



Derry City & Strabane District Council
Local Development Plan Team,
Council Offices,
98 Strand Road,
Derry,

BT48 7NN

Historic Environment Division
Klondyke Building
Cromac Avenue
Gasworks business Park
Malone Lower
BELFAST
BT7 2JA

Phone (direct line)

Email:

22 January 2021

Dear Sir / Madam,

RE: Historic Environment Division Counter Representation to representations received for Derry City & Strabane District Council draft Plan Strategy (dPS)

Historic Environment Division (HED) has reviewed the representations made to Derry City & Strabane District Council and provides a counter representation to the following representation: LDP-PS-REP-56 -Foyle-River-Gardens-Turley-Derry.pdf

HED has reviewed the above representation by Turley associates, relating to the Foyle River Gardens project. HED welcomes confirmation as per paragraphs 4.2 & 4.19, that the 'Eden Project Foyle' (EPF) will be '*...a heritage-led regeneration project*' and recognises the opportunity it presents to conserve, protect and enhance the heritage assets identified in paragraphs 4.5 & 4.12. Upon review of the associated comments relating to draft policy HE4 Listed Buildings and their Settings, HED provides the following counter representation.

Item 9.2 recommends that '...the Council should make it clear in the proposed policy that it will take into account the economic and viability arguments associated with bringing listed buildings back into use when assessing applications.'

The SPPS 3.4 outlines the requirement to balance the consideration of the three pillars of sustainable development in decision making. SPPS 3.9 also however makes clear that planning authorities will also be guided by the precautionary approach '*...that where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest.'*

In assessing the 'viability' of a proposal related to the 'historic environment', such as bringing a listed building back into use, economic considerations will form part of the holistic balanced assessment but as outlined in the SPPS 6.13 proposals '*...should support the best viable use that is compatible with the fabric, setting and character of the building.*' Economic considerations are therefore not separate from, but included within the consideration of the 'viability' of a proposal for the reuse of a listed building.

Item 9.3 raises the point that bringing listed buildings back to a 'successful use' comes with additional costs requiring '*...a flexible planning policy approach and this should be acknowledged in the dPS.*'

The representation acknowledges that the draft policies closely follow the provisions of PPS6. This policy statement has served as robust policy protection for listed buildings for over 20 years and is a key evidence base for the development of listed building policy within the Councils dPS. HED recognises the policy text could be made 'more sound' under soundness test C3, as noted in our representation (LDP-PS-REP 79) but consider it provides a sufficiently flexible planning approach.

The consistent interpretation and application of the policy text, is however reliant on comprehensive clarification. To ensure that sufficient account of the evidence base has been taken, HED has recommended changes to the justification and amplification text to achieve soundness under P2, C1, C3, CE1 & CE2, as outlined in our representation. This includes further direction related to the 'Change of use of a Listed Building' outlining that the 'best viable use' '*...may not necessarily be the most profitable use.*' The potential for charitable or community ownership to secure sustainable uses for a listed building where the special interest cannot sustain any alterations is also noted.

Scope for greater flexibility to offset the cost of reusing and conserving heritage assets including listed buildings, is also addressed under the provisions of Enabling Development policy. SPPS 6.25 makes clear that an enabling development proposal may be allowed '*...where it will secure the long term future of a significant place and will not materially harm its heritage value or setting.*' The SPPS 6.12, 6.13 and 6.25 outlines that while there remains a flexible approach to development associated with the reuse of listed buildings, the balance of weight in decision making is favoured toward protecting their special interest. Suggested changes to draft Policy HE09, to achieve soundness under P2, C1, C3 & CE2, are included in our representation.

Items 9.4 and 9.5 relates to the varied scope for listed buildings and their settings to absorb impacts and changes and the need for councils to form a full and proper understanding of the merits of the listed building to inform reasoned and balanced judgements.

HED agrees that the scope for development and/or change to listed buildings and their settings will vary greatly depending on the impact of the proposal on its special architectural and historic interest. SPPS 6.12 outlines proposals should 'pay due' regard to the special interest of listed buildings. SPPS 6.13 also however makes clear that an understanding of the special interest of a listed building and its setting is not only required by the council to inform decision making, but importantly is also required by applicants to inform and justify their proposals. Related recommended changes have been included in our representation to satisfy soundness tests P2, & C3, CE2.

Item 9.6 outlines the agent's consideration of draft Policy HE4 against soundness tests CE4 and CE2. HED considers the draft policy text provides sufficient flexibility to deal with changing circumstances under CE4, particularly when considered together with draft policy HE09 and within the wider context of sustainable development, as set out in paragraph 7.7 of draft policy GDP1. However as noted, HED considers further direction is needed in the Justification and Amplification text to inform consistent interpretation and decision making when considered against soundness tests, P2, C1, C3, CE1 & CE2.

