



Derry City & Strabane
District Council

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DERRY CITY & STRABANE DISTRICT COUNCIL

LOCAL DEVELOPMENT PLAN (LDP) 2032



DRAFT PLAN STRATEGY

Evidence Base EVB 3: Policy Context, December 2019

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DERRY CITY AND STRABANE DISTRICT COUNCIL

LOCAL DEVELOPMENT PLAN (LDP) 2032



EVIDENCE BASE EVB 3

LDP CONTEXT

This document is one in a series, which comprises the evidence base that informs the preparation of the Derry City and Strabane District Local Development Plan (LDP 2032) Plan Strategy.

It builds upon the suite of thematic Topic Papers prepared and published alongside the LDP Preferred Options Paper (POP), which established the May 2017 baseline position and identified the key issues that need to be addressed by the LDP.

This Policy Context Evidence Base paper updates the baseline POP position and sets out the evidence base that has informed the strategy, designations and policy within the draft LDP Plan Strategy. Evidence has been informed by feedback from public consultation, discussion with Elected Members, input from statutory consultees, stakeholder groups, from other Departments within the Council, liaison with adjoining Councils and through iterative Sustainability Appraisal process.

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

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1.0 Introduction to Paper

- 1.1 This Paper provides a literature review of the key legislative, regulatory, policy and guidance context and requirements that have been taken into account when preparing the Local Development Plan (LDP) for the Derry City and Strabane District. As such, it sets out the necessary parameters within which LDP preparation must take place to ensure ‘soundness’ at the Independent Examination and legal compliance with all national / European Directives relevant to the iterative appraisals and assessments that must accompany the LDP.
- 1.2 It is within this context that the LDP aim, objectives and Plan Strategy (PS) has been developed and will be taken forward to inform the Local Policies Plan (LPP).
- 1.3 Any references to DOE, now relate to Department for Infrastructure (DfI) due to a restructuring of government departments, which came into effect on 9th May 2016.

2.0 Legislation for LDP Preparation

Planning Act (Northern Ireland) 2011

- 2.1 Under a remit of securing the orderly and consistent development of land and the planning of that development, the Act makes general provision for LDP's in Part 2 Section 3. Section 4 relates to the Statement of Community Involvement. Section 5 relates to Sustainable Development.
- 2.2 The following Sections of the Act define the documents that will constitute the development plan and the procedural tasks that will be required to timetable, examine, adopt and monitor the LDP.
- 2.3 Section 6 (2) defines that the development plan documents are the Plan Strategy and the Local Policies Plan and importantly, at (4) where, "in making any determination under the 2011 Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise." This provides for the 'plan-led' system that ensures that the LDP will be the primary consideration in the determination of planning applications for the development or use of land.
- 2.4 Section 7 provides for the preparation and ongoing review by the Council of the LDP Timetable. The Timetable is a public statement of the Council's programme for the production of the LDP. Section 8 provides for the preparation of a Plan Strategy (PS). The PS is the first stage of the two stage LDP. Section 9 provides for the preparation of a Local Policies Plan (LPP). The LPP is the second part of the LDP process. Section 10 provides for the Independent Examination (IE). The Department will appoint the Planning Appeals Commission (PAC) or other independent examiners to hold the IE at each stage to examine the soundness of the PS and the LPP.
- 2.5 Section 12 provides for the Adoption of the plan documents. The LPP must be consistent with the adopted PS and incorporate detailed site-specific proposals for the plan area. The PS must be adopted before the draft LPP is published for consultation, subjected to IE and adopted.
- 2.6 Sections 13, 14 and 21 provide for the review, revision (of the PS or LPP) and annual monitoring of the LDP. These processes are essential in establishing how the objectives in the LDP are being achieved and whether any changes are required. The Annual Monitoring Report must also be submitted to the DfI. The Council will also be required to undertake regular reviews of the LDP at least every 5 years from the date of adoption of the LDP and submit its findings to the Department.

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- 2.7 The final Section (22) in Part 2 of the 2011 Act makes provision for Regulations to further detail the procedures, requirements, nature and consideration of all aspects of the plan preparation, its public engagement and consultation and representation consideration, etc.

3.0 Regulations for LDP Preparation

The Planning (Local Development Plan) Regulations (NI) 2015

- 3.1 The Regulations came into operation on the 1st April 2015 and set out the legislative definition of exactly what is to be contained within the LDP and how the preparation process is to run from start to adoption and subsequent monitoring. The constituent parts of the Regulations are as follows:

Part 1 – General - Interpretation:

- 3.2 Part 1 (Regulation 2) details specific clarification on certain phrases used throughout the Regulations to avoid any possible misinterpretation.

Part 2 - Timetable:

- 3.3 Part 2 (Regulations 5 – 8) provide regulations on the preparation, content agreement and availability of the plan Timetable.
- 3.4 **Timetable Preparation** (Regulation 5) – it is a statutory requirement that the LDP must be prepared in accordance with the Timetable. Before Council can consult on its Preferred Options Paper (POP), it must have an agreed / approved Timetable in place in order to inform the general public and all stakeholders of the key dates of the LDP process from the initial stages of the POP through to preparation and adoption of the PS and the subsequent LPP.
- 3.5 **Timetable Content** (Regulation 6) - The Timetable should set out Council's programme for the production of its LDP. The LDP Regulations provide that the Timetable must include indicative dates from the commencement of the LDP process up to its conclusion at the adoption of the Local Policies Plan. It must set out the timings of the publication and public consultation for the Preferred Options Paper and the development plan documents as well as accompanying documents such as the Sustainability Appraisal (SA) including Strategic Environmental Assessment (SEA).
- 3.6 Council may also wish to include timings for the Habitats Regulations Assessment, and EQIA reports which will also be published alongside the

development plan documents. The Timetable should make the public aware of the plan preparation and public consultation programme well in advance of the events.

