affordable housing within settlements

- 4.3 As drafted, the policy states that:
- “Planning permission will be granted for a residential development scheme of, or including, 10 or more residential units; or on a site of 0.5ha or more, where a minimum of 10% of units are provided as affordable housing. Where there is an acute localised need as demonstrated by the NIHE, the proportion required may be uplifted on an individual site.*
- 4.4 In order to achieve balanced and mixed communities, all housing schemes will normally be expected to have no more than a maximum of 70% of either private or affordable houses and will be expected to provide a balanced tenure to reflect the proposed and existing mix in that area. Any exceptions to this will need to be specifically justified by the applicant.
- 4.5 The agreed ration of private to affordable housing will need to be implemented and maintained during the construction of the scheme
- 4.6 Where it can be demonstrated that there is no need and it is not sustainable or viable for a proposed development in the area to meet the requirements of this policy in full, the Council will consider a suitable proportion on a case-by-case basis.”
- 4.7 The draft policy has 3 key elements summarised below:

- Minimum 10% affordable housing requirement;
- No more than 70% of a development can be single tenure; and
- In areas of acute need the affordable housing requirement could be higher.

4.8 Having considered the draft policy and the Council's evidence base presented in EVB 16, we consider that the draft policy is unsound. Our detailed comments on the policy are provided below and summarised as follows:

- (i) No evidence is provided to support a 10% affordable housing requirement, particularly when considered against the NIHE proposal for a 25% requirement. Furthermore, no evidence is provided to support alternative thresholds for the provision of affordable housing;
- (ii) The policy is incoherent as it does not clearly set out what the affordable housing requirement will be for housing developments. Based on the draft wording a requirement of between 10% and 100% could be sought;
- (iii) The Council has provided no evidence to demonstrate that there is sufficient deliverable land supply within the district to accommodate the affordable housing requirement and indeed the Council's own evidence demonstrates that an affordable requirement of 10% could not be achieved on Council's land supply data; and

4.9 As such the draft Policy would conflict with soundness test P4, CE1, CE2, CE3, and CE4.

4.10 Our comments are considered in more detail below:

(i) No evidence to support proposed affordable housing requirement

4.11 Having reviewed the Council's evidence base on housing it is clear that no evidence is provided to robustly justify the thresholds as set out in draft policy. The SPPS sets out that:

4.12 *"The HNA/HMA undertaken by the Northern Ireland Housing Executive, or the relevant housing authority, will identify the range of specific housing needs, including social/affordable housing requirements."*

4.13 Firstly, we would point out that the HNA is not published as part of the evidence base in support of the dPS. Whilst it is referenced/summarised within EVB 16, the original document is not available as part of the consultation. Given the requirement set out in the SPPS this information should be available as part of the consultation on the dPS. Failure to make this evidence available is in conflict with the legislative test P4. The lack of availability of an important data source is also in conflict with soundness test CE2 as the Council cannot adequately demonstrate that the proposed policy has been founded on a robust evidence base. This information will be required in order to allow for a robust assessment to be undertaken by the Planning Appeals Commission (PAC).

4.14 EVB 16 reports that the Northern Ireland Housing Executive (NIHE) proposed a requirement for 25% provision in Derry City and 10% elsewhere. This suggestion from

NIHE does not appear to be founded on any evidenced assessment of need. This information may be available but is not presented as part of the Council's supporting evidence. At paragraph 4.60 of EVB16 it states:

"Whereas NIHE suggested a 25% threshold, over the life of the LDP period, it is considered that the proposed 10% requirement will still deliver and maintain an appropriate supply of affordable housing consistent with the future needs of the District."

- 4.15 This statement is not supported by any substantive evidence and therefore the draft policy would fail soundness test CE2.

