

Matt Kennedy

From: Matt Kennedy <matt@mkaplanning.co.uk>
Sent: 27 January 2020 16:22
To: 'LDP@DerryStrabane.com'
Subject: Policy HOU 25 - DPD.

Dear Sir/Madam

I believe that Policy HOU 25 is unsound for the following reasons:-

Policy HOU 25 is contrary to Tests CE2 and CE4.

1. This policy should also apply to the various towns within the District if a demonstrable housing need has been established and the identified housing need cannot be met within the settlement. I see no good planning reason why it should only apply to villages and small settlements.
2. If a social housing need still exists in a particular settlement after a group of affordable houses has been approved and developed out I see no good planning reason why a second group should not also be approved during the Plan period. Otherwise the Policy will sterilise and prevent social housing need being met within the settlement.
3. I see no planning justification for not applying Policy HOU 25 in the green belt. The evidence base in the DPD does not justify this approach or this distinction. In England and Wales affordable housing sites on the edge of villages and small settlements are accepted within the green belt.
4. Policy HOU 25 will if permitted in its present form prevent social housing need being met to protect the green belt. Therefore, to make Policy HOU 25 sound we request that the Council remove the restrictions on affordable housing within the green belt and the restriction on more than one group of affordable houses at a settlement. Flexibility needs to be built within the policy.

I would be grateful if consideration can be given to amending this Policy HOU 25.

Best regards

Matt

Matt Kennedy
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Derry City & Strabane District Council

Local Development Plan

(LDP) 2032

Representations Form for the LDP Draft Plan Strategy
& Associated Appraisal / Assessments



Derry City & Strabane
District Council
Comhairle
Cathair na Strabha Bhaile
Derry City & Strabane
District Council



December 2019

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

Introduction

Derry City and Strabane District Council is planning for the future. It is the start of a challenging and exciting journey. It will be a long-term and collaborative process, driven by the Council which is committed to grasping the opportunities and addressing the challenges that face us, some unique to our situation and others generated by global forces beyond our control.

United by a shared vision, the Council's Local Development Plan (LDP) and our Community Plan - the Strategic Growth Plan, will drive this process as we seek together to strategically grow and improve social, economic and environmental wellbeing for all. The publication of the LDP draft Plan Strategy is the next step on this journey.

What is the Local Development Plan (LDP)?

The new LDP will guide land-use development and set out Planning policies and proposals for the use, development and protection of our settlements and countryside across our District to 2032. Crucially, it will help to deliver the outcomes in the Strategic Growth Plan. Once the LDP is adopted, its Planning policies, zonings and development proposals will be used to determine planning applications across the District. The LDP will comprise of two development plan documents: this LDP Plan Strategy and, in due course, the LDP Local Policies Plan.

What is the LDP Plan Strategy (PS)?

This LDP draft Plan Strategy sets out the Council's strategic Planning objectives, designations and policies for the District in line with regional strategies and policies, but tailored to the local needs of this City and District.

The preparation of the PS has been informed by the Council's LDP Preferred Options Paper (POP – May 2017) which provided the basis for consulting with the public and stakeholders on a series of options for dealing with key issues in the Plan area. It set out the Council's initial proposals and policy direction, therefore aiming to stimulate public comment and help interested parties to become involved in a more meaningful way at the earliest stage of Plan preparation. The published draft LDP PS fully reflects a consideration of all the representations made during the POP consultation period and all engagement with stakeholders, consultees and elected Members of the Council.

How We Are Consulting

The best way to submit a representation is by completing our online representations form:
<https://haveyoursay.derrystrabane.com/mkt/ldpconsultation>

Alternatively, complete this draft Plan Strategy Representations Form and either return by email to LDP@DerryStrabane.com or download a copy and post to:

Local Development Plan Team,
Council Offices,
98 Strand Road,
Derry,
BT48 7NN

Hard copies of the form will be available at the above address and our other main office at 47 Derry Road, Strabane, Tyrone, BT82 8DY. Please note that if you are making a representation in any other format, it must include the requested information set out in this form and address the Tests of Soundness

The draft Plan Strategy is published for formal public consultation for a period of eight weeks beginning on **Monday 2nd December 2019** and closing on **Monday 27th January 2020**. Please note that in order for comments to be considered valid, you must include your contact details. We will use these details to confirm receipt of comments and to seek clarification or request further information. Anonymous comments or comments which do not directly relate to the draft Plan Strategy will not be considered as part of the consultation process.