3.7 *Timetable Agreement* (Regulation 7)

Once the Timetable has been agreed by the DfI, the Council must comply with it when preparing all future documents in the LDP preparation process. Legislation requires a council to keep the Timetable under review to ensure that the preparation of the LDP is proceeding in accordance with it. Following any such review of the Timetable, adjustments that may be required must be set out clearly and an explanation provided. The revised Timetable must also be submitted to the DfI for agreement.

3.8 *Timetable Availability* (Regulation 8) - Following agreement of the Timetable, Regulation 8 requires the Council to make the agreed Timetable publicly available for inspection at its principal offices and other places within the district. Council must also give notice by local advertisement that the Timetable is available for inspection and the place and times at which it can be inspected. Council must also publish the Timetable on its website.

Part 3 – Preferred Options Paper (POP):

3.9 Part 3 of the LDP Regulations sets out the requirements for the preparation of the POP. Regulation 9 requires a council to engage with the consultation bodies for the purpose of generating alternative strategies and options and to take account of any comments received in the preparation of the POP. Regulation 10 and 11 set out the requirements in relation to availability and public consultation on the POP, respectively.

3.10 A council must prepare a POP to inform interested parties and individuals on the matters that may have a direct effect on the plan area and to set out possible options for development as well as a council's preferred option. The purpose of the POP is to set out:

- a series of options for dealing with key issues in the plan area;
- evidence to appraise the different issues and options; and
- a council's preferred options and its justification.

3.11 **Engagement with Consultation Bodies** (Regulation 9) - Regulation 9 requires the Council to engage with the consultation bodies for the purpose of generating alternative strategies and options. In preparing the POP, the council must also take account of any representations received from the consultation bodies. Regulation 2 lists the consultation bodies.

3.12 **Availability of the POP** (Regulation 10)

3.13 **Public Consultation on the POP** (Regulation 11).

Part 4 – Form and Content of a Development Plan Document (DPD):

3.14 Part 4 of the Regulations deals with the necessary procedural content that must be contained within the LDP document. Regulation 12 provides for the title of the document, the council district for which it is prepared and whether it is a PS or LPP.

3.15 Regulation 13 states that a DPD must contain a map or maps, known as the proposals map(s) and states that these should illustrate the LDP policies or proposals spatially.

3.16 Regulation 14 provides for additional matters that Council must take into account when preparing the LDP – namely the objectives of preventing major accidents and limiting the consequences of such accidents. This relates to the need to maintain appropriate distances between establishments covered by European Council Directive 96/82/ EC (the Seveso II Directive – The Control of Major Accident Hazards involving Dangerous Substances) and residential areas, buildings and areas of public use and major transport routes, etc. In 2012 Seveso-III (Directive 2012/18/EU) was adopted taking into account, amongst others, the changes in the Union legislation on the classification of chemicals and increased rights for citizens to access information and justice. It replaces the previous Seveso II directive.

Part 5 – Development Plan Document Procedure:

3.17 Part 5 provides for the procedural protocols that must be followed before the LDP is submitted by Council to DfI. This includes the necessary specifics required and set out by each of the following Regulations relevant to the various key stages:

- Regulation 15 – The Availability of a Development Plan Document.
- Regulation 16 – Public Consultation on a Development Plan Document.
- Regulation 17 – Availability of Representations on a Development Plan Document.
- Regulation 18 – Public Consultation on Site Specific Policy Representations.
- Regulation 19 - Availability of Representations on Site Specific Policy Representations.
- Regulation 20 – Submission of Documents for Independent Examination.
- Regulation 21 – Availability of Submission Documents.
- Regulation 22 – Publicity of the Independent Examination.
- Regulation 23 – Withdrawal of a Development Plan Document.
- Regulation 24 – Adoption of a Development Plan Document.

Part 6 – Annual Monitoring Report and Review of the LDP:

3.18 Regulations 25, 26 and 27 provide for the Annual Monitoring, Review and Availability of the Annual Monitoring Report and Review respectively.

3.19 Regulation 25 specifies the annual monitoring period must be for the 12 month period commencing 1st April each and ending on the 31st March the following year and that the report must contain specific information on houses built and housing and economic land supply. The Report must also specify if any LDP policy is not being implemented and the reasoning, the steps (if any) to be taken to address it and any intentions to revise the LDP to replace or amend it.

3.20 Regulation 26 provides for the review of the LDP every 5 years and for Council to provide the DfI with a report on the findings of the review.

- 3.21 Regulation 27 provides for the public advertisement and inspection protocols in relation to the publication of the Annual Monitoring Report.

Part 7 & 8 – Intervention by the Department and Joint Plans:

- 3.22 Part 7 (Regulations 28) provides for the DfI to intervene prior to adoption, if it thinks a development plan document is unsatisfactory, and direct the Council to modify it. Part 7 (Regulation 29) applies if the DfI thinks that the Council is failing or omitting to do anything it is necessary for it to do in connection with the preparation or revision of a development plan document.
- 3.23 Part 8 (Regulation 30 & 31) provides for the scenario should two or more Councils agree to prepare a joint PS or a joint PS and a joint LPP, or alternatively if the DfI directs councils to prepare joint plans.