(ii) The policy is incoherent

- 4.16 We have concerns about the ambiguity that this draft policy wording creates. Whilst the first part of the draft policy sets a requirement of a minimum of 10% for affordable housing provision, this second part of the draft policy introduces a minimum requirement of 30% affordable housing provision for private housing developments. This provides no assurance to the sector on the provision of affordable housing as there has been no assessment of what a 30% requirement would mean for the viability of developments. As such the draft policy would conflict with soundness tests CE2 and CE3. Furthermore there is no evidence provide to support the justification for a threshold of 70% and therefore the policy would fail soundness test CE2. In relation to tenure mix, we would direct the council to the approach set out in PPS 12 Planning Control Principle 4.
- 4.17 We would expect that the Council would have given consideration to the financial impact of the delivery of affordable housing on the delivery of development, particularly when considered alongside other developer contributions or requirements established within the dPS.
- 4.18 Furthermore, the draft policy wording would require developments for affordable housing to provide private market housing at 30%.The approach set out in the draft policy could jeopardise the delivery of social housing which is in acute need. As such the draft policy again would fail against soundness test CE3.
- 4.19 The policy also states that:
- "Where there is an acute localised need as demonstrated by the NIHE, the proportion required may be uplifted on an individual site."*
- 4.20 Without a clear position of the affordable housing requirement for the District there is no certainty to the development sector on the value that can be attributed to land or development proposals. This is crucial to the viability and delivery of development.
- 4.21 The draft policy is seeking to ensure that the ratio of affordable to market housing on a site is maintained during construction. It is presumed that this is to prevent one tenure of housing being provided without the other, to ensure mixed communities are created. We would however wish to reinforce to the council that social housing need is acute in parts of the District and it would be prudent to ensure that there is sufficient

flexibility within this element of the draft policy to ensure that the provision of social housing is not held back by other market factors. Equally, in relation to private housing development, the policy should be flexible enough to take account of construction financing and viability. This would ensure that the policy would not conflict with soundness test CE4.

(iii) No evidence that the proposed requirement would adequately address affordable housing need.

- 4.22 The Council has identified a housing requirement of 9,000 homes for the remaining plan period and a 10% requirement would generate 900 affordable homes. This is substantially lower than the remaining need for affordable housing in the District as calculated by the Council (3,750 social homes, and 528 intermediate homes). Based on these figures, the draft policy will fail to adequately address the issues around affordable housing provision. We would highlight that this issue was also raised by the Department for Communities (DfC) in response to the consultation on the Preferred Options Paper (POP). This response from the DfC is summarised in EVB 16 and has not been adequately considered (Appendix 3). As such the draft policy would fail against soundness tests P2 and CE2.
- 4.23 Within EVB 16 the Council has identified a new-build social housing need of 4,750 units within the district from 2017-2032 . The Council has also stated that approximately 4,400 social housing dwellings will be delivered through existing sites under construction or sites with planning permission and remaining zonings , yet no details are provided to explain or justify this statement. In the absence of robust evidence, it appears that Council is entirely dependent on existing sites to meet the identified need and no consideration has been given to alternative options to address this aspect.
- 4.24 As set out above, affordable housing also comprises intermediate housing and the Council's EVB 16 suggests an annual requirement in the District for 44 intermediate dwellings per annum. This results in a requirement for 528 intermediate units for the period up to 2032. Again the Council will need to demonstrate that there is sufficient land available for development to meet this need.
- 4.25 Applying a 10% affordable housing requirement as proposed by draft Policy HOU5 would mean that the Council should ensure there is a total housing supply remaining for at least 8,780 units as this policy requirement could only be applied to planning permissions moving forward. The Council's own evidence as presented in EVB 16 identifies a supply of 6,885 units on land which does not currently benefit from planning permission.
- 4.26 Taking account of the position that future affordable housing need can only be met through the application of the draft policy on future development proposals the supply position proposed by the Council falls short of what is required to ensure that the full affordable housing need is met within the plan period. The Council should carefully consider whether sufficient land is available to meet the housing need in the district and where necessary seek to identify land. Mindful of the policies set out in HOU 6 and 7, Council needs to be mindful that future housing sites should be encouraged to be mixed tenure.

- 4.27 The policy as drafted fails soundness test CE3 as there is no robust evidence that the dPS will deliver the required number of affordable units. The plan also fails to outline measures to be introduced should there be difficulties in delivering the 4,400 units Council contend can be provided on existing sites and accordingly fails soundness test CE2 as no consideration has been given to alternatives.

Affordable housing in rural villages and small settlements

- 4.28 In relation to affordable housing provision within villages and small settlements the draft policy states:

“the minimum viable number of affordable units will be 2 in a development of 10 units or more. Similarly, sites below the normal threshold of 10 units may also need to provide affordable housing if there is an identified need.”