Section A: Data Protection

Local Development Plan Privacy Notice

Derry City and Strabane District Council is a registered data controller (ZA119397) with the Information Commissioner's Office and we process your information in accordance with the General Data Protection Regulation and Data Protection Act 2018 (GDPR).

Derry City and Strabane District Council only collects and processes personal information about you in order to fulfil our statutory obligations, to provide you and service users with services and to improve those services. Your personal information will be used to populate the LDP Representations Database.

If you wish to find out more about how the Council processes personal data and protects your privacy, our Corporate Privacy Notice is available at:
<https://www.derrystrabane.com/Footer/Privacy-Policy>

It contains the standards you can expect when we ask for, or hold, your personal information and an explanation of our Information Management Security Policy. All representations received will be published on our website and made available at our Local Planning Office, 98 Strand Road, Derry BT48 7NN, for public inspection and will be forwarded to the Department for Infrastructure (DfI) and hence to the Independent Examiner / PAC.

Why are we processing your personal information?

- To enable the preparation of the Council's Local Development Plan;
- To consult your opinion on the Local Development Plan through the public consultation process;
- To ensure compliance with applicable legislation;
- To update you and/or notify you about changes; and
- To answer your questions.

If you wish to find out more information on how your personal information is being processed, you can contact the Council's Data Protection Officer:

Data Protection Officer
47 Derry Road
Strabane
BT82 8DY
Telephone: 028 71 253 253
Email: data.protection@derrystrabane.com

Section B: Your Details

Q1. Are you responding as an individual, as an organisation or as an agent acting on behalf of individual, group or organisation? (Required)

Please only tick one

- Individual (Please fill in Question 2, then proceed to Section C.)
- Organisation (Please fill in the remaining questions in the section, then proceed to Section D.)
- Agent (Please fill in the remaining questions in the section, then proceed to Section E.)

Q2. What is your name?

Title

First Name (Required)

Last Name (Required)

Email

Q3. Did you respond to the previous LDP Preferred Options Paper?

- Yes
- No
- Unsure

Section C: Individuals

Address (Required)

Town (Required)

Post code (Required)

On completion, please proceed to Section F

Section D: Organisation

If you have selected that you are responding as an organisation, there are a number of details that we are legally required to obtain from you. If you are responding on behalf of a group or organisation, please complete this section, then proceed to Section F.

Organisation / Group Name (Required)

Your Job Title / Position (Required)

Organisation / Group Address (if different from above)

Address (Required)

Town (Required)

Postcode (Required)

On completion, please proceed to Section F

Section E: Agents

If you have selected that you are responding on behalf of another individual, organisation or group there are a number of details that we are legally required to obtain from you. Please provide details of the individual, organisation or group that you are representing.

Client Contact Details

Title / First Name (Required)

Last Name (Required)

Organisation / Group Address (if different from above)

Address (Required)

Town (Required)

Postcode (Required)

Email address (Required)

On completion, please proceed to Section F

Agent Contact Details

Title / First Name (Required)

Last Name (Required)

Organisation / Group Address (if different from above)

Address (Required)

Town (Required)

Postcode (Required)

Email address (Required)

On completion, please proceed to Section F

Q4. Would you like us to contact you, your client or both in relation to this response or future consultations on the LDP? Please only select one

Agent Client Both

Section F: Soundness

The LDP draft Plan Strategy will be examined at Independent Examination (IE) in regard to its 'soundness'. Accordingly, your responses should be based on soundness and directed at specific strategic policies or proposals that you consider to be unsound, along with your reasons. The tests of soundness are set out below in Section J.

Those wishing to make representations seeking to change the draft Plan Strategy should clearly state why they consider the document to be unsound having regard to the soundness tests in Section J. It is very important that when you are submitting your representation that your response reflects the most appropriate soundness test(s) which you believe the draft Plan Strategy fails to meet. There will be no further opportunity to submit information once the consultation period has closed unless the Independent Examiner requests it.