4.0 Strategic Planning Policy Statement (SPPS) and the LDP

- 4.1 The SPPS (published in final form by the DOE (now DfI) in September 2015) explains the new Development Plan and Development Management system requirements and consolidates the existing suite of strategic subject planning policies into a single document. In addition, it also brings forward new strategic town centres and retailing planning policy.
- 4.2 The SPPS has a statutory basis. It was prepared under Article 3 of the Planning (Northern Ireland) Order 1991 which requires the DOE to formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development. The SPPS is a statement of DOE policy on how regionally important land use planning matters should be addressed across Northern Ireland.
- 4.3 The SPPS must be “taken into account” in the preparation of the LDP. It is also a material consideration in planning decisions. As a statement of the Environment Minister’s expectations of the planning system, it carries significant weight. However, the weight to be given to the SPPS and all other material considerations in any given case is a matter of planning judgement for the decision maker. The DOE considers where LDPs are in accordance with the provisions of the SPPS, their progression through the planning process should be timely and predictable.
- 4.4 The SPPS provides a new set of overarching core planning principles to underpin delivery of the planning reforms set out in the Planning Act (Northern Ireland) 2011. The core planning principles of the two-tier planning system are:
- Improving Health and Well-being
 - Creating and Enhancing Shared Space
 - Supporting Sustainable Economic Growth
 - Supporting Good Design and Positive Place-making
 - Preserving and Improving the Built and Natural Environment

Strategic Planning Policy Statement (SPSS) and LDP Guidance

- 4.5 Chapter 5 (pages 24-30) sets out the SPSS guidance in terms of LDP production following the transfer of responsibility of development plan production from DOE to Council. Guidance is provided under 8 main headings:
- Preparation;
 - Community Plans and Local Development Plans;
 - Efficiency;
 - Engagement and Transparency;
 - Soundness;
 - Sustainability;
 - Accountability;
 - Implementation, Monitoring and Review.
- 4.6 **Preparation** - the SPSS states that the Council must take account of the RDS 2035, the Sustainable Development Strategy for NI, the SPSS and any other policies or advice in guidance issued by the DOE. These could include Landscape Character Assessments and Conservation Area Design Guides.
- 4.7 **Community Plans and Local Development Plans** - Councils must ‘take account of’ their current Community Plan when preparing a LDP. A LDP will provide a spatial expression to the Community Plan, thereby linking public and private sector investment through the land use planning system.
- 4.8 **Efficiency** – Council must prepare (and keep under review) a Timetable for the preparation and adoption of their plans. This should indicate the programme for the production of key documents and the timelines for reaching key stages in the LDP process. Development Plan Documents will be published, made subject to public consultation and independent examination and adopted separately and in sequence. The statutory requirement to monitor the LDP on an annual and five yearly basis will ensure that the LDP is kept up to date and reflects and responds to emerging issues so that the plan process is genuinely plan-led.

- 4.9 **Engagement and Transparency** - Enhancing stakeholder engagement and transparency provides for more meaningful participation, better informed plan preparation which should mean fewer representations and greater likelihood of support as a plan progresses to adoption. Councils must publish a Statement of Community Involvement (SCI) as a statement of its policy for involving interested parties in the preparation and revision of a LDP. The reformed plan making system provides for the preparation of a ‘Preferred Options Paper’ in order to front-load community and stakeholder involvement. The POP should contain a series of options for dealing with key issues in the plan area, as well as the Council’s justification for its proposed approach.
- 4.10 **Soundness** - A key feature of the local development plan system is a requirement to test DPDs for ‘soundness’ by means of an independent examination. The tests of soundness include procedural, consistency, and coherence and effectiveness tests.
- 4.11 **Sustainability** - Councils must carry out a Sustainability Appraisal (SA, which will incorporate the Strategic Environmental Assessment) of LDPs to ensure that the Plan Strategy and Local Policies Plan are assessed against social and economic objectives, in addition to environmental considerations. This should ensure that all key objectives of sustainability (i.e. economic, social and environmental) are fully taken into account in assessing the effects of the Plan.
- 4.12 **Accountability** - Councils have the primary responsibility for the efficient and effective delivery of the LDP for which they are accountable.
- 4.13 **Implementation, Monitoring and Review** - Councils must keep under review the implementation of their plans and report annually to the Department on whether the objectives in the plan strategy or local policies plan are being achieved. A council may revise its plan strategy or local policies plan at any time (after adoption), or by direction by the Department. If a review identifies that changes are required then a revision to the plan should be made.
- 4.14 Better monitoring, together with more regular reviews of LDPs, will provide more flexibility and enable councils to adapt to changing circumstances.

SPSS and LDP account for Subject Planning Policies

- 4.15 The following topic areas provide the broad strategic planning policy framework that Council must ‘take into account’ in the preparation of the LDP.

Archaeology and Built Heritage

- 4.16 The aim of the SPPS is to manage change in positive ways so as to safeguard that which society regards as significant whilst facilitating development that will contribute to the ongoing preservation, conservation and enhancement of these assets.

Coastal Development

- 4.17 The aim of the SPPS is to protect the undeveloped coast from inappropriate development, consistent with the RDS; and to support the sensitive enhancement and regeneration of the developed coast largely within coastal settlements.
- 4.18 Of particular relevance to Councils, particularly those with an interface with the marine environment, will be the current legislative requirement (Section 58 Marine and Coastal Access Act) that all public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the Marine Policy Statement (MPS) unless relevant considerations indicate otherwise.

Control of Outdoor Advertisements

- 4.19 The regional strategic objectives are to:
- ensure that outdoor advertisements respect amenity and do not prejudice public safety, including road safety; and
 - help everyone involved in the display of outdoor advertisements contribute positively to the appearance of a well-cared for and attractive environment in our cities, towns, villages and the countryside.