- 4.29 We are concerned with the conflicting wording in this part of the draft policy. At the outset it suggests that 2 units will be viable on a development of 10 or more units. Firstly, this statement is not supported by any robust evidence and would therefore fail soundness test CE2. It would be expected that some viability evidence would be available to support this statement.

- 4.30 This part of the draft policy then goes on to state that affordable housing may be required on sites of less than 10 units, despite asserting that only two units are viable on a development of 10 units. If an affordable housing requirement is applied to a smaller scheme the councils own policy wording would suggest it is unviable. As such this policy is incoherent and could impact on the deliverability of sites and would therefore conflict with soundness tests CE1 and CE2.

Alternative provision of affordable housing

- 4.31 The draft policy recognises that there may be occasions where affordable housing cannot be provided on site, or at all. The draft policy states that:

“Where it can be demonstrated that there is no need and it is not sustainable or viable for a proposed development in the area to meet the requirements of this policy in full, the Council will consider a suitable proportion on a case-by-case basis.”

- 4.32 The justification and amplification text to draft Policy HOU5 goes on to state that:

“There may be cases, where due to the nature, scale or locations of the proposed development, on-site provision for affordable housing may not be necessary or desirable.

Off-site provision will only acceptable in exceptional circumstances. It will only be agreed where the approach contributes to the creation of mixed and balanced communities in the local area.”

- 4.33 Given that social housing is only provided on the basis of need identified by the NIHE, where NIHE does not identify a need there should be no obligation to provide social housing as part of an affordable housing requirement. It would not be feasible for a

housing association to deliver social housing in an area where no need is identified. Furthermore a developer may not have alternative land interests in an area of social housing need where they could deliver a social housing element of the affordable housing contribution. As such this would be overly onerous on developer and could restrict the deliverability of housing sites and the ability of the Council to ensure other affordable housing needs are met in the appropriate locations. As such the draft policy would fail against soundness test CE3.

- 4.34 In addition to the comment above, the provision of an off-site contribution would conflict with part two of the draft policy which seeks to ensure that no more than 70% of any housing development would comprise a single tenure. As such the draft policy fails soundness test CE2.

Tenure Blind

- 4.35 The final part of draft Policy HOU5 sets out that the provision of affordable housing should be tenure blind. The principle of tenure blind developments is welcomed however this approach should be suitable flexible to take account of other design and housing tenure policies contained within the dPS Strategy. It should also take account of design requirements associated with specialist housing products which may influence the external appearance of developments.

4.36 Recommendation

- 4.37 In order to ensure that the dPS can meet the soundness tests, we recommend that the Council:

- Makes available the original Housing Needs Assessment and Urban Capacity Assessment for consultation and for the PAC to inform their assessment of the Plan;
- Provides clarification on the justified affordable housing requirement for district; and
- Ensures there is sufficient land available for development and deliverable within the plan period which would be able to support the delivery of the relevant affordable housing requirement and if necessary identify additional lands through the expansion of settlement limits at the Plan Strategy stage.
- We would also recommend that the Council gives consideration to alternatives as required for the Sustainability Appraisal (SA). At present the SA does not identify any reasonable alternatives for consideration and therefore the draft policy would fail against soundness test P3.

- 4.38 It is our view that the draft policy wording should be revised to provide more clarity. We propose the following re-wording:

“Planning permission will be granted for residential development scheme of, or including, 10 or more residential units; or on a site of 0.5 ha or more, where 10% of units are provided as affordable housing.”

Affordable housing should consist of social rented housing and/or intermediate housing. In determining the appropriate mix of affordable housing in terms of size, type and tenure, regard will be had to NIHE's up-to-date analysis of demand, including housing stress and prevailing housing need.

The design and external appearance of affordable housing in the development should reflect the character of the area. These should be interspersed within the market housing so that they are not readily distinguishable in terms of external design, materials and finishes."

- 4.39 It would appear from the current wording of the draft Policy that the Council is seeking to ensure flexibility within the provision of affordable housing within the district to ensure that the need can be met. We consider that a clear requirement for the provision of affordable housing would be more appropriate. The Council will be able to closely monitor the provision of affordable housing under the requirement for Annual Monitoring Reports and if necessary can review or revise the policy after 5 years to reflect any changes in need.