Those who make a representation seeking to change the LDP draft Plan Strategy should also state below whether they wish to be heard orally at the Independent Examination (Please see www.pacni.gov.uk for further details on the IE procedures.)

Section G: Type of Procedure

Q5. Please indicate if you would like your representation to be dealt with by: (Required)
Please select one item only

- Written (Choose this procedure to have your representation considered in written form only)
- Oral Hearing (Choose this procedure to present your representation orally at the public hearing)

Unless you specifically request a hearing, the Independent Examiner will proceed on the basis that you are content to have your representation considered in written form only.

Please note that the Independent Examiner will be expected to give the same careful consideration to written representations as to those representations dealt with by oral hearing.

Section H: Is the draft Plan Strategy Sound?

Your comments should be set out in full. This will assist the Independent Examiner to understand the issues you raise. You will only be able to submit further additional information if the Independent Examiner invites you to do so.

Sound

If you consider the Plan Strategy to be Sound and wish to support the LDP Plan Strategy, please set out your comments below.

We have incorporated these matters in our individual submissions.

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:

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)

(and/ or) Relevant Policy number(s)

(and/or) Relevant Paragraph number(s)

(and/or) District Proposals Map

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.

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.

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.

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.

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.

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.

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

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



**Representations to
Draft Policy HOU5**



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Summary

We consider that this Draft Policy HOU5 – Affordable Housing in Settlements and the overall Draft Local Development Plan is unsound for the following reasons, namely:-

Policy HOU 5 is unsound as the policy fails the Tests of CE1, 2, 3 and 4 Coherence and Effectiveness and Test P3 – Procedural.

The policy is not founded on a strong regional planning policy basis for affordable housing or a robust evidence basis which explains the rationale behind the policy triggers and provides a clear understanding of the implications of the policy.

We request that the Council reconsiders the planning policy basis for affordable housing and its evidence basis to support its affordable housing policy and revert back to the policy approach set out in the Strategic Planning Policy Statement (SPPS).

1.0 Draft Policy HOU5 – Affordable Housing in Settlements

Planning Policy Context.

The Strategic Planning Policy Statement.

- 1.1 Under Affordable Housing in the implementation section of the SPPS at Paragraph 6.143 it discusses in detail the requirements to provide social/affordable housing on land identified by a Housing Needs Assessment (HNA) carried out by the Northern Ireland Housing Executive. It identified the development plan process as the primary vehicle for identifying and zoning land by indicating, through key site requirements, where a proportion of a site may be required for social housing. This text accords with the justification and amplification section set out in Policy PCP4 of PPS12
- 1.2 The SPPS gives no adequate guidance on affordable housing (including social rented housing). Neither the SPPS or PPS 12 set out clearly the specific policy tools, mechanisms or methodologies that the district councils are expected to use in plan making to secure affordable housing.
- 1.3 We cannot see how councils can proceed with planning policies within local development plans for affordable housing considering the lack of regional planning policy guidance on this matter. We believe that Council's cannot bring in these policies until the planning policy context, planning principles and methodology for affordable housing are set out and properly defined in either a new PPS or other new planning policy and guidance.

PPS 12 – Housing in Settlements.

- 1.4 PPS 12 states that the planning system has an important role to play in creating communities with a wider range of housing in terms of tenure, size, type and affordability. Planning Control Principle 4 “Balanced Communities” states that social housing should be provided by developers as an integral element of larger housing developments where a need is identified. A mix of house types and sizes should be provided to provide choice and assist in meeting community need. PCP 4 can apply to local development plans. However, Policy H2 only applies to planning applications. PPS 12 suggests the use of planning agreements/planning conditions may be used to secure a portion of social housing in new developments, which is absent from the SPPS. HS2 Social Housing contains clarification on the provision of a suitable mix of housing and tenures where the need has been identified.
- 1.5 The policy guidance provided for affordable housing in terms of PPS 12 and the SPPS is extremely limited for Council’s bringing forward planning policies for affordable housing for local development plans in Northern Ireland.

Draft PPS 22 – Affordable Housing.