Development in the Countryside

- 4.20 The aim of the SPPS is to manage development in a manner that strikes a balance between protection of the environment from inappropriate

development, while supporting and sustaining rural communities consistent with the RDS.

Economic Development, Industry & Commerce

- 4.21 The aim of the SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.

Flood Risk

- 4.22 The aim of the SPPS is to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.

Housing in Settlements

- 4.23 The regional strategic objectives, consistent with the RDS, are to:
- manage housing growth to achieve sustainable patterns of residential development;
 - support urban and rural renaissance; and
 - strengthen community cohesion.

Minerals

- 4.24 The regional strategic objectives are to:
- facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment;
 - minimise the impacts of minerals development on local communities, landscape quality, built and natural heritage, and the water environment; and
 - secure the sustainable and safe restoration, including the appropriate re-use of mineral sites, at the earliest opportunity.

Natural Heritage

- 4.25 The regional strategic objectives are to:
- protect, conserve, enhance and restore the abundance, quality, diversity and distinctiveness of the region's natural heritage;

- further sustainable development by ensuring that natural heritage and associated diversity is conserved and enhanced as an integral part of social, economic and environmental development;
- assist in meeting international (including European), national and local responsibilities and obligations in the protection and enhancement of the natural heritage;
- contribute to rural renewal and urban regeneration by ensuring developments take account of the role and value of natural heritage in supporting economic diversification and contributing to a high quality environment; and
- take actions to reduce our carbon footprint and facilitate adaptation to climate change.

Open Space, Sport and Outdoor Recreation

4.26 The regional strategic objectives are to:

- safeguard existing open space and sites identified for future such provision;
- ensure that areas of open space are provided as an integral part of new residential development and that appropriate arrangements are made for their management and maintenance in perpetuity;
- facilitate appropriate outdoor recreational activities in the countryside that do not negatively impact on the amenity of existing residents;
- ensure that new open space areas and sporting facilities are convenient and accessible for all sections of society, particularly children, older people and those with disabilities;
- achieve high standards of siting, design and landscaping for all new open space areas and sporting facilities; and
- ensure that the provision of new open space areas and sporting facilities is in keeping with the principles of environmental conservation and helps sustain and enhance biodiversity.

Renewable Energy

4.27 The aim of the SPPS is to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance.

Telecommunications and other utilities

- 4.28 The aim of the SPPS is to facilitate the development of such infrastructure in an efficient and effective manner whilst keeping the environmental impact to a minimum.

Tourism

- 4.29 The aim of the SPPS is to manage the provision of sustainable and high quality tourism developments in appropriate locations within the built and natural environment.

Town Centres and Retailing

- 4.30 The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS.

Transportation

- 4.31 The aim of the SPPS is to secure improved integration with land-use planning, consistent with the named documents; and to facilitate safe and efficient access, movement and parking.

Waste Management

- 4.32 The aim of the SPPS is to support wider government policy focused on the sustainable management of waste, and a move towards resource efficiency.

SPPS and the Suite of PPSs

- 4.33 The existing suite of Planning Policy Statements and the remaining provisions of 'A Planning Strategy for Rural Northern Ireland' will be cancelled when all eleven councils have adopted a new Plan Strategy for the whole of their council area. However, to ensure that there is continuity in planning policy for taking planning decisions whilst councils bring forward operational policies tailored to local circumstances within new LDPs, the following transitional arrangements shall apply.

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- 4.34 A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.
- 4.35 Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date.
- 4.36 Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.
- 4.37 The policy provisions of the following documents are retained:

PPSs retained under transitional arrangements:

| | | |
|--|--|---|
| PPS 2 Natural Heritage | PPS 3 – Access, Movement & Parking | PPS 3 Clarification |
| PPS 4 Planning & Economic Development | PPS 4 Clarification PED 7 | PPS 6 Planning, Archaeology and Built Heritage |
| PPS 6 Addendum ATC's | PPS 7 Quality Residential Environments | PPS 7 Addendum Residential Extensions & Alterations |
| PPS 7 Addendum Safeguarding Character of Established Residential Areas | PPS 8 Open Space, Sport and Outdoor Recreation | PPS 10 Telecommunications |

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| | | |
|--|---|---|
| PPS 11 Planning & Waste Management | PPS 12 Housing in Settlements | PPS 12 Policy HS 3 (Amended) |
| PPS 13 Transportation & Land Use | PPS 15 Planning & Flood Risk (under revision) | PPS 16 Tourism |
| PPS 17 Control of Outdoor Advertisements | PPS 18 Renewable Energy | PPS 21 Sustainable Development in the Countryside |
| PPS 23 Enabling Development for the Conservation of Significant Places | Relevant provisions of 'A Planning Strategy for Rural NI' | |

PPSs replaced by the SPPS:

| | |
|---|--------------------------------|
| PPS 1 General Principles | PPS 5 Retailing & Town Centres |
| PPS 9 The Enforcement of Planning Control | |

- 4.38 All Departmental Planning documents which will continue to be treated as material considerations during the transitional period (or as the case may be after the expiry of the transitional period) are listed on the Department's website. LDP Papers and Workshops have evaluated the above policies, as to their suitability for inclusion in the LDP Plan Strategy.

