
From:
Sent: 06 November 2020 15:03
To: Local Development Plan; Planning
Cc:
Subject: Representations to Derry City and Strabane District Council's dPS
Attachments: LDP Submission Version _Springtown Road_compressed.pdf; LDP Submission Version -Magowan Park-High Park Creggan_compressed.pdf

Follow Up Flag: Follow up
Flag Status: Completed

FAO LOCAL DEVELOPMENT PLAN TEAM

Dear Sir/Madam,

RE: REPRESENTATIONS TO DERRY CITY AND STRABANE DISTRICT COUNCIL'S DRAFT PLAN STRATEGY

I refer to the above matter.

Please see attached our representations in relation to same, on behalf of our clients.

I trust this is satisfactory, however please do not hesitate to contact our office if you require anything further.

Please confirm receipt of this submission.

Kind Regards,

Town Planner
MKA Planning Ltd

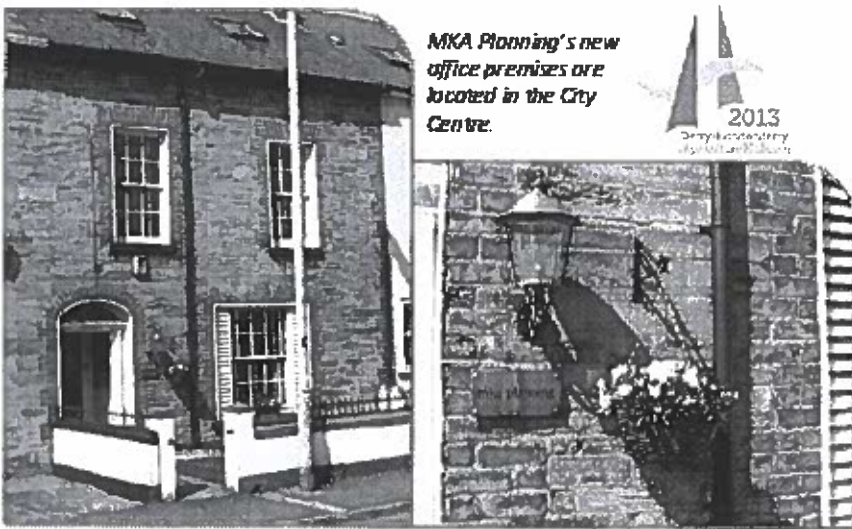


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 Before you print think about the ENVIRONMENT

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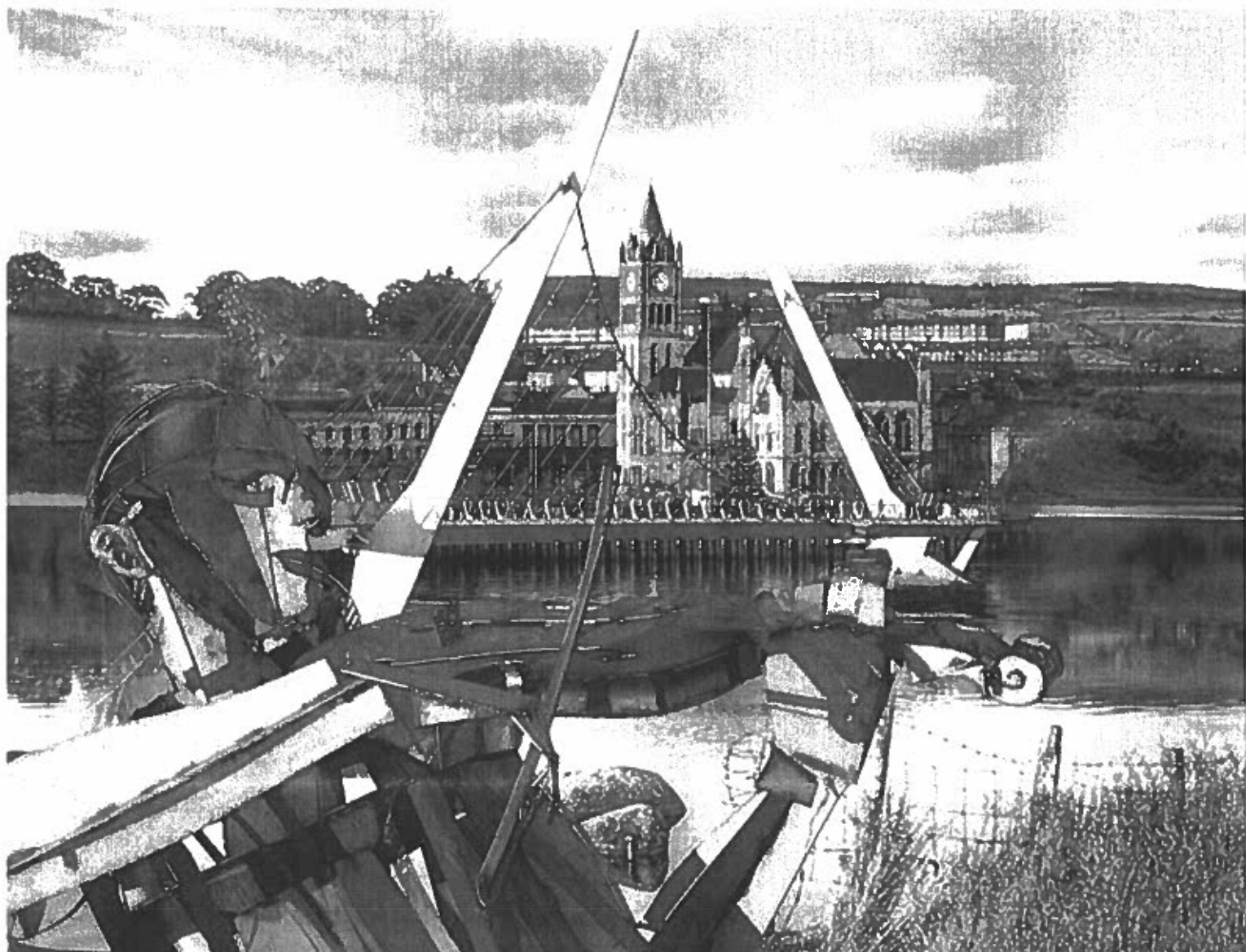


Derry City & Strabane District Council

Local Development Plan

(LDP) 2032

**Representations Form for the Re-Consultation of the LDP
Draft Plan Strategy & Associated Appraisal / Assessments**



September 2020

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

Re-Consultation on LDP Draft Plan Strategy

The Council's LDP draft Plan Strategy was already published in December 2019, followed by a consultation period which ended in January 2020. However, a procedural error has been identified so this further consultation period is now being undertaken. Any additional or revised representations may now be submitted during this re-consultation period.

If you did not make a Representation to the draft Plan Strategy during the previous consultation period and now wish to do so, please use this form to make your Representation. Similarly, you can use this form to provide any additional or revised information to a previously made Representation or to indicate that you do not wish to add any further information to your previously submitted Representation.

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

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 **11th September 2020** and closing on **6th November 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.

Availability of Documents

The LDP draft Plan Strategy and supporting documents, including the Sustainability Appraisal Report (incorporating the Strategic Environmental Assessment), the Habitats Regulation Assessment, Rural Needs Impact Assessment and the Equality Impact Assessment, are all available to view online www.derrystrabane.com/ldp

From Friday 11th September to 6th November 2020, between the hours of 9am-5pm (Monday to Friday), all documents will also be available for inspection, by appointment only, at the Council's offices at 98 Strand Rd, Derry BT48 7NN, or at 47 Derry Rd, Strabane BT82 8DU. In order to arrange an appointment to view the documents, or if you have any queries on accessing the documentation, the Planning Office can be contacted on 028 71 253 253 or ldp@derrystrabane.com

The dPS document will also be available at the Council Leisure Centres and Public Libraries that are open in the District, due to COVID 19 restrictions, from 11th September 2020.

Please note that, due to the current COVID 19 circumstances, there will be no further public meetings or drop-in sessions with this re-consultation. Instead, during the re-consultation period, an appointment may be made to speak to or meet / virtual meeting with a Planning Officer by contacting us at the email / telephone number above, where you can ask questions in the same manner as you would at a public meeting or drop-in.

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

Q4. Tick whichever is applicable:

- I /we wish to carry forward my previously submitted representation without adding anything further (Insert Rep Number if known)
- I / we do wish to provide additional / revised information to my / our previously submitted Representation (insert Rep Number if known)
- I / we did not submit a representation during the previous consultation period (December 2019 – January 2020) and now wish to submit a Representation during this Re-Consultation period.

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) **Porthall Enterprises Ltd**

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) **MKA Planning Ltd**

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.

Please see attached submission.

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:

Please see attached submission.

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

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)

Please see attached submission.

(and/ or) Relevant Policy number(s)

Please see attached submission.

(and/or) Relevant Paragraph number(s)

Please see attached submission.

(and/or) District Proposals Map

Please see attached submission.

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.

Please see attached submission.

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.

Please see attached submission.

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.

Please see attached submission.

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.

1.0 Introduction.

1.1 This representation is submitted on behalf of a group of concerned landowners in response to the Council's further public consultation on the Derry City and Strabane District Council's (DCSDC) draft Plan Strategy (dPS).

1.2 This representation highlights how some draft policies of the dPS are not "sound".

1.3 This representation also sets out how dPS policies can be revised to make them "sound."

Legislative Requirements.

1.4 In preparing the Draft Plan Strategy DCSDC is required to adhere to the provisions of the Planning Act (NI) 2011 and the Planning (Local Development Plan) Regulations (NI) 2015.