- 1.6 The provisions of Draft PPS 22 do not carry any weight and are not material considerations in the assessment of planning applications for residential development or in the preparation of local development plans.
- 1.7 The Department has decided not to introduce draft PPS 22 and proposed to pause and fully reflect on the outcomes of the consultation, and await the outcome of further research to provide up to date and NI specific data as the likely economic impact, both positive and negative, of the various options for developer contributions schemes that could be implemented. We are unaware of any subsequent research, findings or conclusions either at the regional or local level. We are aware that the Department of Infrastructure has recently carried out a public consultation on the definition of affordable housing. This further illustrates the current paucity of planning guidance on affordable housing.

Specific Objections to Draft Policy HOU5.

- 1.8 We are unaware of any specific research of study done by the Department or the Council on the private housing market in the Derry City and Strabane District Council area to justify or set out whether the local housing market can afford or absorb the obvious financial costs implicit in Policy HOU5.

- 1.8 We also unaware of any significant work done on the affordability of existing housing in the Council area. As a significant majority of houses currently being built in the area are already affordable we see no need to artificially intervene in the private housing market when it is already delivering affordable housing.
- 1.9 The recent NIHE Housing Investment Plans for the council area also reports that homes have become more affordable in the district, indicating an improving situation in terms of affordability. This evidence of affordability in the private housing market in the council area clearly undermines Draft Policy HOU5 and its artificial intervention in the market. We see little in the Sustainability Appraisal (SA) in terms of the private housing market in the council area, no evidence base or research
- on the number of private builders/developers in this area,
 - on the potential financial impact on private builders/developers of this draft policy,
 - on the potential impact of this draft policy on the private housing market and in particular house starts and completions,
 - on the number and size of planning applications for residential development within the Council area that might be captured by this draft policy
 - on how builders/developers finance their private housing developments and the potential impacts of this draft policy.
 - While the SA notes that the Council area has the second most affordable housing in NI and that the average price of a house in this area is lower than the NI average the Council fail to take this into account when drafting Policy HOU5.
- 1.10 We have also looked at the new dwelling starts in NI between 2010/11 of 7,919 units and 7,517 units in 2017/18, (Source: LPS). We note that between 2011 and 2015 the number of new dwelling starts dropped to 6,487 and 5,994 units. This hardly indicates a private housing market that has recovered from the 2008 recession and is now in a strong position. This again indicates a significant vulnerability in the urban private housing market and hardly illustrates strong recovery in the urban private housing market. Considering the vulnerability of the private housing market and the lack of research on this subject we believe Policy HOU5 has the potential to undermine and threaten this fragile recovery.
- 1.13 We believe that the Draft Plan is going beyond the policy requirements set out in the SPPS. We believe that draft Policy HOU5 goes well beyond current planning policy and cannot be sustained.

- 1.14 We also object to the wording and substance of this Policy. Draft PPS 22 had set out various options to allow in certain circumstances developers the facility to allow Council's to accept commuted payments or alternative provision on other sites of affordable housing. Policy HOU5 has no protocols or mechanisms to allow the Council to exercise any of these potential options and no regional planning policy framework on affordable housing within NI for this draft policy to operate within it.
- 1.15 The provision of affordable housing in the UK often depends on economic viability modelling to determine the level and mix of social and intermediate housing to be provided on sites by developers. Draft PPS 22 had a proposal for an Affordable Housing Team (AHT) which would negotiate with developers to determine the proper level and mix of affordable housing contributions/commuted sums/off site provision. We note no similar provision within Policy HOU5 or the Council's Draft Plan. Policy HOU5 gives no consideration to economic viability modelling whatsoever. Certain housing sites may be very expensive to develop and developers should be entitled to argue that affordable housing contributions should be reduced as they cannot afford to provide at the level determined by Policy HOU5. How can the Council operate or implement this policy without these various options or a team of experts to assess the level of provision and the viability of housing sites.
- 1.16 We also fail to see how the Council can operate this policy without further planning policy guidance from the Department on the proposed framework, mechanisms and methodology setting out precisely how affordable housing will be delivered in Northern Ireland.
- 1.17 Policy HOU5 is likely in the short term at least to result in a significant slowdown in the amount of planning applications for new housing development in this Council area due to the degree of uncertainty around the provision of affordable housing. As Council has no policy framework, discretion or expertise in assessing the economic viability of residential development sites developers will not submit planning applications for residential development as they will fear the financial implications of Policy HOU5 which does not take into account financial viability. The policy uncertainty and lack of expertise within the Council is likely to stall the submission, consideration and determination of planning applications for residential development.
- 1.18 Policy HOU5 is potentially damaging to the further recovery of the private housing market in the council area as it will potentially impact adversely on land values and upon the appetite of landowners to sell their land to developers for new housing.