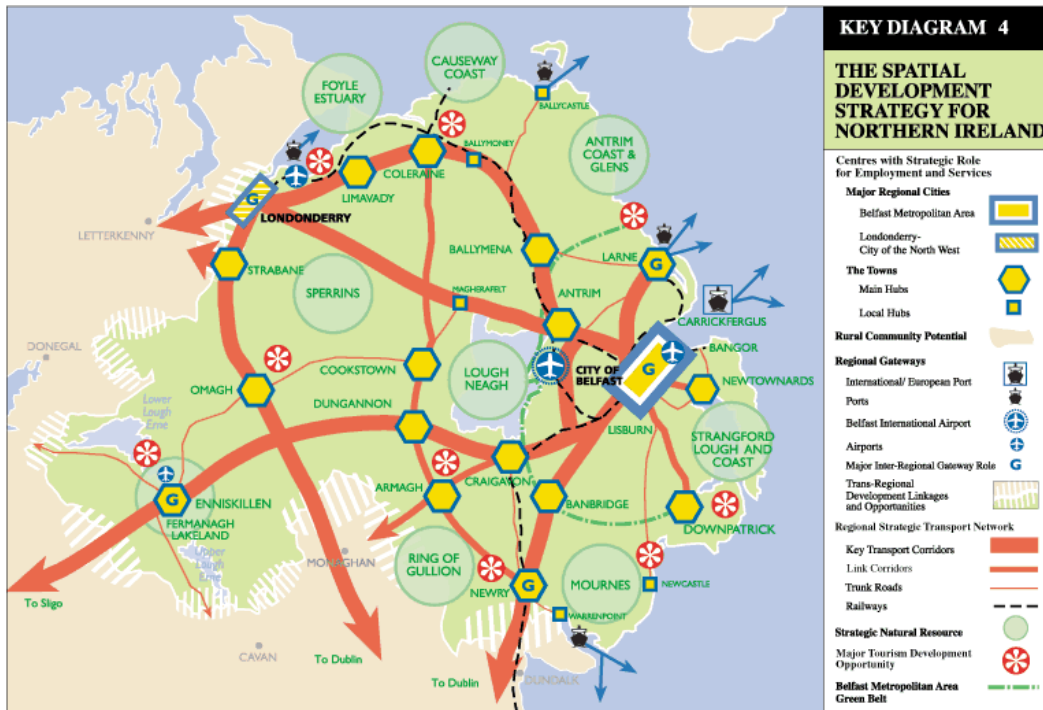
5.0 RDS, Council & Central Government Plans / Strategies and the LDP

RDS

- 5.1 The Regional Development Strategy (RDS 2035) offers a strategic and long-term perspective on the future development of Northern Ireland up to 2035. The RDS contains regional guidance to provide policy direction in relation to the economy, society and environment and spatial framework guidance tailored to each component of the spatial planning framework. It sets the context in which to make policy and development decisions in order to achieve sustainable development throughout the region.
- 5.2 Ensuring a Sustainable Transport Future (ESTF) – A New Approach to Regional Transportation complements the RDS and contains high level aims and strategic objectives. The LDP will be a fundamental tool in the implementation of the RDS and ESTF. Sections 8 and 9 of the 2011 Act (see paragraph 2.4 above) require the Council to ‘take account of’ the RDS and any policy or advice contained in guidance issued by the DfI.
- 5.3 The RDS seeks to strengthen economic and social cohesion by enhancing external linkages and internally by helping to foster patterns of development that will assist community cohesion. This means being outward looking by encouraging cross-border networks of economic co-operation and enterprise, developing a cohesive network of cross-border and trans-regional infrastructure and extending co-operation in the protection and management of the environment. The border around Derry / Londonderry and Strabane is identified as having opportunity to develop cross border transportation and co-operation.
- 5.4 The RDS Spatial Development Strategy (SDS) provides a framework for future physical development across NI based on urban HUBS and CLUSTERS, key and link transport CORRIDORS and the main regional GATEWAYS of ports and airports. In accommodating growth, the SDS aims to give strategic focus to future development and achieve balanced growth within the Region by developing:
- The key and link transport corridors and associated trunk road links.
 - A compact and dynamic metropolitan core centred on Belfast.
 - A strong North-west regional centre based on Londonderry.

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- A vibrant rural Northern Ireland with balanced development spread across a polycentric network of hubs and clusters based on the main towns that have a strategic role of employment and services for urban and rural communities.