1.5 DCSDC must also have regard to the Development Plan Practice Notes (DPPN) which are designed to guide users through the key requirements for the Plan Strategy, the soundness of local development plans and the submission of a development plan document. DPPN's set out procedures as well as good practice for Council to comply with in preparing new development plans. The key DPPN's for Councils preparing new development plans at this stage are:

- DPPN 6 - Soundness
- DPPN 7 – The Plan Strategy

1.6 Councils are expected to follow this planning legislation and take account of this guidance in their preparation and adoption of new local development plans.

The Planning Act (NI) 2011.

1.7 The Planning Act (NI) 2011 requires that the Plan Strategy must be prepared in accordance with the Council's timetable and the Council's Statement of Community Involvement (SCI), as approved by the Department of Infrastructure (Dfi).

1.8 DCSDC's Local Development Plan (LDP) Timetable as published on the Council's website is dated July 2019. The Council have published the draft dPS within the specified time frame indicated in the LDP Timetable – between Q3 and Q4 2019/2020.

- 1.9 However, due to a procedural error a further public consultation is now being carried out by the Council running from 11th September to 6th November 2020. After this consultation period has ended, a further eight week consultation period for counter representations is required. The original consultation period for counter representations was suspended due to the Covid 19 pandemic. The consultation period for the dPS Counter Representations will likely extend up until Easter 2021.
- 1.10 The likelihood of the Independent Examination (IE) into the dPS now being held between Q3 and Q4 of 2021 is highly unlikely considering the Covid 19 pandemic is still taking place, tight work schedules and programming and the limited time frame.
- 1.11 The Council is therefore now in breach of the DFI approved Timetable as public consultation will not be completed to Easter 2021. It is highly unlikely that the IE can be held between Q3 and Q4 -2021 due to the tight time frame. This delay will ensure that other parts of the Timetable will also be knocked back. We also believe Council is highly optimistic in assuming the LLP can be published, independently examined and adopted in one calendar year. The Council's Timetable will clearly require amendment.

The dPS is contrary to Soundness Tests:

- **P1** - the dPS has not been prepared in accordance with the Statement of Community Involvement and is now out of sync with the Council's adopted timetable.
- **P4** - the Council has not complied with legislative regulations on the form and content of dPS and the procedure for preparing the dPS.

Remedy:

- The Council needs to amend their Local Development Plan timetable to reflect the current situation.
- The Council need to consider their approach to public consultation and the evidence base as this is contrary to the approach set out in the SCI.

Statement of Community Involvement (SCI)

- 1.12 Section 8 (4) (b) of the Planning Act (NI) 2011 requires that the Plan Strategy must be prepared in accordance with the Council's SCI.
- 1.13 The SCI requires the Council to engage citizens in early and meaningful dialogue, create a culture of effective and worthwhile participation and provide an open and transparent planning process.
- 1.14 In terms of the SCI's "Vision of Participation" it hopes that citizens must share a sense of effective participation in the decision making process. Citizens must feel that have a real say in their society's development. This vision of participation in decision making proposes that everyone has an early and informed opportunity to express their views and all groups in the community are enabled and empowered to participate.
- 1.15 The Principles of Community Involvement sets out a Culture of Engagement and Early Involvement as important principles in the preparation of both the SCI and the LDP.

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

- 1.16 Part 5 of the 2015 Regulations applies to the procedures for the preparation of the Development Plan documents. Regulation 15 identifies a schedule of information which should be made available along with the dPS including
- "...such supporting documents in the opinion of the council are relevant to the preparation of the local development plan."
- 1.17 The Council has published a "Draft Plan Strategy – Urban Capacity and Windfall Study" (UCWS) dated December 2019. However, having read this document it only represents a summary of the overall study.
- 1.18 The Strategic Planning Policy Statement (SPPS) at Paragraph 6.139 states that:
- "The urban capacity study should be published as a technical supplement to the draft plan."
- 1.19 DPPN 6 – Soundness identifies the UCWS under the evidence associated with Soundness Test 7, namely:

“Strategies /policies/allocations represent most appropriate in all circumstances, having considered the relevant alternatives, and are founded on a robust and credible evidence base.”

- 1.20 The failure to provide the complete UCWS or disclose completed parts of the full UCWS is in breach of the SCI's requirements and principles promoting an open and transparent planning process, enabling and empowering all groups to participate and providing early and informed opportunities to express views.
- 1.21 We requested a copy of the UCWS under Freedom of Information (FOI) legislation from the Council. We were informed that the full UCWS was not yet complete, it was not required to provide it at this stage and Council would complete the UCWS between the adoption of the dPS and the publication of the draft LLP. Council also refused to provide parts of the UCWS they had completed and provided various reasons for non-disclosure at this time.
- 1.22 However, these non-disclosure reasons from DCSDC are fatally undermined by the fact that Belfast City Council have already published their full UCWS at this stage. If BCC can publish theirs, we see no reason why DCSDC cannot publish theirs.
- 1.23 Paragraph 13.5 of DPPN 7 – Plan Strategy states that:-
“A Council's justification and evidence for its housing strategy must be comprehensive and robust in order to withstand the tests of soundness at independent examination (IE).”
- 1.24 The failure of the Council to publish the full or completed parts of the UCWS in the dPS dictates that the statutory requirements of Regulation 15 have not been met.
- 1.25 The Council has also identified a number of undeveloped housing zonings in the Derry Area Plan 2011 and the Strabane Area Plan as part of the LDP preparation. The Council has sent out a questionnaire to landowners of undeveloped housing zonings to assess the likelihood of their land coming forward for housing.
- 1.26 This is important information as many of these housing zonings have been zoned for many years with no development. If these undeveloped housing zonings are carried through into the new LDP there is no guarantee that any development will occur on these housing zonings in the next development plan.

1.27 Under Freedom of Information (FOI) legislation we have also requested details of these responses. The Council has provided a copy of the actual questionnaire template but not the responses. The questionnaire states that this information, will be made publically available as part of a transparent LDP process. However, despite this declaration the Council has refused to provide this information.

The dPS fails Soundness Tests:-

- P4 – The Council has not complied with regulations on the form and content of its dPS, or the procedure for preparing the dPS as it has not completed and included the full UCWS or published landowners' responses.
- C2 – The dPS does not take account of the Community Plan.
- C3 – The Council have not taken account of policy and guidance issued by the Department specifically The Planning (Local Development Plan) Regulations (NI) 2015, the SPPS and DPPN 7.
- CE1 – There is not a coherent strategy from which its policies and allocations logically flow.
- CE 2 – The strategy, policies and allocations are not realistic and appropriate alternatives have not been properly considered, and the proposals are not founded on a robust evidence base.
- CE4 – Without the full UCWS, the dPS cannot be considered reasonably flexible to deal with changing circumstances.

Remedy:

- The Council must complete and publish the full UCWS to allow for proper scrutiny, before the Plan Strategy is adopted.
- The Council must publish the responses from the various landowners on the future development of their housing zonings.
- The Council needs to de-zone existing housing zonings if they are not going to be brought forward by landowners. New lands, outside the development limits, needs to be brought forward and zoned for housing use to replace these zonings.
- The dPS requires flexibility in its provision of housing.

Additional Matters to be taken into Account.

1.28 Article 14(i) of the Regulations indicates that other matters that the Council must take into account in preparing a local development plan are:-

(a) the objectives of preventing major accidents and limiting the consequences of such accidents,

(b) the need –

(i) in the long term to maintain appropriate distances between establishments covered by the Directive and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular natural sensitivity or interest, and

(ii) in the case of existing establishments , for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.

1.29 We do not believe that the dPS has properly addressed the issues raised in Article 14 (i). The dPS appears to only deal with these issues at Chapter 33 – Hazardous Substances, COMAH and Major Accidents. The dPS by confining consideration to the objectives of preventing major accidents and limiting the consequences of such accidents to solely hazardous substances has failed to consider or address other potential causes of major accidents within the Council area ranging from existing uncontrolled reservoirs to bio-digesters, airports, harbours and intensive livestock developments etc. The vulnerability of existing development to risks of major development or disasters are relevant to the proposed dPS, and the dPS needs to put forward technical measures so as not to increase the risks to people.

The dPS is therefore contrary to the below Soundness Tests:-

- CE1 – There is no coherent strategy from which the policies logically flow.
- CE2 – The policies are not based on a realistic, robust or appropriate evidence base.
- CE3 - The Council have not taken account of policy and guidance issued by the Department specifically The Planning (Local Development Plan) Regulations (NI) 2015.
- CE4 – The Plan only deals with these issues at Chapter 33, and is therefore not reasonably flexible to enable it to deal with changing circumstances.

Remedy:

- The Council needs to address all the issues raised by the Regulations at 14(i) and consider how to prevent major accidents and the consequences of such accidents.
- The vulnerability of existing development such as airports, reservoirs, railways and harbours to risks of major development or disasters needs to be considered within the dPS.
- Technical measures need to be provided for existing establishments so as not to increase the risks to people.

2.0 LDP Growth Strategy.

DCSDC - Plan Vision.

2.1 We support the Council's vision for the District as it reflects the Council's aspirations for the district to be a thriving, prosperous and sustainable area. It sets out the Council aim for balanced and appropriate, high quality sustainable development while protecting the environment. The well-being and equality of opportunity for the district population is also important.

Strategic Objectives.

2.2 The DCSDC proposes to deliver its Plan vision through its main strategic objectives which have been categorized broadly into economic development, social development and environmental objectives.