- 1.19 Policy HOU5 will have the potential to further reduce new housing supply in the Council area as it will act as a disincentive to developers to build new houses.
- 1.20 The proposed threshold of 10 units or more set out in Policy HOU5 is also far too low as it fails to reflect practice elsewhere in the UK and Ireland.
- 1.21 Policy HOU5 will provide a competitive financial advantage to smaller developers within the City building under the ten house threshold or those that simply build single houses.
- 1.22 Policy HOU5 may through increasing costs of residential development force housing developers to withdraw from the housing market entirely or move to other council areas where planning policy is more favourable.
- 1.23 In particular Policy HOU5 has no flexibility and has the following specific flaws:-
1. There are areas of the City and District where there is no need for social housing. In these cases there should be no requirement and Policy HOU5 should not apply. If there is no need there is no suitable proportion unless the Council are going to "transplant" people into this area.
 2. Developers require certainty when considering purchasing zoned land for private housing development. If there is a key site requirement for a particular level of affordable housing on a particular site a developer will base all their financial calculations on these figures. If the Council and the NIHE are allowed to uplift the affordable housing provision on a particular site as proposed by Policy HOU5 a private developer has no certainty when buying land over the potential scale of affordable housing requirement and may face potential financial ruin. Social housing need in an area will vary significantly over the LDP Plan period and allowing the proportion of affordable housing to be uplifted at any time during this period may create significant financial difficulties for developers.
 3. The history of housing in Derry has seen significant segregation of private and social housing over the last twenty years. I fail to see how housing associations will be able to attract or convince private developers to build up to 30 per cent of the houses on housing zonings which are dominated by social housing. If the "tenure blindness" and "pepper potting approach" is adopted as proposed in Policy HOU5 this will further discourage private developers and purchasers.
 4. Policy HOU5's requirement for balanced and mixed communities states that all housing schemes should have no more than a maximum of 70% of either private or affordable houses. This part of the policy actually will have the indirect effect of imposing a 30%

requirement for affordable housing on a private developer rather than the 10% proportion set out at the start of Policy HOU5.

5. If the social housing need has already been met in this part of the District or the City prior to, or during the, construction of a housing scheme I see no reason why the agreed ratio of private to affordable housing then needs to be implemented if the social housing need no longer exists and the developer should be permitted to build more private houses.
6. Policy HOU5 mentions “viable” in terms of the provision of affordable housing for the first time at the bottom of Page 233 of the Draft LDP. However, I believe that the planning policy framework and methodology for affordable housing and assessing economic viability is not set out fully or properly in the SPPS or PPS 12 or any other adopted planning policy. Neither Council nor NIHE have the policy framework or any experience or expertise in assessing the economic viability of private housing developments and affordable housing.
7. In rural villages and small settlements Policy HOU5 imposes a higher 20% affordable housing threshold for developments of 10 units or more. Policy HOU5 also states that sites below the normal threshold of 10 units may also need to provide affordable housing if there is an identified need. However, no actual threshold for affordable housing in villages or small settlements is specifically identified in Policy HOU5. Developers have no certainty if they buy land in villages or small settlements what is going to be the required actual affordable housing requirement.
8. Policy HOU 5 also states that an off-site developer contribution may be required and/or alternative off-site provision will be considered on a case-by-case basis. Para. 16.60 states an off-site Developer Contribution will also be considered on a case-by-case basis and refers one to Chapter 34 Developers Contributions. However, there is little if any reference to affordable housing within Chapter 34. Indeed, at Para. 34.6 it simply states that the Council is currently preparing a draft Developer Contributions Framework. However this Framework has not yet been published. Therefore, at this stage this is no adopted methodology or mechanisms for dealing with off-site provision or commuted payments.
9. The National Planning Policy Framework (NPPF) states at Paragraph 63 that “to support the reuse of brownfield land, where vacant buildings are reused or redeveloped, any affordable housing contribution should be reduced by a proportionate amount”. There are no similar concessions in Policy HOU5 for the redevelopment of brownfield land.
10. In an up market private development how could a developer integrate social and affordable housing seamlessly and with no distinguishable design differences with private

housing. Housing Associations are very rigid on the layout, design and finish of their house types. Private housing developers are required to provide en-suites, utility rooms and garages etc. This policy would force private developers to build in line with Housing Association layout and design standards.