Draft HOU 6 House Types, Size and Tenure

- 4.40 The dPS identifies draft policy HOU6 as being an operational policy that will help to achieve the SPPS objective of nurturing 'balanced communities'. The policy reads:

In order to achieve balanced and sustainable communities, planning permission will only be granted for new residential development of 10 or more units, or on sites of 0.1 hectare or more, where a mix of house types and sizes is provided.

The onus will be on the developer to demonstrate through robust evidence, the type and variety of housing required on a case-by-case basis, taking account of the specific characteristics of the development, the size and its context in that area.

An appropriate mix of house type, size and tenure is also required as per the Affordable Housing Policy HOU 5. For locations where apartment development of 10 or more units is considered acceptable, variety in the size of units will be required.

- 4.41 We note that the policy thresholds cited in the first paragraph make reference to.... 'where a mix of house types and sizes is provided'. While the policy title clearly identifies that the policy applies to tenure there is no mention to tenure in the first paragraph. The issue of an appropriate tenure mix is noted in the final paragraph with a cross reference to HOU 5.

- 4.42 The policy as currently drafted is incoherent and fails policy test CE1 as it is unclear how the policy applies to tenure. We recommend that the word 'tenure' is removed from the policy title and the issue of tenure is addressed under HOU5.

- 4.43 HOU6 sets out two threshold tests. The policy states:

that planning permission will be granted for new residential development on sites greater than 0.1 ha and /or containing 10 units or more where the proposed development provides a suitable mix of house types and sizes.

4.44 Evidence Base Paper 16 Housing in Settlements and the Countryside paragraph 4.87 states that,

“Members had suggested that the threshold was amended to 10 units, from the original policy (HS4) to make it easier to administer.....”

4.45 However, having reviewed, draft policy HOU6 and the relevant evidence base documents, we have not been able to find any evidence which would support either the continued use or deviation from the thresholds set out in policy HS4 of PPS12. As such, the draft policy would fail against soundness test CE2 as the alternatives considered were not founded on a robust evidence base.

4.46 Reference to the deviation may relate to paragraph 3.49 of ‘Evidence Base Paper 16 Housing in Settlements and the Countryside’ that states, “In addition to the formal consultation exercise, a series of ‘round table discussion’ (RTD) meetings were held in 2018/2019.” However, no details were provided within the dPS to explain the nature of these discussions.

4.47 In terms of the preferred housing mix, draft Policy HOU6 does not provide a detailed breakdown of what may be permitted but it states that “An appropriate mix of house type, size and tenure is also required as per the Affordable Housing Policy HOU 5.”

4.48 The ‘Justification and Amplification’ section of draft Policy HOU6 references the 2011 Census and provides the following rationale for this approach:

“The long term trend towards the formation of smaller and single person households has ensured that household growth has occurred across Northern Ireland.”

4.49 In addition to the above, Paragraph 16.62 of the DPS Strategy seeks to reinforce draft Policy HOU6’s approach by stating the following:

“By 2037, it is projected that small households will make up 59% of all households. Consequently, smaller size, new-build dwellings, across all tenures, will be required to meet future household needs.”

4.50 In relation to the delivery of a mix of house sizes and types, the draft policy states that,

“The onus will be on the developer to demonstrate through robust evidence, the type and variety of housing on a case-by-case basis taking account of the specific characteristics of the of the development, the size and its context in that area.”

4.51 This is perhaps an attempt to provide an appropriate degree of flexibility within the Plan to allow developments to respond to the local market context and need. Flexibility is essential to ensure innovation is not stifled; a product that the market wants is being provided; and development viability can be secured. However, having reviewed the supporting information, there is an absence of a robust evidence base to support this draft policy. We acknowledge that other Councils have pursued similar policies, however they have been supported by a bespoke evidence base which has critically examined household size and mix over the course of the plan period. No such information is provided.

- 4.52 In addition to the above, we can find no evidence that in formulating this draft policy that any consideration was given to viability or that Council has tested the viability implications arising from the policy. Accordingly, we find that the policy fails soundness test CE2 as the policy is not found on a robust evidence base or has consideration been given to relevant alternatives.