2.3 We are generally supportive of these objectives, in principle.

Growth Strategy.

2.4 Paragraph 5.6 of the dPS states that, in 2017, the District Council area has a population of around 150,000 people and around 55,800 employee jobs. There is a baseline of approximately 61,000 dwelling units in the District. House building levels are only now starting to recover after being at a low level over the last decade.

2.5 The Council's Strategic Growth Plan (SGP) 2017-2032 entitled "Our Community Plan" for the area sets out ambitious plans for increasing the District's population of around 150,000 by around 10,000 people to around 160,000. This level of growth is centred on a Council target of around 15,000 new jobs and will require up to an estimated 10,000 new homes over the dPS period.

Table 6: 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
Families	61,000	+41k	+8-10k	+11-13k

2.6 However, if the local economy were to reach its full potential growth ambition, (i.e. the full implementation of the SGP as well as a favourable economic climate and inward migration, particularly from the Republic of Ireland, exponential jobs growth will result. An increase in inward migration is very possible in a post-Brexit environment. In Table MKA1 below we have looked at the development of many of the small towns and villages in Donegal adjoining the Council area.

Table MKA 1: Population of Donegal Border Villages

Area	1991	% Change Between 1991 and 2011	2011	2016	% Change Between 2011 and 2016
Muff	257	+ 394.6%	1,271	1,226	- 3.5%
Bridgend	n/a	n/a	497	454	- 8.7%
Killea/Kildrum	n/a	n/a	581	534	- 8.1%
Newtowncunningham	610	+ 75%	1,067	1,080	+1.2%
Carrigans	218	+ 54.1%	336	331	-1.5%
St Johnston	442	+ 32%	583	523	-10.3%
Lifford	1,359	+ 22%	1,658	1,626	-1.9%
Total not incl. Bridgend & Killea	2,886	+70.3%	4,915		
Total			5,993	5,774	-3.7%

Source: CSO CENSUS DATA

2.7 The figures above indicate that the population in Donegal villages close to the border after spiking massively during the 1990's by northerners moving south has been decreasing in recent years. Anecdotal evidence from local estate agents point to Brexit prompting a move from the people in the border region of the Republic of Ireland back into Northern Ireland. A number of these people were originally from Derry, Strabane and other border areas but had left the State over the years – although it is thought that these people still socialise, work and send their children to schools in Northern Ireland, while living across the border in the Republic. It appears that Brexit, coupled with the difference in cost of living, including health care and education, is encouraging more and more Donegal northerners to move back into the Derry and Strabane Council area. We fear that this factor may have been overlooked when calculating population and housing allocation, and consequently, we suggest that the Council now take into account this influx of people who may be moving across the border, into the City and other settlements.

- 2.8 Considering the factors set out at Para. 2.6, it could be anticipated that the Districts population could actually grow to around 170,000 with between 16,000-18,000 new jobs created. Up to 15,000 new homes would be needed to meet the growth. This is signified in Column 4 of Table 6 (above) and is based on a Derry/Londonderry City Region model.
- 2.9 In May 2019, the Council were successful in securing Central Government funding through a 'City Deal' for the region. This funding is based on Derry/Londonderry being developed as a City Region and reflects the ambitions and objectives set out in the Councils SGP. In May 2020, it was announced that over £100m in funding had been secured for this City Deal.
- 2.10 One key objective of this City Deal is to grow and improve the University of Ulster-Magee campus in Derry. The Vision and Outline Bid Proposal (September 2018) document states that ".....the expansion of Further and Higher Education is a precursor for jobs expansion". By securing this funding, investment in Derry as a University City will only increase the number of potential jobs which could be created and homes needed.
- 2.11 The dPS bases its Growth Strategy on 'planned growth' whereas the City Region model bases its figures on 'potential growth'. The Council's approach of 'planned growth' in the dPS conflicts with other existing Council growth strategy such as the SGP and appears to undermine the rationale for the City Deal funding. It is reasonable that the dPS Growth Strategy should be amended and be based on the 'potential growth' scenario to ensure alignment with other existing Council growth strategy documents. The major investment in the area brought by the City Deal will only further encourage in-migration and increase in population of the area.
- 2.12 In order to deliver the required housing within the Council area, we would therefore recommend that the Council revise the settlement limits and identify lands zoned for housing, not only within the City and towns, but also in villages and small settlements.
- 2.13 The dPS should be providing enough land within settlements to accommodate and facilitate the provision of between 11,000 to 15,000 dwellings and 16,000 and 18,000 jobs, with the associated services and infrastructure for up to 170,000 people as set

out in Table 6. Previous Housing Growth Indicators (HGI) figures for the Council area indicated a requirement for around 18,000 new homes from 2012 to 2025.

- 2.14 These figures more accurately reflect an ambitious growth plan for the Council and are more in line with previous Housing Growth Indicator (HGI) figures for the Council Area.

The dPS is contrary to Soundness Tests:

- CE 1- The dPS does not set out a coherent strategy from which its policies and allocations flow.
- CE2- The dPS Growth Strategy is not sound as it is not based on a robust evidence base. The projected housing growth underestimates the housing need for the district over the plan period, and conflicts with other growth strategies produced by the Council.
- CE4 – The dPS is not reasonably flexible to enable it to deal with changing circumstances.
- C2 - The Council has not taken account of the Community Plan which recommended 10,000 new homes would be needed for the Plan Period.

Remedy

- The dPS Growth Strategy should be amended and be based on the 'potential growth' scenario to ensure continued alignment with existing Council growth strategy documents including the Community Plan.
- The Council needs to revise its projections for new homes associated with supporting 15,000 jobs.
- Address the inconsistency within the dPS in terms of growth targets.
- Flexibility needs to be built into the dPS to allow it to deal with changing circumstances.

Spatial Strategy.

- 2.15 The spatial strategy sets out the settlement hierarchy, the main environmental areas, transport corridors and other main infrastructure features, as well as the general spatial strategy for Derry City and Strabane Town. The Spatial Strategy seeks to

determine where planned growth will be directed, balanced with the priority areas for environmental protection and enhancement.

The LDP's spatial strategy and the settlement hierarchy, in accordance with guidance in the RDS and the SPPS, sets out the following strategic spatial objectives:

- Derry as the principal city, linked with Letterkenny, of an expanding North West region.
- Strabane as a main hub town.
- The rural communities to be sustained and vibrant, living in local towns, villages and small settlements as well as the open countryside
- Key environmental designations such as Special Countryside Area (SCA) and Areas of High Landscape Importance (AHLIs) to protect important landscapes and proposed Green Belts around Derry and Strabane to contain urban sprawl and development pressure. The LDP will also define Development Pressure Areas, which are focused areas of development pressure in the countryside. A number of Wind Energy Capacity Areas (WECAs) are also designated to reflect certain local areas that are considered to be at or reaching capacity with wind turbines / wind farms
- Main infrastructure features including, road infrastructure, A2 Buncrana Road to Letterkenny, A2 northwards to Coleraine, A5 to Dublin (including links into the TEN-T route from Strabane to Letterkenny) and A6 to Belfast, rail infrastructure, Derry to Belfast line, City of Derry Airport and Foyle Port.

Housing in Settlements.

- 2.16 The dPS aims to ensure that housing in settlements can provide sufficient capacity to accommodate future housing growth. The Housing Allocation in Table 8 below sets out that the proposed indicative number of dwellings for Derry City and Strabane District across the plan period is approx. 8,300-10,000 dwellings, with a 9,000 average.

Table 8: Indicative Allocation of Housing in DC&SDC by Settlement Tier 2017-32

Settlement Tier	% Share of District's Households	% Share of District's Population	Proposed Indicative % Share of Requirement	Proposed Indicative Number of Dwellings
City	57.9%	55.5%	55 - 65%	4,950 - 5,850
Main town	9.2%	9.8%	8 - 10%	720 - 900
Local towns	4.2%	3.9%	3.5 - 4.5%	315 - 405
Villages	13.7%	14.1%	12 - 14%	1,080 - 1,260
Small Settlements	1.8%	1.8%	1.5 - 2%	135 - 180
Countryside	15.2%	16.2%	12 - 16%	1,080 - 1,440
				c. 8,300 - 10,000
				c. 9,000 average

2.17 The housing allocations are further broken down for each of the District's settlements and the countryside as set out in Table 1 in Appendix 5 of the dPS.

Table 1 – Allocation of Housing over LDP Period 2017-2032 for Council Settlements based on crude size.