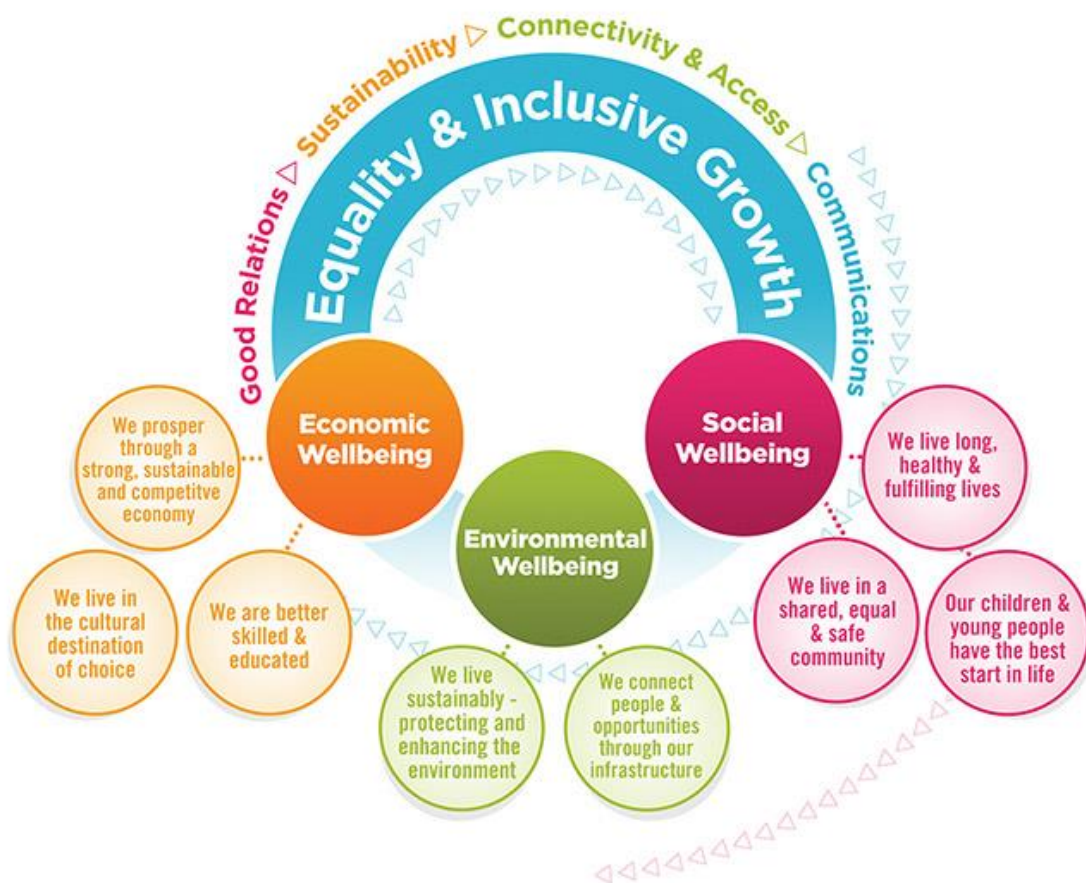
Linkage between LDP & Community Plan

- 5.5 The LDP system aims to move away from a narrow land use focus towards a ‘place shaping’ approach that incorporates a spatial analysis and visioning process. The new style of LDP provides a unique opportunity for the Council to genuinely shape the District for local communities and will enable them to adopt a joined up approach, incorporating linkages to other functions such as regeneration, local economic development and community planning.
- 5.6 The Local Government Act introduces a statutory link between the Strategic Growth Plan – our Community Plan (CP) and the LDP, in that the preparation of the LDP must ‘take account of’ the CP. It is intended that the LDP will be the spatial reflection of the CP and that the two should work in tandem towards the same vision for the Council area and our communities and set the long term social, economic and environmental objectives for the Council area.

5.7 Following an extensive process of engagement and consultation with citizens, organisations and businesses the Community Plan for Derry and Strabane – the Inclusive Strategic Growth Plan - is now complete. The final strategy incorporating the views of all those who have contributed has now been launched.

For further information on the Community Plan visit growderrystrabane.com

A full copy of the Plan can be downloaded [here](#)



LDP links with other Council Plans & Strategies and other Masterplans

5.8 As well as the CP, the LDP will be central to the articulation of Council's forthcoming plans and strategies, as well as considering / incorporating masterplans in which the Council is a lead partner, including:

- Corporate Plan
- Economic Strategy
- Biodiversity Action Plan

Other Masterplans

- The One Plan (Derry City)
- Strabane Masterplan (Strabane Town).
- Foyle Valley Gateway Masterplan (draft published 2012).
- Strategic Riverside Masterplan (draft published 2011).
- Ebrington Development Framework (approved Spring 2016)
- Fort George Masterplan

LDP links and other Central Government Strategies

5.9 There are a number of key central government plans and strategies that the Council must have regard to in the formulation of the LDP. These include:

- Section 75 of the Northern Ireland Act 1998, Equality of Opportunity;
- Everyone's Involved - Sustainable Development Strategy (May 2010);
- Northern Ireland Biodiversity Strategy (launched in 2015)
- The Marine Policy Statement (March 2011) and the Marine Plan for Northern Ireland when adopted;
- The revised Northern Ireland Waste Management Strategy "Delivering Resource Efficiency" (October 2013);
- Lifetime Opportunities – Government's Anti-Poverty and Social Inclusion Strategy for Northern Ireland (November 2006)
- The Rural Needs Act (NI) 2016 supersedes Thinking Rural - The Essential Guide to Rural Proofing (March 2011).
- Living Places – An Urban Stewardship and Design Guide for NI – published in (Sept 2014)
- A Planning Strategy for Rural Northern Ireland - (Rural Strategy) largely superseded by the various PPS's and the Sept 2015 SPPS.

6.0 European Assessments & Appraisals and other LDP Assessments

Sustainability Appraisal incorporating Strategic Environmental Assessment

- 6.1 Section 25 of the Northern Ireland (Miscellaneous Provisions) Act 2006 requires all Councils and NI Departments, in exercising their functions, to act in the way they consider best calculated to contribute to the achievement of sustainable development. Section 5 of the Planning Act (Northern Ireland) 2011 (the 2011 Act) copper-fastens this duty by requiring those who exercise any function in relation to LDPs to do so with the objective of furthering sustainable development.
- 6.2 Furthermore, Sections 8(6) and 9(7) of the 2011 Act requires an appraisal of sustainability to be carried out for the Plan Strategy and Local Policies Plan, respectively. As the Sustainability Appraisal (SA) for each of these development plan documents will incorporate an assessment of environmental effects, it must also comply with the requirements of the European Directive 2001/42/EC on the Assessment of Effects of Certain Plans and Programmes on the Environment (SEA Directive) The SEA Directive was transposed into Northern Ireland legislation through the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 (the EAPP (NI) Regulations).
- 6.3 The purpose of SA is to promote sustainable development through the integration of social, environmental and economic considerations into the preparation of plans and programmes such as LDP's. The main difference between SA and Strategic Environmental Assessment (SEA) is that SA is wider in scope as it will cover the social and economic effects of the LDP, as well as the more environmentally focused considerations of SEA as required by the SEA Directive. Similar to SEA, SA must be carried out from the outset and in parallel with the LDP preparation process. In doing so, it will help ensure that decisions that are made will help contribute to the achievement of sustainable development. Whilst the requirement to carry out a SA and SEA are distinct, it is possible to satisfy both these requirements through a combined appraisal process.
- 6.4 SA should help to improve the quality of the LDP making process by:

- raising awareness of the social, economic and environmental impacts of the plan;
 - facilitating the identification and assessment of reasonable alternatives for the plan;
 - demonstrating that the plan is the most appropriate given the reasonable alternatives;
 - providing transparency in the decision making process and facilitating public participation;
 - facilitating the effective monitoring of implementation of the plan.
- 6.5 It should be an integral part of the plan making process and perform a key role in providing a sound evidence base for the plan that will play an important part in demonstrating if a development plan document is ‘sound’.
- 6.6 The SEA Directive requires authorities with environmental responsibilities to be consulted at specific stages in the SEA process. Regulation 4 of the EAPP (NI) Regulations designates the DfI as the ‘consultation body’ and delivery of this function is led by The Northern Ireland Environment Agency (NIEA).
- 6.7 The Council will usually contact the consultation body at the following four stages during SEA: Screening; Scoping; Public consultation on the draft plan and accompanying Environmental Report; and the Decision to adopt.
- 6.8 The Council may also consult other bodies and / or the public depending upon the nature of the information required e.g. social and economic objectives / issues relating to SA. Council should therefore exercise judgement in relation to the level of consultation required to ensure that the SA framework used to appraise the LDP is sufficiently robust and justified.
- 6.9 The SA process should be fully integrated into the LDP making process. The SA should be started at the same time as the LDP and should inform each stage where decisions are taken. It should also be used for developing arrangements for monitoring the implementation of the plan, in order to identify problems and inform the review of the LDP.
- 6.10 The SA process involves the following key stages;

- **Stage A(1): SA Scoping Report** - preparation of the evidence base to inform the appraisal, establishing the SA framework / objectives for undertaking the appraisal and seeking agreement with Consultation Body;
- **Stage A(2): SA Interim Report:** consists of SA Scoping Report, assessment of reasonable alternatives against agreed SA framework and undertaking public consultation along with the Preferred Options Paper;
- **Stage B: Assessment of alternatives and any likely significant effects of the draft plan against SA framework**, taking into account the evidence base and where necessary, proposing mitigation measures for alleviating any adverse effects;
- **Stage C: SA Report** to document the appraisal process and findings;
- **Stage D: Consultation** with the public, environmental authorities and any EU member state affected on the sustainability appraisal report and draft plan;
- **Stage E: SA Statement** to show how the SA and opinions / consultations have been taken into account, the reasons for choosing the plan as adopted and the proposed measures to monitor the plan;
- **Stage F: Monitoring:** establishing arrangements to monitor the significant effects of the implementation of the plan, to identify unforeseen adverse effects and undertake appropriate remedial action.

Habitats Regulation Assessment

- 6.11 HRA is required by The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) which transpose the Birds and Habitat Directives into NI legislation. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are designated to afford protection to habitats and species listed in the Habitats and Birds Directives. These designations form a suite of sites which are collectively known as the Natura 2000 network. Within our Council area, we have:
- One international Ramsar site; and
 - 6 European (SPA's / SAC's) designated sites,
- 6.12 HRA aims to assess possible adverse effects on Natura 2000 sites as a result of the implementation of policies and proposals contained in the PS and LPP of the LDP. Where significant negative effects are identified, alternative options should be examined as part of the LDP preparation process to avoid any potentially damaging effects.
- 6.13 The process of HRA may be undertaken in parallel with SA. The Shared Environmental Services (SES) team has been set up and financed by DfI with

the 11 new District Councils to assist with the undertaking and overseeing of the HRA process. Whilst SES will undertake most of this HRA work on behalf of the Council, it is likely that there will be a certain amount of LDP input required to be undertaken by the LDP team as part of the HRA process.

Equality Impact Assessment

- 6.14 Section 75 of the Northern Ireland Act 1998, Equality of Opportunity places a statutory requirement on the Council to carry out their functions with due regard to the need to promote equality of opportunity and to promote good relations between persons of different religious belief, political opinion or racial group.
- 6.15 To ensure that the LDP is prepared in accordance with Section 75 statutory obligations, Council will have to undertake an Equality Impact Assessment (EQIA) to determine if there will be any potential impacts upon Section 75 groups as a result of the policies and proposals contained in the LDP. There will be a monitoring commitment as part of the EQIA to provide statistical evidence in terms of the LDP content and its potential impact on Section 75 groups.

Rural Proofing

- 6.16 Rural areas differ from urban areas due to their greater geographical isolation, population dispersal, longer distances from key services like health, education or leisure facilities and limited employment opportunities.
- 6.17 The Rural Needs Act (Northern Ireland) 2016 was approved in May 2016 and came into operation for departments and district councils in June 2017 and for the other public authorities in June 2018. The aim of the Rural Needs Act (NI) 2016 is to improve outcomes for rural dwellers by ensuring that the social and economic needs of people in rural areas are given due regard to by public authorities in their decision making processes and to increase transparency on how public authorities consider rural needs when undertaking their functions.