Draft HOU 7 Accessible Housing (Lifetime Homes and Wheelchair Standards)

- 4.53 HOU 7 requires all residential developments to comply with the Lifetime Homes standards as set out in the Department for Communities, Housing Association Guide. For proposals over 5 units, the policy has a further requirement that proposals must demonstrate how they propose to address wheelchair standards for 10% of the units.
- 4.54 While it is accepted that this standard is used by Housing Associations in the delivery of social housing projects, no consideration has been given to the impact of this policy on other housing developers and their associated housing products. From a review of the background evidence papers, there is a lack of substantive evidence to support this policy position or any consideration of the viability of a project, mindful that this policy needs to be considered in tandem with HOU 5 and 6.
- 4.55 The 2012 Building Control Regulations currently require that all buildings are accessible to visitors. The suggestion that a higher policy requirement is introduced as a planning policy jars with this position and it also fails to recognise that the policy needs to be flexible to respond to exceptions.
- 4.56 As currently worded, the policy fails soundness test CE2 as there is a lack of evidence to support the policy position and no evidence provided to demonstrate that viability has been considered, particularly when all residential proposals need to also address policies HOU 5 and 6. We recommend that this policy is deleted from the dPS Strategy.

Draft Policy HOU 25 Affordable Housing in the Countryside

- 4.57 Draft Policy HOU25 makes provision for the delivery of affordable housing developments within the countryside and this intention is welcomed and it general aligns with the provision of the existing planning policy CTY5 of PPS21.
- 4.58 We would raise concerns about the second part of the draft policy which states:
- “Within the Green Belt, planning permission will not be granted for a group of dwellings adjacent to or near to a village or small settlement to provide for affordable housing in the countryside.”*
- 4.59 It would be more flexible to make allowance for occasions where there is a need for social housing which cannot be met within the existing settlement limits as there may be occasion where need could increase beyond the currently predicted levels or sites within the settlement limit cannot be delivered. It is noted that the NIHE identifies social housing need in five year trenches and the plan period is 15 years. To allow for an exception in this case would ensure that the draft policy meets soundness test CE4.

5. Economic Development

5.1 The dPS Strategy identifies the following 5 no. tiers of 'Employment Opportunity Areas.

- Strategic Redevelopment Areas (SRAs)
- Special Economic Development Areas (SEDAs)
- General Economic Development Areas (GEDAs)
- New Economic Development Area (NEDA)
- Economic Development in Countryside

5.2 In relation to this designation, the dPS Strategy states,

*"Our economic land monitor and evidence base concludes that **we have more than sufficient land in terms of quantity**. Strategically it is important that as a Council area, we provide a range and choice of types of economic development land. The GEDAs provide different types of existing economic areas throughout the District, that allow us to meet the general economic needs of small to medium businesses as well as having the scope to meet the needs of uses such as storage and distribution, that normally require more land. The GEDAs are dispersed in such a way that they are capable of tackling disadvantage, but also are logistically capable of taking advantage of key infrastructure.*

***There is no strategic need to expand GEDAs through the LDP**; however it may be necessary at LPP stage to define the extent and purpose of individual GEDAs to ensure that we retain the most viable economic land, set out key site requirements where appropriate and ensure that future sustainable development is balanced in an environmentally sensitive manner that also takes account of the amenity of nearby uses."* (emphasis added by Turley)

5.3 In the context of there being more than sufficient employment land in terms of quantity and there being no strategic need for additional land, the dPS Strategy states that

"The scale, extent and location of all employment opportunity areas will be confirmed at the Local Policies Plan (LPP) Stage."

5.4 As such, the lands zoned by the extant Derry Area Plan 2011 (adopted **May 2000**) and Strabane Area Plan 1986-2001 (adopted **April 1991**) will retain their existing zonings until the Local Policies Plan is adopted (currently scheduled for Q4 2023).

5.5 The dPS Strategy proposes to carry these zonings in the new Local Development Plan for the Council area, with little to no consideration of the individual site assessments prepared to support the 'Economic Land Monitor 2017' (EVB 9A) or 'Economic Land Evaluation Report' (EVB 9B).