The alternative policy approaches have been set out in the POP, under the 3 proposed options. HED also considers the policy fails to address soundness test CE2 as the evidence base has not been taken into sufficient account in the preferred option policy development.

Individual site specific representations related to land zoning

The PAC Procedures for '*Independent Examination of Local Development Plans*' Version 2 December 2019, notes that '*...the Commissioner's report will be on the **soundness** of the plan and not on individual representations or sites. This represents a fundamental change from the development plan system that existed before the 2011 Planning Act came into force.*' (para 12).

Taking into account the 'soundness' requirements of **Consistency Test (C3)** and **Coherence and effectiveness test (CE2)** HED considers those representations relating to individual sites for zoning, to be premature at this stage of the local development plan process and more appropriately assessed at the Local Policies Plan (LPP) stage, in response to Council proposals, based on robust evidence. HED has therefore reserved comment on the potential impacts of site specific land zonings on heritage assets and their settings until this stage, also mindful of the potential for changing circumstances within the LPP development timeframe.

In preparation of the LPP, Councils, when considering the site specific lands uses, must ensure that proposals are founded on a robust assessment of the historic environment evidence base to inform land zonings for development. Councils must also demonstrate how this has been taken into account, and how it has been utilised to inform potential forms of

mitigation such as appropriate designation or other appropriate key site requirements e.g. for evaluation and identification, of previously unidentified archaeological remains.

The above comments are made toward ensuring that land zoning is carried out in accordance with the requirements of **soundness** under the **Consistency Test (C3)** and **Coherence and Effectiveness Test (CE2)**.

HED looks forward to engaging with the Council as it moves toward preparation for the Local Plan Policies stage of its Local Development Plan.

Yours faithfully,

Senior Architect

Senior Archaeologist

Heritage Records & Designations Branch

cc. (HED Assistant Director, HRDB)
(HED Assistant Director, HDCB)