The Act places a duty on departments, local councils and the other public authorities listed in the Schedule to the Act to have due regard to the social and economic needs of people in rural areas in the development, implementation, revision and adoption of policies, strategies and plans and in

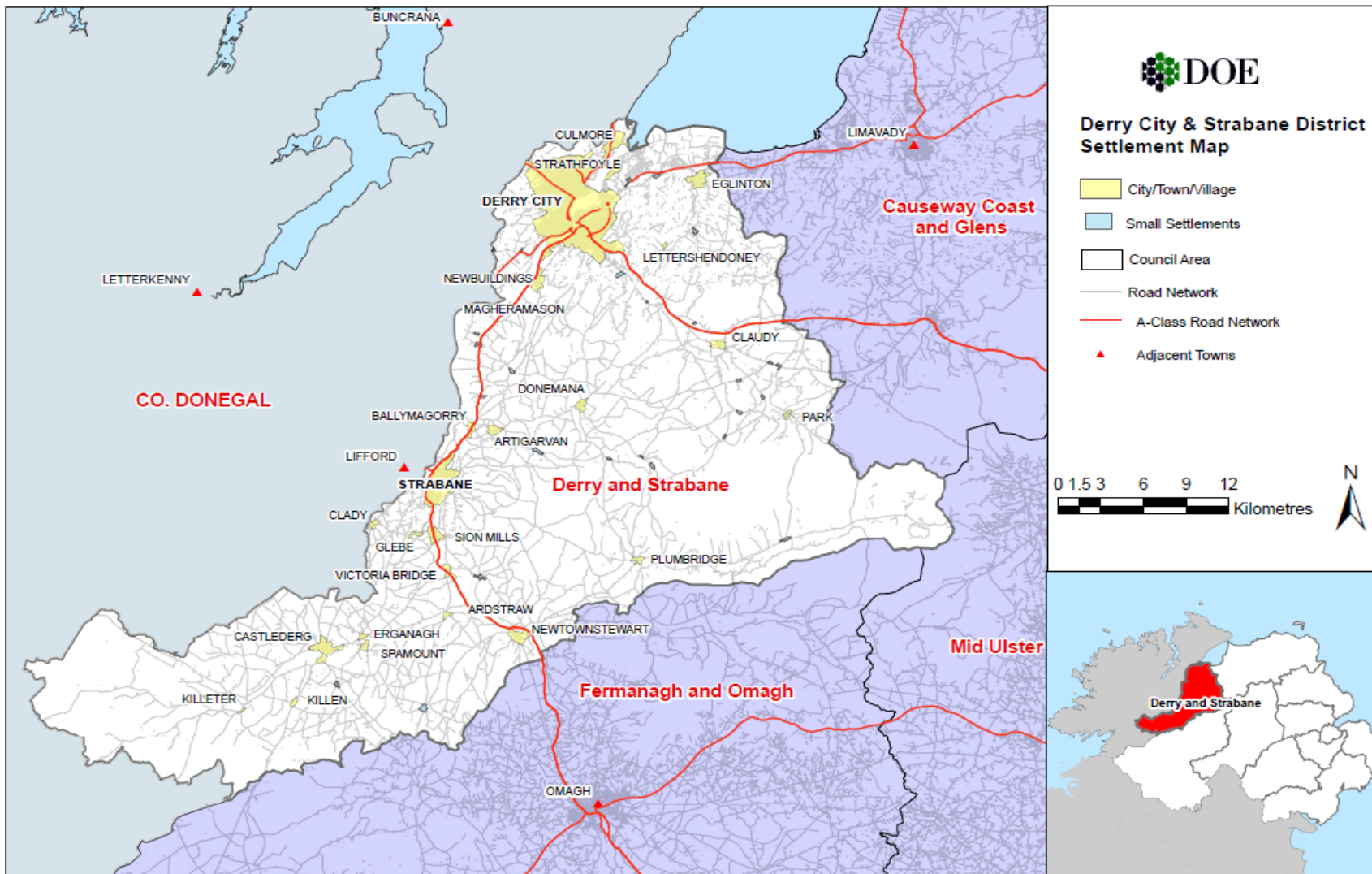
the design and delivery of public services. The Act also requires public authorities to compile information on how they have exercised the due regard duty and to send that information to DAERA and for DAERA to publish the information sent to it in an annual report and to lay the report before the Assembly.

The policy implemented by the Rural Needs Act (NI) 2016 differs from the Executive's previous policy on rural proofing in that the Act imposes a statutory obligation on public authorities to have due regard to rural needs rather than the non-statutory commitment to rural proof which departments were previously signed up to. The scope of the Act is also wider than the scope of the previous policy on rural proofing in that it applies to policies, strategies, plans and public services rather than just policies and strategies; it also applies to district councils and certain other public authorities rather than just government departments. The Rural Needs Act (NI) 2016 effectively superseded the Executive's previous policy on rural proofing and therefore DAERA no longer uses the term 'rural proofing'.

- 6.18 The Rural Needs Act (NI) 2016 will be used as part of the LDP policy making process to ensure fair and equitable treatment of rural communities and that a policy does not indirectly have a detrimental impact on rural dwellers and rural communities. Equitable means policies in the LDP should treat rural areas in a fair or reasonable way. This does not mean that rural areas should have an equal level of resources as urban, but rather that policies demonstrate proportionality to rural areas, taking into account their need and unique characteristics.

7.0 Conclusions & Recommendations

- 7.1 This Evidence Base paper sets out the significant legislative context in which the LDP must be prepared to ensure ‘soundness’ at the subsequent Independent Examinations. It also details the significant requirements of undertaking the required Sustainability Appraisal which incorporates a Strategic Environmental Assessment and the various social, economic and environmental issues and relationships with the larger North West region, that have been considered when developing a fit for purpose LDP PS. The successful integration of these into the LDP will assist in the future regeneration and sustainability of our Council District and assist it to develop the critical mass necessary to play its pivotal role in the North West region.



APPENDIX 1