- 5.6 In its current form, we find the dPS Strategy to be unsound as the dPS fails Soundness Test CE2 in that the allocations are not realistic or appropriate having considered the evidence presented in 'Evidence Paper EVB 9 Economic Development' and explicitly referenced in the dPS Strategy.
- 5.7 To conclude, there is compelling evidence within the Evidence Base through the uptake of zoned lands within the Derry Area Plan 2011, which clearly demonstrates the significant lack of market interest in the zoned lands; and the anticipated future requirements for employment space within the Council area.

Draft ED 4 Protection of Zoned & Established Economic Development Land & Uses

- 5.8 The aspiration of Draft Policy ED4 is to protect lands zoned for or last used for economic development uses. Heron Bros have no objection to the intent of this policy. However, given the concerns raised at paragraphs 5.1 – 5.5 above that an oversupply of employment land exists, there is a concern that draft Policy ED4 does not provide the sufficient flexibility for alternative uses to be considered in advance of the adoption of the Local Policies Plan. As such, the Policy fails to meet Soundness test CE4 as it is not reasonably flexible to enable it to deal with changing circumstances.
- 5.9 In relation to zoned land, in Derry District 152.5 hectares of the 209.1 hectares zoned in the Derry Area Plan 2011 (adopted May 2000) remain undeveloped. The current wording of ED 4 states that alternative uses will only be permitted as an exception and *"where an essential need has been demonstrated.....the proposed use is a small scale complementary / ancillary use.....it meets other relevant planning policies.....and does not lead to a significant diminution in the industrial / employment resource..."*
- 5.10 This is a significant policy test to overcome but does not reference Council's own admission at page 49 paragraph 6.10 of Evidence Paper EVB 9 Economic Development that,
- ".....There is likely to be only a modest need for economic development land over the LDP period. All scenarios are indicating figures well below the identified amount of remaining land in both zoned and existing economic development lands."*
- 5.11 By seeking to retain the currently zoned lands and placing planning policy restrictions on their future redevelopment despite acknowledging that they are unlikely to be required during the Plan period, we contend that draft Policy ED 4 does not meet Soundness Test CE1 as it does not follow a coherent strategy from which the policies and allocations logically flow. This also applies to unzoned land although the draft Policy relating to it is potentially less restrictive.
- 5.12 In relation to 'Unzoned Land in Settlements', the draft Policy states that alternative uses may be permitted where *"the proposal is a specific mixed-use regeneration initiative which contains a significant element of economic development use and may also include residential or community use, and which will bring substantial community benefits that outweigh the loss of land for economic development use."*

- 5.13 This Policy requirement reflects the existing policy requirement of PPS 4 PED 7 rather than the equivalent policy test outlined at paragraph 6.89 of the Strategic Planning Policy Statement that states that *"councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use."*
- 5.14 Given the previously referenced findings from the Evidence Base, we contend that the draft Policy fails to meet Soundness test C3 as the Council has not taken account of the SPPS. The policy should be amended to reflect the language set out the SPPS.

Appendix 1: Submission to Preferred Options Paper

Representation

Derry City & Strabane District Council

August 2017

Turley Representation

1. Heron Bros welcomes this opportunity to respond to the Derry City & Strabane District Council Preferred Options Paper (POP). Heron Bros have significant interests within the Council area and have a portfolio of land and commercial property assets which comprise over 500,000 sq. ft. of commercial floorspace and in excess of 150 acres of land.
2. For ease of reference, this representation follows the same structure as the POP and Heron Bros would welcome the opportunity to discuss in more detail the points raised.

Table 1: Key Issues and Themes from POP

Page(s) No	Subject & Policy Ref	Remarks & Recommendation
Part 4 LDP Vision and Objectives		
32	Plan Objectives	Agree with Plan Vision and Objectives. Would suggest with respect to the objective relating to housing that the focus should be on the identification of <i>suitable sites</i> which can make a meaningful contribution in order to provide a diverse range of housing options
Part 6 Spatial Strategy		
55	Settlement Hierarchy Options	Agree with Option 3 - balanced growth approach which identifies

Derry City as the Regional City, Strabane Town as a main hub whilst providing opportunities within rural settlements and the countryside for modest growth