Settlement	Approx. No. of Households	% Share of all Households	Population (150,497)	% Share of Population	Share of Housing Requirement (9,000) by % Households	Share of Housing Requirement (9,000) by % Population	Approximate Current Housing Capacity
Ardstraw	87	0.2%	218	0.1%	13	13	148
Arigarvan	310	0.5%	730	0.5%	46	44	300
Ballymagorry	274	0.5%	608	0.4%	41	36	247
Clady	242	0.5%	538	0.4%	35	52	185
Cranagh	32	0.1%	80	0.1%	5	5	98
Culmore	1,161	2.2%	3,465	2.3%	170	207	255
Donerana	271	0.5%	596	0.4%	40	35	271
Eglinton	1,365	2.6%	3,679	2.4%	201	220	187
Erganagh	206	0.4%	515	0.3%	31	31	45
Glebe	273	0.5%	734	0.5%	41	44	147
Glenmoran	63	0.1%	158	0.1%	9	9	85
Killea (part in T1)	53	0.1%	133	0.09%	8	8	2
Killen	115	0.2%	288	0.2%	17	17	143
Kilteer	46	0.1%	115	0.1%	7	7	45
Lettershendoney	186	0.3%	510	0.3%	27	31	67
Magheramason	215	0.4%	538	0.4%	32	32	192
Newbuildings	1,109	2.1%	2,611	1.7%	163	156	324
Park	184	0.3%	460	0.3%	27	28	40
Plumbridge	124	0.2%	310	0.2%	18	19	148
Sion Mills	871	1.6%	1,907	1.3%	128	114	174
Sparadunt	98	0.2%	245	0.2%	14	14	321
Stratfoyle	998	1.9%	2,419	1.6%	145	145	104
Victoria Bridge	152	0.3%	380	0.3%	23	23	445

2.18 We have suggested that the Council should base their housing allocation on the 'potential growth' scenario rather than the 'planned growth' scenario. We would encourage the Council to provide enough land to accommodate and facilitate the provision of approximately 11,000-15,000 dwellings (13,000 average) and 16,000-18,000 jobs, with associated services and infrastructure for up to 170,000 people. Our suggested amendment to housing allocation is set out in Table MKA 2 below:

Table MKA 2: Suggested Amendments to Housing Allocation

Settlement Tier	Indicative % Share of Requirement	Proposed dPS Housing Allocation	Suggested % Share of Housing Allocation	Suggested Amendment to Housing Allocation
City	55-65%	4,950-5,850	45%	4,950-6,750 (5,850 average)
Main Town	8-10%	720-900	10%	1,100-1,500 (1,300 average)

Local Towns	3.5-4.5%	315-405	8.2%	902-1,230 (1,066 average)
Villages	12-14%	1,080-1,260	20%	2,200-3,000 (2,600 average)
Small Settlements	1.5-2%	135-180	10%	1,100-1,500 (1,300 average)
Countryside	12-16%	1,080-1,440	6.8%	748-1,020 (884 average)
TOTAL		8,300-10,000 (9,000 average)		11,000-15,000 (13,000 average)

2.19 These figures more accurately reflect an ambitious growth plan for the Council. Furthermore, these options are more in line with the previous Housing Growth Indicator (HGI) figures.

The dPS is contrary to Soundness Tests:

- CE2 – the housing allocation figures are not based on a robust evidence base. The allocation figures underestimates the housing need for the district over the plan period.
- CE 4-The dPS housing allocation is not sound as it is not reasonably flexible to enable it to deal with changing circumstances, i.e. unexpected increased growth in the City, towns and villages;

Remedy

- Revise housing allocations to update the housing growth figure to provide 11,000-15,000 new dwellings (13,000 average) within the district by 2032.
- Provide flexibility within the Plan by increasing allocations to the City, Towns, Villages and small settlements.

2.20 The dPS states that the District currently has a remaining potential of approximately 13,790 committed housing units, accommodated on zoned housing land and/or on lands with planning permission. This equates to approx. 706ha. of housing land. The dPS concludes that the current housing commitments on these existing sites exceeds the amount of housing need required during the lifetime of the LDP.

2.21 In addition to the significant number of existing housing commitments, land has been identified for housing development on 'urban capacity' and 'white land' sites and there is an allowance for 'windfall' dwellings. On this basis, the Council consider that there is an existing capacity to accommodate 20,500 dwellings in the Council area, as illustrated in dPS Table 9 below.

Table 9: Summary of Land for Delivery of Housing, in District's Settlements, at 2017³³

Settlement Tier (47 No.)	Commitments on Zoned Housing Land		Other Commitments (outside Zonings)		Approx. Urban Capacity & Whiteland ³⁴		Additional Windfall Potential ³⁵	Total Dwellings Capacity
	Units	Ha	Units	Ha	Units	Ha	Units	Units
City	8,000	400	1,500	44	2,500	125	600	12,600
Main Town	500	20	200	9	1,000	53	75	1,600
Local Towns	700	40	400	24	400	16	75	1,575
Villages	160	9	2,200	150	1,400	93	190	3,760
Small Settlements	-	-	530	50	600	40	45	930
Total	9,160	469	4,630	257	5,900	307	985	20,500*

2.22 The Council therefore consider that most of the Districts settlements have sufficient land to meet their housing requirement for the plan period. However, we do not consider this to be a true or accurate reflection of land availability or developability in the District.

2.23 There was a significant land shortage on the Cityside throughout the nineties as major zonings were slow to come forward or be developed. It is likely that some housing zonings will not come forward for development in the next Plan Period. The dPS assumes that there will be 100% delivery of housing zonings in the Plan Period.

2.24 Therefore, due to the speculative nature of the urban capacity and windfall sites, we suggest these are discounted from consideration as they cannot be depended upon to deliver housing, and there is no evidence base to substantiate these UC sites.

2.25 When the UC sites and windfall potential are removed, the corrected dwelling capacity figure is 13,615 dwellings. This includes commitments on zoned housing lands and other commitments outside of zonings. Doubt remains over the availability and developability of some of these commitments/zonings.

2.26 The dPS sets out at Para. 16.14 various criteria (a)-(g) which explains how it will seek to manage the Districts housing.

As can be seen from the final columns of Tables 8 and 9 and the breakdown in Appendix 5, most of the District's settlements have sufficient land to meet their housing requirement up to 2032 and beyond. The LDP will therefore seek to manage the District's housing by:

- a) Zoning (by defining and refining) the committed housing land and prioritising sites, using phasing to focus on early delivery, in the city and towns;
- b) Not zoning additional land for housing generally;
- c) Identifying additional housing land on brownfield sites and otherwise in sustainable, accessible and central locations;
- d) zoning additional housing lands only in an exceptional circumstance, where a specifically identified local need, and lack of alternative lands, is robustly evidenced. These sites should also be sustainable, accessible and central locations as far as possible;
- e) Within villages and small settlements, identify and manage the priority housing areas for early delivery, at appropriate density levels;
- f) Managing the amount, type and location of dwellings outside of settlements through Policies HOU 18 to HOU 26; and
- g) By actively monitoring the amount, type and location of all dwellings being approved and implemented, with a view to revising the LDP zonings or policies so as to ensure that adequate housing is actually being delivered."

(MKA Planning emphasis)

2.27 We recommend that the Council review criterion (b) – "not zoning additional land for housing generally" and criterion (d) "zoning additional housing land only in an exceptional circumstance".

2.28 This is an overly restrictive position for the Council to adopt considering the following factors, namely:

- Social housing need in the City and District may be more than originally estimated by the Council and NIHE.
- Social housing need in the City may exceed the proposed housing allocation in the dPS.
- A number of housing zonings and commitments may not be developed.

- Significant areas of the City lack developable existing housing zonings, commitments and/or urban capacity sites to meet this identified social housing need.

2.29 We examine these factors in the next section.

3.0 Social Housing Need 2017-2032.

3.1 The NIHE is identified as one of the "consultation bodies" in the 2015 Regulations at Section 2 (1) (d).

"A DPD must contain a reasoned justification of the policies contained in it."

3.2 Regulation 15 identifies a schedule of information that should be made available alongside the publication of the dPS. This includes

"....such supporting documents as in the opinion of the Council are relevant to the preparation of the local development plan."

3.3 The NIHE's Housing Need Assessment (HNA)/Housing Market Analysis (HMA) has not been published as part of the evidence base of the dPS.

3.4 It is clear that the SPPS believes that the HNA is an important document in preparing the DPS. However, it is not published as part of the Council's evidence base. Only a summary of the HNA is provided. Again, under FOI legislation we have been forced to request a copy of the HNA.

3.5 The importance of the HNA in preparing the LDP is set out clearly in the SPPS at Paragraph 5.16:-

"In preparing LDPs councils must take account of the RDS 2035, the Sustainable Development Strategy for Northern Ireland, the SPPS and any other policies or advice in guidance issued by the Department such as landscape character assessments and conservation area design guides. In addition, other relevant matters may need to be considered, for example: land suggested as part of the 'Call for Sites' consultation process; Housing Needs Assessment (HNA) / Housing Market Analysis (HMA);" (MKA Planning emphasis)

3.6 The SPPS states that the HNA provides an evidence base that must be taken into consideration in the allocation, through the development plan, of land required to facilitate the right mix of housing tenures including open market and special housing needs such as affordable housing, social housing, supported housing and travellers accommodation.

The failure to publish the HNA as part of the dPS evidence base makes the plan contrary to Soundness Tests:

- CE 1 – there is no coherent strategy from which policies and allocations logically flow.
- CE 2 – The strategy, policies and allocations are not realistic or appropriate. There are no relevant alternatives identified and the dPS is not founded on a robust evidence base.
- CE 3 – there are no clear mechanisms for the implementation and monitoring of social housing need within the District
- CE 4 – if the HNA is not considered as part of the evidence base, the dPS cannot be considered to be reasonably flexible to deal with changing circumstances.
- P3- Has the Council taken account of policy and guidance issued by the Department

Remedy

- The Council must publish the 15 year Housing Need Assessment as part of the evidence base.
- The NIHE's methodology for the social housing need projections also needs to be provided within the evidence base.
- The revised social and affordable housing need projections in the District need to be assessed and considered.

3.7 The Council refers to the HNA in its Evidence Base EVB 16 and summarises some of its findings but it has not been published as part of the DPS evidence base. We believe as a key document on social housing need the HNA needs to be incorporated within the evidence base.