11. There are legal, logistical, organisation and management difficulties for both housing associations and housing developers in Policy HOU5's requirement for the integration of affordable and private housing on the same housing development.

1.24 This Draft Plan Strategy and Policy HOU5 is clearly unsound for the following reasons.

a: Policy HOU5 fails Soundness Test C3 and CE2 as it goes beyond planning policy and guidance issued by the Department on affordable housing. Indeed, the proposed threshold approach set out in Policy HOU5 does not fully align with the approach set out in the SPPS. The SPPS 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."

The SPPS directs one towards a locational policy approach where affordable housing catered for through zonings and key site requirements. If Council wishes to depart from the approach set out in the SPPS they must take account of it and then set out the evidence base to justify such a departure. Council's evidence base supporting this threshold approach is lacking and there is little evidential basis for a departure from the SPPS approach.

Council refers to PPS 22 and the Developer Contributions for Affordable Housing Framework which was published for consultation by DSD in 2015. However, these documents are not policy and have not been adopted. These documents do not reflect the current and most up date position. There is also little or no consideration of any relevant alternatives within the Sustainability Appraisal.

In order to meet the requirements of Soundness Test CE2 Council should undertake their own assessment and consideration of affordable housing to reflect the baseline and future requirements for Derry. This assessment needs to include a robust assessment of various thresholds for provision.

The Council's evidence base in its housing papers and the Sustainability Appraisal fails to consider the intricacies of the housing market within the District, the political and community backdrop and the impact on the delivery of social housing. Policy HOU 5 entirely fails to set

out any clear mechanisms for implementation and monitoring of the operation of the policy. Policy HOU5 therefore fails Soundness Test CE3 as there are no clear regional policies, methodologies or mechanisms for implementation and monitoring of this policy.

- b; In terms of Policy HOU5 we do not accept that there has been any realistic assessment of alternatives to Policy HOU 5 as part of the Sustainability Appraisal and no evidence to show that the Council has considered the implications and outcomes of the relevant alternatives for the DPD. Therefore we believe that Policy HOU5 fails Soundness Test CE4 as it is not reasonably flexible to enable it to deal with changing circumstances.
 - c; Policy HOU5 fails test P3 as the Sustainability Appraisal including Strategic Environmental Assessment in relation to affordable housing is flawed, as the evidence base is clearly inadequate as set out in Paragraph 1.9 above, does not support or justify the policies and proposals of the DPD, has not properly or fully considered alternatives and has not been properly carried out by the Council.
 - d; Policy HOU5 fails test CE1 and CE2 in that the DPD does not set out a coherent strategy from which its policies and allocations logically flow and it is not founded on a robust evidence basis which explains the rationale behind the policy triggers and provides a clear understanding of the implications of the policy. It is also unclear from the draft policy and supporting evidence base how affordable housing requirements will be applied to brownfield land or to Build to Rent/Private Rental Sector housing market. There is clearly a market within the City Centre and certain other parts of the City for these types of residential developments and Council needs to consider the impact of affordable housing requirements on the delivery of such schemes and the financial model that they operate on.
- 1.25 Therefore, for the reasons set out above we request that the Council refer this representation to the PAC and we wish to appear in front of the Commissioner at the independent Examination in person. We request that the Council reconsiders the proposed affordable housing policy and its inadequate evidence basis to support the affordable housing policy and reverts back to the policy approach as set out in the Strategic Planning Policy Statement (SPPS).

Derry City and Strabane District Council
RECEIVED
27 JAN 2020
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**RE: DERRY CITY &
STRABANE DISTRICT
COUNCIL;
LOCAL DEVELOPMENT
PLAN 2032
DRAFT PLAN STRATEGY**

**Representations to
Draft Policy HOU6,
HOU8, HOU12,
HOU13, HOU14
& HOU23**



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Policy HOU 14 – Houses in Multiple Occupation (HMO).