Part 7 Economy – Issues and Options

65 Land for economic development

Fully support Council's intention to re-evaluate all current economic zonings and rezone/zone new sustainably located sites which support Council's ambition of creating jobs and investment within the Council area. In assessing sites, we would suggest that a degree of care needs to be taken in analysing the take up rate of zoned land. While initial estimates point to a significant land holding of circa 160 hectares of zoned land yet to be developed, the question needs to be asked as to why these lands have not been developed

Any future assessment should identify and examine the root causes as to why the lands have not been developed and through engagement with the landowners it would be worth exploring whether there was ever any interest in developing the lands for an alternative use. This would help to provide a gauge as to the overall level of market interest and could provide a valuable piece of intelligence in demonstrating how the lands identified within the LDP meet the SPSS test of being '*suitable lands to meet economic development*'

We fully acknowledge that in assessing sites for retention and the identification of new economic development sites, Council will be considering the sustainability credentials of all sites. Whilst this is an important consideration, other factors need to be assessed including whether the lands are available for development – does the land owner want to develop the site and critically, if the lands were to be developed for economic development, would the development be viable? Viability is an important consideration and is of the uttermost importance to a developer. If a developer cannot make a reasonable

level of return; the proposal will not be pursued

Notwithstanding the above comments, the policy context for the assessment of economic development proposals set out in the PPS4 and the SPPS also should be reviewed – refer to comments under Part 10. Also, the future LDP should clearly identify where and the nature of any developer agreement which may be sought to assist in the delivery of an economic development site

Part 8 Social Development – Issues and Options

88

A - Strategic Housing
Distribution

Support option 3 for the distribution of housing development across the Council area. This response dove tails with our preferred option 3 to Part 6 (Settlement Hierarchy Options)

B – Housing Allocation Quantum

We support option 3, rather than option 2 as advocated by Council. Based on statistics contained in Evidence Base Paper 5 (EVB5), over half, if not more of the allocation identified in Option 2 will be used in meeting the social housing requirements for the Plan period. A key driver to creating and sustaining economic growth is the provision of a private housing market. Adopting a low level of future housing allocation severely limits the opportunities to support the private housing market which in turn impacts on overall economic growth

C – Location & Allocation of
Housing Land


We support option 3, rather than option 2. We strongly urge Council to critically assess unimplemented zonings, not just on the basis of sustainability but whether the lands are suitable, available, and viable for residential development. The same approach should be applied in the identification of new housing designations within the LDP. Included within Appendix 1 we identify two sites for consideration in meeting future housing land requirements

Part 10 – Review of Planning Policies

121 Economic Development

Endorse the approach to reassessing the policy criteria tests set out in PED7, PPS4 in order to provide a degree of flexibility

Appendix 1: Potential Derry Housing Sites

Appendix 1 – Site Promotion Lands, Derry City	
Site Reference	Commentary
Site 1	<p>Heron Bros promotes these lands which are located to the north of Beragh Hill Road and east of Lenamore Road, Derry. The site consists of 46.84 hectares and has the potential to yield a residential development of between 600 - 1,200 units; depending on density levels</p> <p>The lands are located outside the development limit of Derry City as identified within the Derry Area Plan 2011. By virtue of their location, the lands are unzoned. The inclusion of these lands or a portion of the overall site could provide a meaningful contribution to the overall housing allocation for the plan period. The site is within ownership of Heron Bros, and initial technical assessments have demonstrated that the site is capable of being developed</p> <p>The lands are currently in agricultural use with a number of clearly defined landscaped characteristics which could be incorporated into a future housing layout</p>
	<p>Aerial Image¹</p> 

¹ Aerial image sourced from Google Maps

Site 2

Heron Bros promotes these lands located on the south westerly part of Derry, off Glassagh Road and south of Ballymagown Gardens for residential development

The lands are located outside the development limit of Derry City as identified within the Derry Area Plan 2011. By virtue of their location, the lands are unzoned

There are no known constraints that would impact on the development potential of the lands, and two access points could be created to service the development – one from Glassagh Road, the second from Ballymagowan Gardens. The lands are relatively flat with a gentle gradient running from the Glassagh Road eastwards to the neighbouring lands at Brae Head Road

The immediate area to the north east is dominated by residential development together with local services and facilities – local shops, schools and medical facilities

The lands are located in an area of high social need, and the development of these lands could make a meaningful contribution to addressing the housing requirements set out in the LDP



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