3.8 EVB 16 states:

“NIHE provided a 15 year Social Housing Need Assessment to 2032 Report in December 2018 for Derry City and Strabane District Council, The long term projection for up to 2032 is based on the assumption that current trends will continue in the future, in a policy neutral environment, therefore the figures should be read as an indicator to assist in identifying and potential zoning of sites within the LDP.”

3.9 Paragraph 4.43 of EVB 16 states:

"the total number of applicants in housing stress has increased consistently every year since 2002 from a figure of 1,031 to 3,401 at March 2019 despite the approval and ongoing construction of a considerable number of social dwellings units recently."

- 3.10 At Para. 16.46 of the dPS it indicates that the total new build social housing for the District for the period 2017-2032 is 4,750 units. The HNA at Table 1 indicates that the period considered is only up to 2030. As the DPD runs to 2032 we believe the total housing need figures need to be uplifted proportionally. The increase per annum appears to be 365 applicants, providing an additional 730 applicants to the total social housing need up to 2032. This increases the total District social housing need figure to an estimated 5,480 dwellings.
- 3.11 The estimated total social housing need for the District is significant. It is actually more than half of the proposed housing allocation in the dPS. The vast majority of this identified social housing need is concentrated in Derry City. The specific figure of 4,323 units for Derry City in Table 1 again is only up to 2030. However, the NIHE has calculated the social housing need up to 2030 is not identified. Therefore, we believe this figure again needs to be uplifted proportionally. The estimated social housing need in Derry City also equates to almost the dPS entire housing allocation for the City.
- 3.12 Table 9 of the DPD indicates that Derry City has commitments on zoned housing land of 8,000 units and 1,500 units on commitments outside zonings. However, while the current commitments on existing zoned and un-zoned land in Derry may exceed the social housing need over the Plan Period the dPS does not appear to have considered whether these commitments are for social or private housing, and whether conditions or planning agreements have been imposed requiring the provision of social housing. This data is not provided within the evidence base.
- 3.13 In these circumstances, there is no guarantee within the dPS that the proposed housing provision is adequate. It appears that the proposed provision falls well short of this and social housing need will continue to rise. In these circumstances, it is considered that the Council's Strategy is not coherent, allocations are not realistic and the submitted evidence base is inadequate.

For these reasons set out above we believe that the dPS fails the following soundness tests, namely:

- CE1 – The plan fails to set out a coherent strategy from which its policies and allocations logically flow.
- CE2 – The strategy, policies and allocations are not realistic or appropriate having considered the relevant alternatives and nor are they founded on a robust evidence base.
- CE 4- The dPS is not reasonably flexible to enable it to deal with changing circumstances.
- C2 - The Council have not taken account of the figures outlines in the Community Plan.

Remedy

- The Council need to increase the total number of dwellings needed over the Plan Period. The Council needs to increase the amount of houses which are allocated for social housing to reflect the increasing need in the District.
- The evidence base needs to be updated to provide a realistic assessment of social housing need, and, developable, available housing land for social housing.

Table MKA 3 - Zonings with Planning Permission but No Start Made

ZONING	AREA (HA)	POTENTIAL YIELD IN DAP 2011	UNITS GRANTED	UNITS BUILT (2019 HM)	NO. OF POTENTIAL UNITS REMAINING (2019 HM)	REMAINING AREA FOR DEVELOPMENT (2019 HM)	APPROVAL	CURRENT STATUS
H2 (Part H1a)	118.0	2,565	-	6	3494	123.49	28/09/2016 (Outline)	RM Application: -22 Units
H24	10.5	236	169	0	270	10.75	03/10/2016 (3 Full Apps)	No Dev. Started
H30	37.5	562	0	0	555	37.68	18/09/2019 (Outline)	2 RM Apps – slight overlap: -295 Units (LA11/2019/0988/RM) -445 Units (LA11/2020/0618/RM) No. Dev Started
TOTAL	116ha	3,363	169	6	4,319	171.92ha		

3.14 It is appropriate to consider the various housing zonings where permission or outline permission has been granted but no development has yet commenced. These zonings are set out at Table MKA3 above. While these housing zonings have planning permission no development has commenced yet on any these zonings. These housing zonings make up around 48 per cent of the 9,000 housing allocation. The Cityside area is entirely dependent on the implementation of the H2 zoning to meet the dPS housing allocation. Parts of this zoning may not be developable prior to the upgrading of the Buncrana Road.

3.15 Table 8 Indicative Allocation of Housing by Settlement Tier 2017-2032 indicates that Derry City has been allocated 55-65% of the proposed indicative number of dwellings of between 4,950-5,850. The NIHE has estimated the social housing need in Derry at 4,323 units. We believe this figure will have to be increased to 5,480 units. On these figures, the social housing need in Derry will take up almost all the housing allocation for the City leaving no allocation for the private or intermediate sectors.

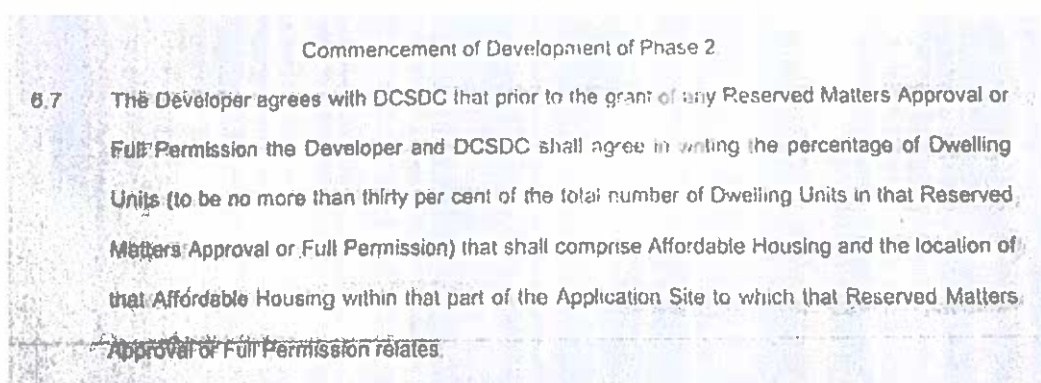
Table MKA4 - Assessment of Zonings Potential Outputs

DAP 2011 Zonings	Size in Hectares	Potential Output Listed in DAP 2011	No. of Units Built (2019 HM)	No. of Potential Units Remaining (2019 HM)	Undeveloped Area in Hectares (2019 HM)	Development Status
H1a	31.0	387	0	375	30.40	No Development
H1b	51.0	1,080	30	1470	40.72	On-Going
H1c	37.5	843	712	448	15.77	On-Going
H3	42.0	742	334	361	20.37	On-Going
H8	1.5	20	0	35	1.8	No Development
H11	11.0	55	60	30	3.6	On-Going
H16	2.0	45	0	45	2.15	No Development
H32	31.5	428	0	420	31.48	No Development
TOTAL	207.5ha	3,600 units	1,136 units	3,184 units	146.29ha	

3.16 There are a number of housing zonings or parts of housing zonings in Derry City which have never been developed, or if development had previously commenced, has now ceased. There are also a number of existing housing zonings where development has stalled due to infrastructural difficulties or capacity issues in the existing foul sewage disposal network.

- 3.17 The Derry Area Plan 2011 (DAP) was published in 1996, the DAP passed its notional end date in 2011. In 2020, more than twenty four years after the Plan's publication, there is still no development on a number of these housing zonings. If these zonings are carried though there is no guarantee they will be developed in the next Plan Period.
- 3.18 We make the following comments on a number of the undeveloped housing zonings, some of which are unsuitable for social housing use, namely:-
- The site at Gransha is located within the grounds of the health board estate (H32).
 - The Southway Site is currently planted out as part of an urban forestry initiative by the Woodland Trust (H16). It is an exposed and isolated site.
 - The Ballyarnet site involves the conversion of listed outbuildings (H8).
 - The Creggan Road site has seen development stall on a significant proportion of this housing zoning for twenty years (H3).
 - The Tullyally/Currynerin zoning is located within an interface area (H24). Despite having full permission no development has ever commenced on this land.
 - There is a maximum 30 per cent cap on affordable housing on the H2 housing zoning permission in the legal agreement. This permission also requires significant new road infrastructure. Other zonings are dependent on the provision of infrastructure to enable development.

Figure MKA 1: Extract from H2 Legal Agreement



- 3.19 In terms of the strategic spatial distribution of the housing zonings it is noted that the vast majority of new housing zonings in the DAP 2011 were located to the north western (Cityside) and eastern edges of the City (Waterside). There are few housing

zonings in the southern part of the City – only H15 and H16. H15 was built out at the start of the Plan period and H16 is not a viable site for housing. The closest other housing zonings H4 and H17 have already been built out. Part of H3 has been built out but there has been no development on this zoning now for many years. The NIHE Housing Investment Plan 2018-2023 indicates a significant social housing need in the part of the city. There are no other housing zonings in this area to meet this site specific need.

- 3.20 There is also a site specific social housing need in the Top of the Hill area. The existing housings zonings at H19, H20, H21, H22, H18, H33 and H23 are either entirely built out or have no planning agreement/conditions requiring provision of social housing. There is available capacity within housings zonings H23 – Tullyally and H25- Drumahoe but the community affiliations of these in housing stress in the Top of the Hill area means these are not viable options for social housing for this community.