The specific criteria set out in Policy HOU 14 – Houses in Multiple Occupation (HMO) is unsound for a number of reasons namely:-

Policy HOU14 is unsound as the policy fails the tests of CE 1, 2 and 3 Coherence and Effectiveness and test C3 - Consistency.

The policy is not founded on a robust evidence base which explains the rationale behind the policy triggers and provides a clear understanding on the implications arising from the policy.

Criteria 1.

No rationale or logic is provided for restricting HMO's to only 4 bedrooms. There are a number of large dwellings within the City that are no longer suitable for single family use. Conversion of the dwelling into a HMO is an acceptable and appropriate use considering the high numbers of single people in the City seeking accommodation in a "shared" house, the significant level of homelessness and social housing in the area and the ongoing reduction in the household size in the area. There are areas of the City Centre where single family use is no longer viable. I see no planning reason why these properties cannot be converted to HMO use.

A significant number of these larger dwellings are located outside of the Designated Flat Zones (DFZ). As they are outside the DFZ there are unlikely to be considered for flat conversion. I see no planning reason why these larger dwellings should not be considered appropriate for HMO use.

This criteria should be omitted.

Criteria 2.

No rational or logic is provided for this criteria. There is no need for this size restriction of 150 sq. m.. Two or three reasonable size apartments can be provided within a house of this size. Indeed, provided the proposed flat accommodation is acceptable in terms of floorspace, layout, outlook and amenity there is no reason why a dwelling with a gross internal floorspace of 150 sq. m. or less cannot be subdivided into two or three apartments. Recent planning case law in terms of PAC decision 2017/A0054 clearly indicates that dwellings below 150 sq. m. can ensure a reasonable standard of floorspace and residential amenity.

This criteria should be omitted.

Criteria 4.

No rational or logic is provided for this criteria. If a quality residential environment is provided and an adequate level of residential amenity and outlook is supplied in a HMO unit wholly in the rear of a property I see no planning reason why this form of HMO proposal would be unacceptable.

I therefore propose that the criteria is amended to state that:-

“ Any HMO unit wholly in the rear of an existing property is only acceptable if a quality residential environment is provided and an adequate level of residential amenity and outlook is supplied.”

Criteria 5.

No rational or logic is provided for this criteria. HMO applications are normally simply conversions with no changes in the external elevations. I therefore fail to see how a HMO proposal in itself will detract from the established residential character of an area. Bins and estate agent signs are a part of the normal character of established residential areas whether it is single family neighbourhoods or areas of HMO's.

This criteria should be omitted.

Policy HOU 14 is conflicted. There is little point in putting forward Policy HOU 14 and its particularly restrictive criteria if an exceptional local need justifies lowering or removing these criteria requirements. There already is an exceptional local need in the City for HMO accommodation. Policy HOU 14 therefore serves little purpose.

POLICY HOU 13 – HOUSES IN MULTIPLE OCCUPATION (HMO) MANAGEMENT AREAS.

Policy HOU 13 is unsound as it fails the tests CE2, CE 3 and CE4.

Policy HOU 13 introduces designated HMO Management Areas where permission will only be granted for further HMO developments where the number of HMO's does not exceed 30% of all dwelling units within the policy area.

Outside of these HMO Management Areas permission will only be granted for further HMO development where the number of HMO's does not exceed 10% of dwelling units on that road.

No evidence is provided where these HMO Management Area's will be designated. It is assumed that these will be designated in the residential areas around the university and regional college.

In the transition period prior to adoption of the final Plan the Council will apply the 30% threshold.

In this case there are a large number of streets around Magee University such as Argyle St, Argyle Terrace, College Terrace, Grafton Terrace, Edenmore Street and parts of the Northland Road where the number of HMO's already exceeds the 30% threshold.