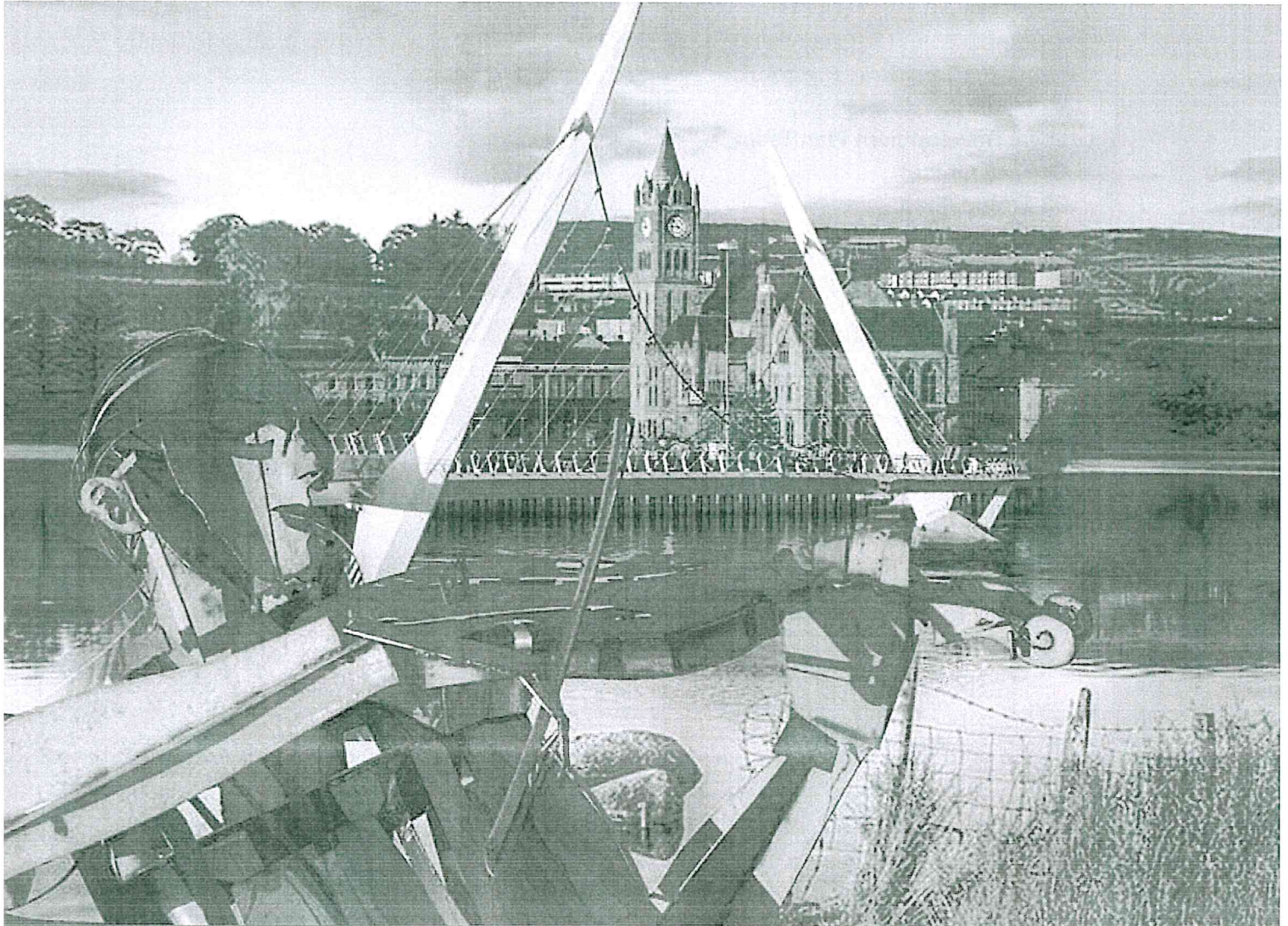


Derry City & Strabane
District Council
Cionaid:
Chathair Dhoiré &
Cheantar an tSrátha Bala
Derry Cille & Strábane
District Council

Derry City & Strabane District Council

Local Development Plan 2032

LDP Draft Plan Strategy Counter Representation Form



November 2020

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

Derry City and Strabane District LDP - draft Plan Strategy 2032 - Submission of a Counter Representation

Representations to the LDP draft Plan Strategy will be available for inspection during normal office opening hours, strictly by appointment only due to COVID 19 restrictions, from Friday 27th November 2020 at the Council's two main offices at **98 Strand Road, Derry, BT48 7NN** and **47 Derry Road, Strabane, Tyrone, BT82 8DY**.

They will also be available for inspection on the Council's website at:
www.derrystrabane.com/REP.

Counter Representations must be received by the Council's LDP Team by Friday 22nd January 2021. Those received after this deadline will not be considered.

Please complete this LDP draft Plan Strategy Counter 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**

Please complete a separate form for each Representation you are commenting on.

Hard copies of the form will also be available at our two main offices.

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 LDP draft Plan Strategy will not be considered as part of the consultation process.

Section A. **Data Protection**

In accordance with the General Data Protection Regulations and the Data Protection Act 2018, Derry City and Strabane District Council has a duty to protect any information we hold on you. The personal information you provide on this form will only be used for the purpose of LDP preparation and will not be shared with any third party unless law or regulation compels such a disclosure.

It should be noted that in accordance with Regulation 19 of the Planning Local Development Plan Regulations (Northern Ireland) 2015, the Council must make a copy of any Counter Representation available for inspection; this will involve its publication on the Council website, including the person's name (unless its removal is specifically requested and justified in writing.) The Council is also required to submit the Counter Representations to the Department for Infrastructure (and hence the Planning Appeals Commission, PAC) and they will then be considered as part of the Independent Examination process.

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>

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

Organisation

Agent

Other

Q2. What is your name?

Title **Mrs.**

First Name (Required)

Last Name (Required)

Email

Address Line 1 (Required) **Historic Environment Division,**

Line 1 **Klondyke Building, Cromac Avenue, Gasworks Business Park, Malone Lower**

Line 3 Town (Required) **Belfast**

Postcode (Required) **BT7 2JA**

Section C: **Previous Representation to draft Plan Strategy**

Q3a. Have you submitted a Representation to the Council regarding the draft Plan Strategy?

Yes

No

Q3b. If yes, please provide the reference and summary of issue raised in your Representation.

LDP-PS-REP-79 DfC Historic Environment Division.

Section D: Counter Representation

Any person may make a Counter Representation in relation to a Representation seeking a change to the LDP draft Plan Strategy. In accordance with Regulation 18 of the LDP Regulations, a Counter Representation may be made about any site-specific policy Representation (defined as those that seek change by adding a site-specific policy, or altering or deleting any site-specific policy contained in the LDP draft Plan Strategy). **Each Counter Representation must relate to a site-specific policy Representation and quote its reference number and must not propose any change to the LDP draft Plan Strategy document.**

Please provide the reference number of the Representation to which your Counter Representation relates.

LDP-PS-REP-56 -Foyle-River-Gardens-Turley

Q4. Please give reasons for your Counter Representation having particular regard to the soundness test identified in the above Representation. Please note that your Counter Representation must not propose any new changes of the LDP draft Plan Strategy. Please note your Counter Representation should be submitted in full and cover succinctly all the information, evidence, and any supporting information necessary to support / justify your submission. There will not be a subsequent opportunity to make any further submissions based on your original Counter Representation. After this stage, further submissions will only be at the request of the Independent Examiner, based on the matters and issues he / she identifies at the Independent Examination.

Please see attached letter dated 22nd January 2021.