5 Year Housing Supply.

- 3.21 At Para. 6.140 and 6.141 the SPPS indicates that Council's should adopt in their LDP's a "plan, monitor and manage" approach to ensure a 5 year supply of land for housing is always maintained.
- 3.22 In the historical circumstances of Northern Ireland where many development plans have exceeded their notional end date by decades and development plan adoption processes are not straightforward (The Northern Area Plan 2016 took 10 years until adoption) it is important to build a significant level of flexibility into the development plan.
- 3.23 The dPS states at Para. 16.7 that:
- "As per the SPPS it would be prudent to provide an additional five years land supply. This would establish the requirement for land for approximately 12,000 dwellings over the LDP period."
- 3.24 Again, at Para. 16.15 the dPS states that:
- "the aim is to provide 9,000 new homes across Derry City and Strabane District by 2032, and have a 5 year supply of an additional 3,000 dwellings."

- 3.25 It is somewhat strange that the dPS then in Table 8 and 9 and Policy HOU1 has actually excluded this additional 5 year land supply. No explanation has been provided for its exclusion.
- 3.26 The City's social housing need almost entirely equates to the Derry City's housing allocation. There is clearly an overreliance on existing zoned housing lands that have yet to deliver homes such as H2, H3 etc. There is also a strong likelihood that the Plan will not be adopted until around midway during the Plan Period (see below). In these particular circumstances, there is again a clear need to build in significant flexibility into the Plan.

The Council's dPS therefore fails Soundness Tests, namely:-

- P1 - The dPS has not been prepared in accordance with the Statement of Community Involvement and is now out of sync with the Council's adopted timetable.
- C2 – The dPS fails to take account of the Community Plan.
- C3 – The Council fails to take account of policy and guidance issued by the Department.
- C4 – The dPS fails to give proper consideration to the undeveloped zonings in the previous plan (DAP 2011) and carries forward zonings which are undevelopable for residential use.
- CE1 – The Plan fails to set out a coherent strategy from which its policies and allocations logically flow.
- CE2 – The strategy, policies and allocations are not realistic or appropriate having considered the relevant alternatives and nor are they founded on a robust evidence base.
- CE 4 – The dPS has excluded a 5 year housing land supply which makes it inflexible and will be unable to deal with changing circumstances over the Plan Period.

Remedy

- Provide evidence how the identified social housing need can be delivered in the City during the Plan Period.
- Review existing housing zonings and commitments to assess how identified social housing need within the Plan period can be met by the dPS.
- Provide evidence how viable, sustainable and mixed communities can be created.
- The Council should re-instate the 5 year housing land supply in the LDP to provide flexibility, to overcome the reliance on old housing zonings that have need come forward and to balance the reliance on a small number of large complex housing zonings to meet housing need.

Plan Duration.

3.27 NI is currently in the midst of going through the new development plan adoption process. The Council has already committed a procedural error in the public consultation stage forcing this consultation to be carried out again. The counter objections stage was also suspended and will also have to rerun ensuring that public consultation will not be completed to around Easter 2021.

3.28 The amended Council Timetable for preparing the DPD dated July 2021 was published prior to the COVID 19 pandemic and the procedural error on public consultation. Therefore, there are significant concerns over whether the Timetable is still realistic. We do not believe it is realistic to believe that the IE can now be held in Q3 and Q4 of 2021 considering the LDP programme/workload involved. It is highly unlikely that the DPD can be adopted in Q3 of 2021 and this will result in further delay of the publication of, and adoption of, the Local Policies Plan (LLP). The LLP is highly unlikely to be adopted until around 2025-26. This adoption period will then only leave six years remaining in the life of the Plan. This limits the opportunity for the LDP to influence growth. This raises significant issues about how the 5 and 10 year review and monitoring of the LDP, SA and other related assessments can be carried out.

3.29 In this context it may make logical sense for the Council to extend the length of the LDP period to 2035 – an additional three year period to increase the ability of the Plan to meaningfully influence growth and achieve the stated Plan objectives.

This element of the Plan therefore fails the soundness tests:-

- P1 – the dPS has not been prepared in accordance with the Statement of Community Involvement and is now out of sync with the Council's adopted timetable.
- CE1 – The Plan fails to set out a coherent strategy from which its policies and allocations logically flow.
- CE2 – The strategy, policies and allocations are not realistic or appropriate having considered the relevant alternatives and nor are they founded on a robust evidence base.

Remedy

- Extend the dPS period to influence growth and be consistent with the Council's other Growth strategies.
- Increase housing allocations to meet housing need and identify specific zonings for social and affordable housing.

Phase 2 Zonings.

3.30 Policy HOU 1 proposes to introduce a sequential approach to the management of the release of land for new housing. However, much of the zoned housing land on the edge of the City already has planning permission raising a significant issue over the point of the policy.

3.31 Policy HOU 1 indicates that Phase 2 housing lands are to be held in reserve and includes

1. Derry Area Plan and Strabane Area Plan housing zonings without current residential permission.
2. Other urban capacity sites (City and Main Town) and Whiteland sites.

3.32 However, a number of these housing zonings are of longstanding and despite this have not come forward for development for between 20-30 years. This was despite the house building boom between 2000-2008. The chances of these lands coming forward for development in this Plan period is slim.

3.33 Therefore, we do not believe this element of Policy HOU1 is sound.

The dPS fails the following Soundness Tests:

- Test C2 – The dPS fails to take account of the Community Plan.
- Test C4 – The dPS fails to give proper consideration to the DAP and SAP zonings which have not come forward in the last Plan Periods, and have carried them forward regardless. The dPS has therefore not had regard to other relevant plans, policies and strategies for the District.
- Test CE1 – The Plan fails to set out a coherent strategy from which its policies and allocations logically flow.
- Test CE2 – The strategy, policies and allocations are not realistic or appropriate having considered the relevant alternatives and nor are they founded on a robust evidence base.

Remedy

- Previous undeveloped zonings need to be properly assessed in terms of sustainability, availability and developability before being brought forward for the emerging LDP.
- Identify and provide flexibility by identifying a need for new housing zonings to meet housing. A reserve of housing land on the outskirts of the City may be a better solution than phasing housing zonings.

Policy HOU 2 Strategic Allocation of Housing in Settlements – other than Zoned Housing Land and LUPA's.

- 3.34 Policy HOU 2 states that it is the LDP's intent that all new housing development within the LDP area will be delivered on previously committed sites (see Policy HOU 1) or within the existing settlement limits.
- 3.35 However, within the Justification and Amplification text at Para. 16.30 the dPS states that:

"In accordance with HOU 1, proposals on unallocated 'greenfield' sites that are within the development limits will be contrary to policy, as they would undermine the LDP Housing Strategy."

- 3.36 Our reading of HOU 2 is that this statement is contrary to the actual wording of the policy. The first sentence of Policy HOU 2 clearly states that new housing development can be delivered on sites "within the existing settlement limits." Policy HOU 2 indicates that planning permission will be granted on small white lands. White land is defined as undeveloped land that is included within a development limit but has not been zoned for a specific use.
- 3.37 We see no specific restriction within the explicit Policy HOU 2 on the building of housing on greenfield land within the settlement limits which is likely to be "white land". We do not believe that amplification text can restrict the scope of a specific planning policy.
- 3.38 There are many settlements within the District that have limited numbers of brownfield sites within their settlement limit and the dPS will require greenfield sites within settlement limits to meet the proposed housing allocation figures.

The dPS is contrary to Soundness Tests:

- CE 1 – There is no coherent strategy for the above policy and allocations which flow from it.
- CE 2 – The policy is not realistic as it does not consider that a number of settlements will lack brownfield sites and will need to develop green field sites to meet their housing need.
- C3 – This Policy and the dPS has not taken account of the policy and guidance issued by the Department as this policy is in conflict with the SPPS. The SPPS supports development within settlement limits regardless of whether the site has been previously developed.

Remedy

- Council needs to clarify amplification and justification text within Policy HOU2 which appears to contradict the specific policy outlined.

Policy HOU 5 – Affordable Housing in Settlements.

- 3.39 We have already made submissions on Policy HOU 5 which we ask to be read in conjunction with this updated submission. Policy HOU 5 has five specific parts which we address below:-
- A minimum 10% affordable housing requirement.
 - No more than 70 per cent of a housing scheme can be of a single tenure.
 - In cases of acute need the affordable element requirement can be higher.
 - If there is no need, it is not sustainable or viable for a housing scheme to meet Policy HOU 5 Council will consider on a case by case basis.
 - Off-site provision may be acceptable.
- 3.40 The Council's evidence base on Policy HOU 5 is set out at background paper EVB 16. No base evidence is provided in either the dPS or EVB 16 to justify the proposed thresholds set out in Draft Policy HOU 5.
- 3.41 The NIHE HNA document is referenced in Paper EVB 16 but it is not attached to the supporting documents for the dPS. We have already raised this omission earlier in the submission. The failure to make this important element of the evidence base available to the general public considering the dPS policies and proposal is considered unsound.
- 3.43 EVB 16 indicates at Para. 4.60 that:
- "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. "**
- 3.44 The NIHE suggestion of a 25% threshold is not supported by any evidence base other than the social housing need projections up to 2032. Critical issues such as viability and the delivery of housing schemes appear not to have been considered.
- 3.45 There is significant ambiguity about what Policy HOU 5 actually proposes. The first element of Policy HOU 5 introduces a minimum of 10% affordable housing provision. The second element of Policy HOU 5 introduces a minimum of 30% affordable

housing provision for private housing developments. There appears to be no assessment within Policy HOU 5 or evidence base EVB 16 over what either the 10% or the 30% thresholds mean for the viability of housing proposals. Moreover, what is proposed in Policy HOU 5 is a threshold policy that applies across the Council area. Departmental guidance states at Para. 6.143 that:

"The development plan process will be the primary vehicle to facilitate any identified need by zoning land or indicating through key site requirements, where a proportion of a site may be required for social/affordable housing."