Policy HOU 13 is unsound for the following reasons, namely:-

1. The aim of the HMO policy is set out at Paragraph 1.7 of HMO Evidence Base EVB 16b is to regulate HMO's in the District so there is not an overconcentration in residential areas and to protect the existing character and amenity of existing areas.
2. However, the evidence base clearly sets out that there a significant existing and increasing local housing need for HMO accommodation within the City and District. The objective evidence is that there is a growing need for HMO accommodation. In this context the Council is now intent of regulating HMO's by imposing thresholds on HMO's within particular areas.
3. Apart from a number of generalized concerns set out in the evidence base at Paragraph 2.1 of Paper EVB 16b little if any site specific evidence is provided within the evidence base of any adverse impacts of HMO's within the City and District. The adverse impact of HMO's is not established by the evidence base.
4. There is no evidence, rationale or logic why a threshold of 30 per cent is put forward within HMO Management Areas or is deemed appropriate.
5. There is no evidence, rationale or logic why a threshold of 10 per cent is put forward outside HMO Management Areas or is deemed appropriate.
6. HMO Policy Areas set out in Paper EVB 16b are not defined on any maps or plans. These policy areas plans/maps need to be provided. A number of these hotspot areas may be open to question in terms of their boundaries and thresholds.
7. In certain areas around Magee University there already are significant pockets of HMO accommodation. Policy HOU 13 will have no effect on these areas other than preventing any further HMO development.

8. Policy HOU 13 is clearly in conflict with other policies within the Plan proposing to increase the number of students at Magee University up to 9,000 students. Where are these students to be accommodated.
9. Policy HOU 13 implicitly requires HMO accommodation to be dispersed throughout the City rather than as it is now, concentrated in the City Centre and around the University. However, I see no planning reason why HMO development should be restricted within the city centre.
10. I also believe that Policy HOU 13 is contrary to regional planning policy as set out in the Regional Development Strategy which proposed compact urban forms and reducing the need to travel. Policy HOU 13 will logically through its thresholds force many students to live outside the university area and will be forced to travel.

POLICY HOU 12 – FLATS AND APARTMENTS.

This policy is unsound and contrary to tests C1, C2, CE1, CE2 and CE3 for the following reasons:-

1. Policy HOU 12 is in conflict with other housing policies HOU6 and HOU8.
2. There is an increasing need in the City for apartments considering the increasing social housing need, the growth in single households and the reductions in average household size in the District. Policy HOU 12 by restricting the geographical areas where apartments can be built will prevent this identified needs being met.
3. I see no evidence base within the DPD to support the designation of Flats Prevention Areas (FPA's) in Policy HOU 12. I see no necessity or requirement for FPA's. The Regional Development Strategy (RDS), PPS 7, SPPS and proposed Policy HOU 8 already provide the appropriate regional planning policy context for apartments. There is no requirement for Policy HOU 12. There is clear conflict between these policy publications for Policy HOU 12.
4. The objections to criteria set out in Policy HOU 14 are also relevant to the criteria c and e set out in Policy HOU 12.
5. I see no consideration of alternatives in the evidence base.

POLICY HOU 23 – SINGLE DWELLING IN A SMALL GAP IN EXISTING BUILT-UP FRONTAGE IN THE COUNTRYSIDE.

This policy is unsound and contrary to tests C3, CE1, CE2, C3 and CE4 for the following reasons:-

1. Policy HOU23 is contrary to test C3 as it is contrary to established Departmental infill policy as set out in the SPPS and PPS 21.
2. No justification or evidence base is provided in the DPD to explain why infilling should be reduced from two to one dwelling or why the definition of a frontage needs to be changed in Policy HOU 23.
3. PPS 21 removed the presumption in favour of single dwellings in the countryside as set out in the PSRNI. The extension of infill policy in PPS 21 was to partially overcome this deficit. I see no specific evidence justifying this policy. I see no evidence showing that the District is swamped with infill applications and proposals.
4. Policy HOU 23 is conflicted. If two infill dwellings are acceptable in an AONB I see no reason why two infill dwellings cannot also be acceptable outside an AONB.
5. No evidence is provided to support the reason why permission will not be granted within a green belt. Infilling is accepted in the green belt in England and Wales. I am unaware of any site specific reason in Derry District proposed green belt to prevent infilling.

POLICY HOU6 - HOUSE TYPES, SIZE AND TENURE.

This policy is unsound and fails the policy tests of CE1 and CE2 – Coherence and Effectiveness.

Policy HOU 6 should be omitted as it duplicates provisions of Policy HOU 5 and places unnecessary restrictions on private housing developers without providing a robust evidence base to support it.

The NI Census evidence available for the District indicates a declining average household size which must surely dictate more smaller houses/apartments should be built.