- 3.46 PPS 12 - Planning Control Principle 4 states that social housing should be provided by developers as an integral element of larger housing developments where a need is identified and a mix of house types and sizes should be provided to promote choice and assist in meeting community needs. However, no thresholds or targets are set out. Para. 6.140 of the SPPS requires Councils to ensure that a constant supply of deliverable housing land is available over the lifetime of the plan. The SPPS directs one towards a locational policy approach. While Council can depart from this approach they can only do so where the evidence exists to justify departure. Council evidence for this approach is lacking. There is no evidential case for a departure.
- 3.47 The Council appear neither in Policy HOU 5 or EVB 16 to have given any consideration to these 10% or 30% affordable housing thresholds on the potential viability of proposed housing developments which may also have to make other developer contributions as required by other parts of the dPS. Landowners may not release their land for delivery of housing due to these draconian requirements.
- 3.48 Policy HOU 5 also proposes to impose a requirement on social housing providers to provide private market housing at 30 per cent on their housing scheme. This may be extremely difficult for social housing developers particularly, if private housing developers consider the land is either blighted by its proximity to social housing or not viable. Policy HOU 5 could therefore threaten the ongoing delivery of social housing within the District to meet the chronic social housing need in the District. Policy HOU 5 could also result in pockets of undeveloped land being left undeveloped adjoining completed social housing schemes for indeterminate periods in an area of acute social housing need.

- 3.49 Policy HOU 5 also states that where there is an acute localised need as demonstrated by the NIHE, the proportion required under the policy may be uplifted on an individual site. Policy HOU 5 again therefore provides a no certainty to either a landowner or the private house building developer on the financial land value that can be attributed to development lands. This matter is critical to the viability and delivery of housing development.
- 3.50 Policy HOU 5 states that in rural villages and small settlements the minimum number of affordable units will be 2 in a development of 10 units or more. Sites below the threshold of 10 units may also need to provide affordable housing if there is an identified need.
- 3.51 We have concerns over the wording of this element of Policy HOU 5 which sets a cap of 2 affordable dwellings on a development of 10 or more units and then suggests it would apply to schemes below the 10 unit threshold. No viability evidence has been provided to support this element of the policy. Again, viability needs to be considered as this element of the policy may impact on the deliverability of sites, particularly in villages and small settlements as well as in the City and main towns. Moreover, in terms of affordability this council area is one of the most affordable locations in NI. We suggest that the Council needs to reassess and supplement the evidence basis prepared to date, ensures that reasonable alternatives have been considered and that the proposed policy is founded on a robust up to date evidence base.

Therefore, we believe that Policy HOU 5 is unsound and contrary to the following Soundness Tests:

- C2 – The policy fails to take account of the Community Plan and the housing figures in it.
- C3– Did the Council take account of policy and guidance issued by the Department.
- C4 –The policy does not take account of other policies and strategies relating to the District, particularly, the 25% threshold suggested by NIHE in the HNA.
- CE1 – The Plan fails to set out a coherent strategy from which its policies and allocations logically flow.
- CE2 – The strategy, policies and allocations are not realistic or appropriate having considered the relevant alternatives and nor are they founded on a robust evidence base.
- CE3 – There are clear mechanisms for implementation and monitoring.
- CE4 – It is reasonable flexible to enable it to deal with changing circumstances.

Remedy

- The Council need to take account of the housing figures in the Community Plan and the threshold for social housing given by NIHE.
- Viability evidence needs to be provided to support the proposed affordable housing percentage in cities and towns.
- Council needs to take account of Departmental policy and guidance.
- Viability evidence needs to be provided to support the higher affordable housing percentage in villages and small settlements.
- The Council needs to re-examine its proposed 70 per cent threshold in terms of workability.
- The Council needs to ensure there is enough housing land available and deliverable within the Plan Period. This will require Council to expand the development limits and identify additional lands for affordable housing use.
- The Council needs to consider affordability within the area in terms of thresholds.
- The evidence base needs to revised and reassessed.
- Reasonable alternatives needs to be considered.
- Alternatives have not been properly considered within the dPS. The SA and SEA should be revised to considered alternatives.

4.0 Sustainability.

4.1 The Sustainability Appraisal (SA) is a key plan of the LDP plan making process with its key purpose being:

“To promote sustainable development through the integration of social, environmental and economic considerations into the preparation, plans and programmes such as local development plans. ”

4.2 To achieve sustainable development within the Council area means improving the economic, social, and environmental performance of the plan and the district through the consideration and identification of reasonable alternatives to plan policies.

4.3 The key concern with the SA and the dPS process is that we believe that the draft policies have failed to allocate enough housing land to the settlements and that the dPS looks likely to repeat the mistakes of the previous Area Plan – the DAP 2011.

4.4 We have certain issues with the SA, we do not believe it is sound, it does not comply with Strategic Environmental Assessment regulations and it may not achieve sustainable development.

4.5 In terms of POP Sustainability Appraisal Matrix 8C – Location and Allocation of Housing Land three options were set out and the Council opted for Option 2. However, Option 3 scored higher on the sustainability matrix than Option 2. Indeed, the Council have stated that ideally from a SA viewpoint Option 3 would have been preferable. The Council LDP dPS in effect proposes a “hybrid” approach which envisages that most of the existing housing zonings will be carried forward but those uncommitted ones are likely to be considered as Phase 2 zonings. As the sustainability of existing housing zonings in the DAP 2011 has not been tested or considered in either the SA or the dPS we believe this challenges the draft Plan’s claims that it is “sustainable”. We also do not believe that this “hybrid” growth model has been properly tested in terms of sustainability or strategic environmental assessment.

- 4.6 The proposed settlement hierarchy raises a number of unresolved sustainability issues that are not addressed in the Sustainability Appraisal. There is a general lack of reasonable alternatives tested in the Sustainability Appraisal. The Sustainability Appraisal is in conflict with the published Draft Planning Strategy.
- 4.7 The Sustainability Appraisal states that provision is "...made for an additional five year supply of land over and above what is required for the Local Development Plan period in accordance with the SPPS." Despite the Draft Plan Strategy referring to the additional 5 year land supply within its text it is not actually provided in the Draft Plan Strategy. Nowhere within the Sustainability Appraisal of the Draft Plan Strategy is it explained how an additional 5 year land supply is incorporated in the housing allocation.
- 4.8 Policy HOU1 sets out the strategic allocation and management of housing land and indicates that the release of housing land will be phased in the phases – Phase 1 and Phase 2. The Sustainability Appraisal states that "...housing supply will be managed in two phases identified at the LLP Stage." However, the methodology applied in determining those two phases are outlined in the Draft Plan Strategy but are not considered by the Sustainability Appraisal.
- 4.9 Again, in relation to the Draft Plan Strategy proposed housing allocation, the Sustainability Appraisal is inconsistent with the Draft Plan Strategy allocation of 9,000 new houses, assessing a range of between 8,000 and 10,000 new homes. The Settlement Appraisal concludes that the 10,000 new homes is the preferred option. The inconsistency with the Draft Plan Strategy housing allocation is not explained.
- 4.10 In terms of affordable housing and proposed policy HOU5 the Council needs to ensure there is sufficient land available for development and deliverable within the plan period which should 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 LLP stage. The Council needs to provide clarification on the justified affordable housing requirement for the district.

- 4.11 The Council gives no consideration to alternatives as required for the Sustainability Appraisal. At present the Sustainability Appraisal does not identify any reasonable alternatives for consideration and therefore the draft policy would fail the soundness tests. There is a lack of reasonable alternatives to test the most sustainable approach to the provision of affordable housing in Derry City & Strabane District Council.
- 4.12 Policy HOU5 sets out the Draft Plan Strategy policies on affordable housing. The Settlement Appraisal notes that ".....whereas NIHE suggested a 25% scale over the life of the Local Development Plan 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." This approach is not properly explained, considered or assessed in the Draft Plan Strategy or the settlement appraisal.

This proposal is contrary to Soundness Test P3 as the dPS has not been subject to an appropriate and robust Sustainability Appraisal including Strategic Environmental Assessment.

Remedy

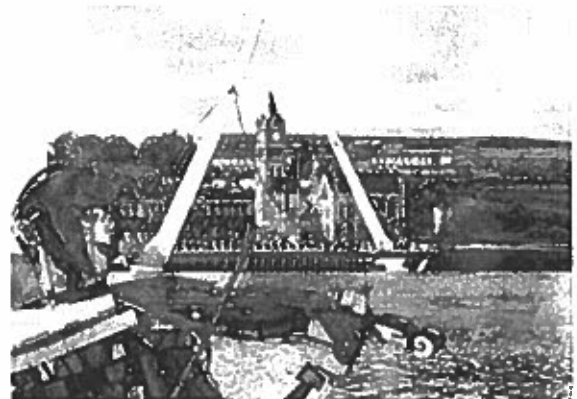
- The Sustainability Appraisal needs to consider the sustainability of the existing housing zonings in the DAP 2011.
- The SA needs to explain where an additional 5 year land supply is incorporated in the housing allocation.
- The Council needs to explain the contradictions between the SA and the dPS
- The methodology applied in determining the two housing phases as outlined in the Draft Plan Strategy needs to be considered by the Sustainability Appraisal
- The dPS needs to increase its allocation in line with the SA conclusions that 10,000 new homes is the preferred option
- There needs to consideration of reasonable alternatives to test the most sustainable approach to the provision of affordable housing in Derry City & Strabane District Council.

Part 2

RE: DERRY CITY &
STRABANE DISTRICT
COUNCIL;
LOCAL DEVELOPMENT
PLAN 2032
DRAFT PLAN STRATEGY

Lands at Springtown
Road, Derry

ON BEHALF OF



AUTHOR

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Part 2 - Lands at Springtown Road, Derry.

1.0 Introduction.

1.1 We have already identified in Part 1 of this submission where the dPS is unsound and where the draft Plan Strategy has failed the soundness tests of how the dPS has been produced, the alignment of the dPS with central government regional plans, policy and guidance and the coherence, consistency and effectiveness of the content of the dPS and set out proposed remedies to make it "sound".

1.2 The Draft Plan Strategy (dPS) is intended to deal with strategic issues. The acute need for social housing in the dPS Plan Period, the shortfall in existing housing zonings and urban capacity sites in this area of the City and the need for the dPS to identify and bring forward additional lands zoned specifically for social housing use in this part of the City are all strategic issues that need to be identified and addressed at this stage.

1.3 We are also instructed by our Clients – Mr Daniel Lusby, to make a representation to the draft Plan Strategy (dPS) on:

- The identified acute need for social housing generally in the City and this specific area, in particular.
- The lack of deliverable, available housing zonings, commitments and urban capacity sites in the area to cater for the identified social housing need.
- The need to extend the City settlement limits to bring in new land for specifically social housing use;
- To commend to the Council the subject lands.

1.4 The subject land measures 1.4 hectares and is outlined in red on the attached site location plan at Appendix MKA 1.

1.5 There is clearly an acute need for social housing in this area. The Derry City & Strabane Housing Investment Plan (HIP) 2019-23 identifies a social housing need of 2,473 households in the City.

- 1.6 The Housing Needs Assessment (HNA) identifies a District social housing need of 4,750 units for the period 2017-2032. The HNA identifies a social housing need to 2030 of 4,323 units specifically in Derry City.
- 1.7 The identified and potential social housing need up to 2032 currently roughly equates, to, or, actually exceeds, the dPS housing allocation for the City.
- 1.8 The NIHE has identified two separate housing areas on the Cityside of Derry. The most up to date NIHE Housing Investment Programme identifies a social housing need of 1,047 units in the Derry 3/Collon Terrace/West Bank area for the specific period 2019-2023.
- 1.9 The Council has already accepted there is an acute social housing need in this area and that nearby housing zonings are not available, deliverable or developable when the Council approved Permission A/2015/0187/F in 2016 nearby.
- 1.10 Our Client welcomes the publication of the dPS and the progress that the Council is making towards adopting a LDP for the Council District.
- 1.11 We commend to the Council these lands along Springtown Road, Derry in accommodating housing need in the City.

Appendix 1

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WATTHORN DRIVE

WATTHORN DRIVE

WATTHORN DRIVE

WATTHORN DRIVE

1.41ha

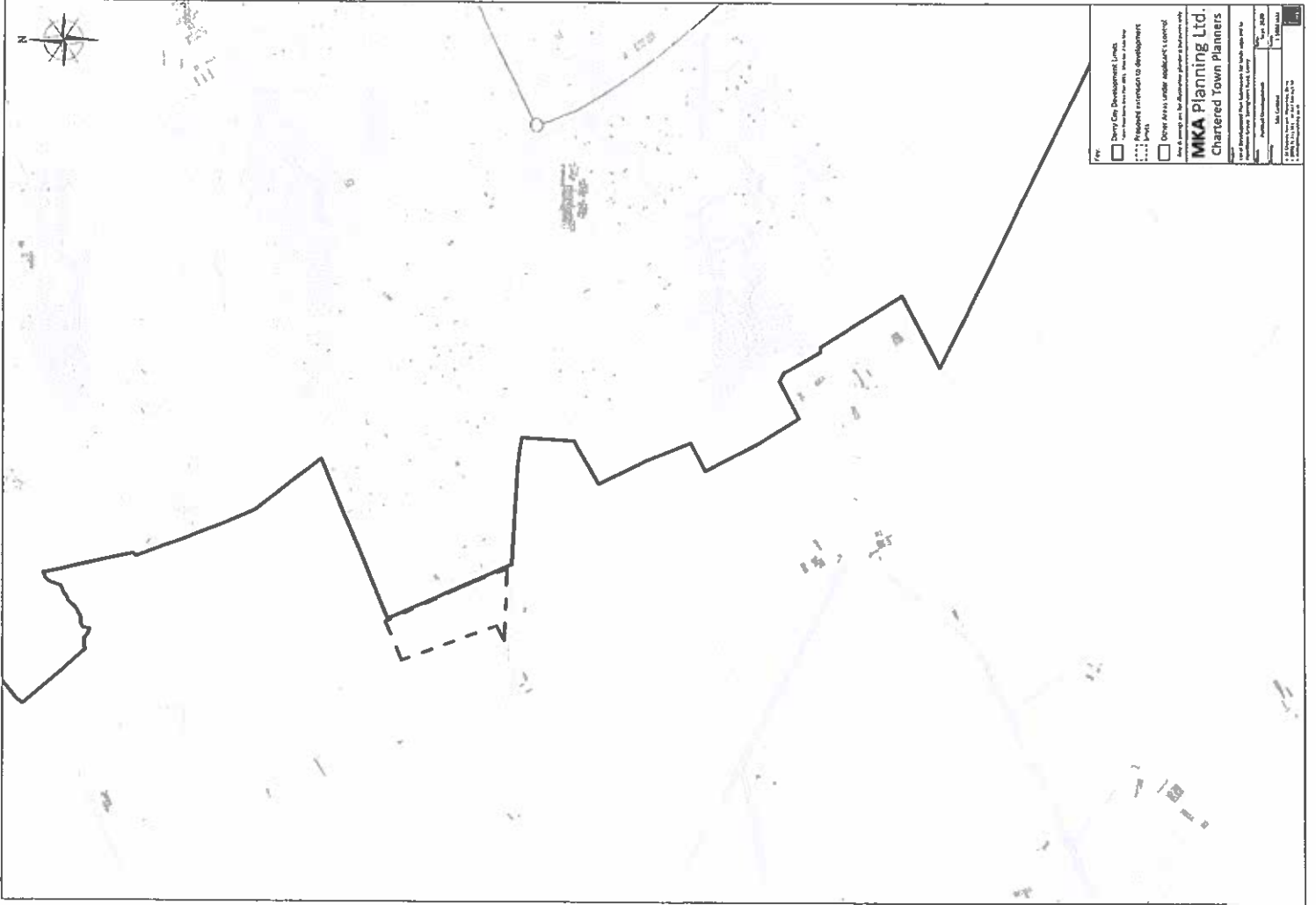
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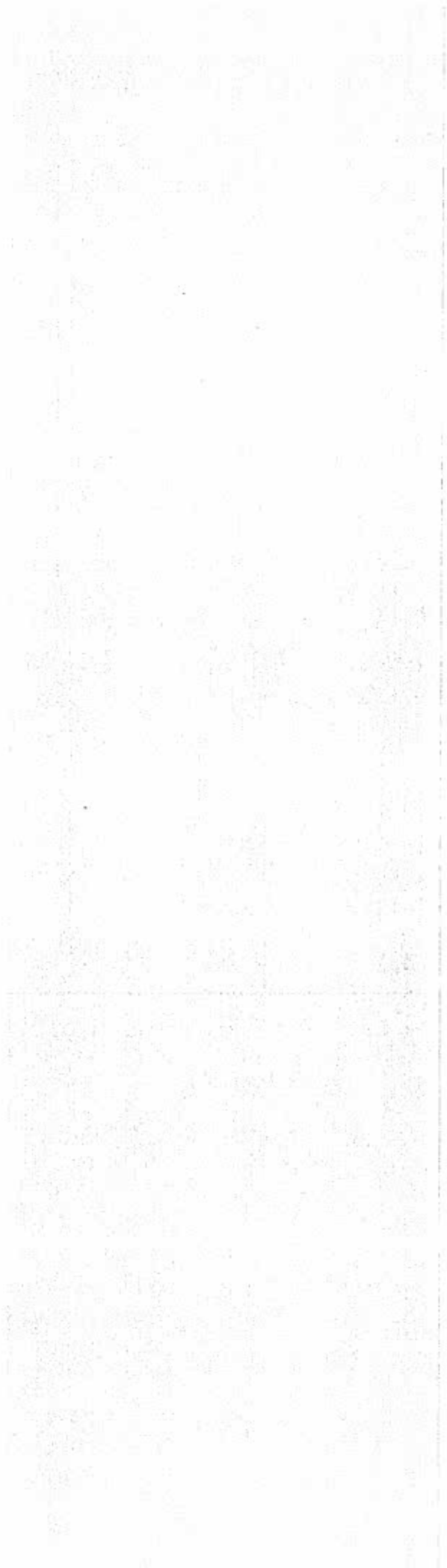
- lands to which application relates.
- Derry City Development Limits
Taken from Derry Area Plan 2011, Map No. 2 City-Map

Any drawings are for illustrative planning purposes only

MKA Planning Ltd. Chartered Town Planners

Project:	
Local Development Plan Submission for lands adjacent to Hawthorn Grove, Springtown Road, Derry.	
Client:	Fortrail Developments
Drawing:	Site Location Plan
Date:	Sept. 2020
Scale:	1:1250
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RTPI

mediation of space making of place

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