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Sent: 27 January 2020 16:56
To: Local Development Plan
Cc: Brian Kelly
Subject: DCSDC dPS - Rep obo FRG
Attachments: FRG EPF - DCSDC dPS Form.pdf; FRG - Submission to DCSDC's dPS.pdf

Dear Sir/Madam

On behalf of our client, the Foyle River Gardens, please find attached representations to the Draft Plan Strategy. We enclose:

- Completed form; and
- Representation report prepared by Turley

We would be grateful if you could acknowledge receipt of the representation by return of email.

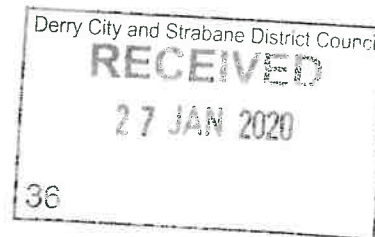
Kind regards

Paul

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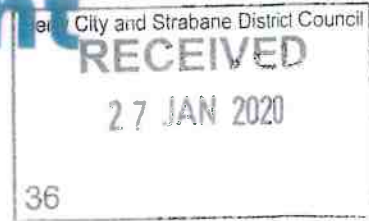
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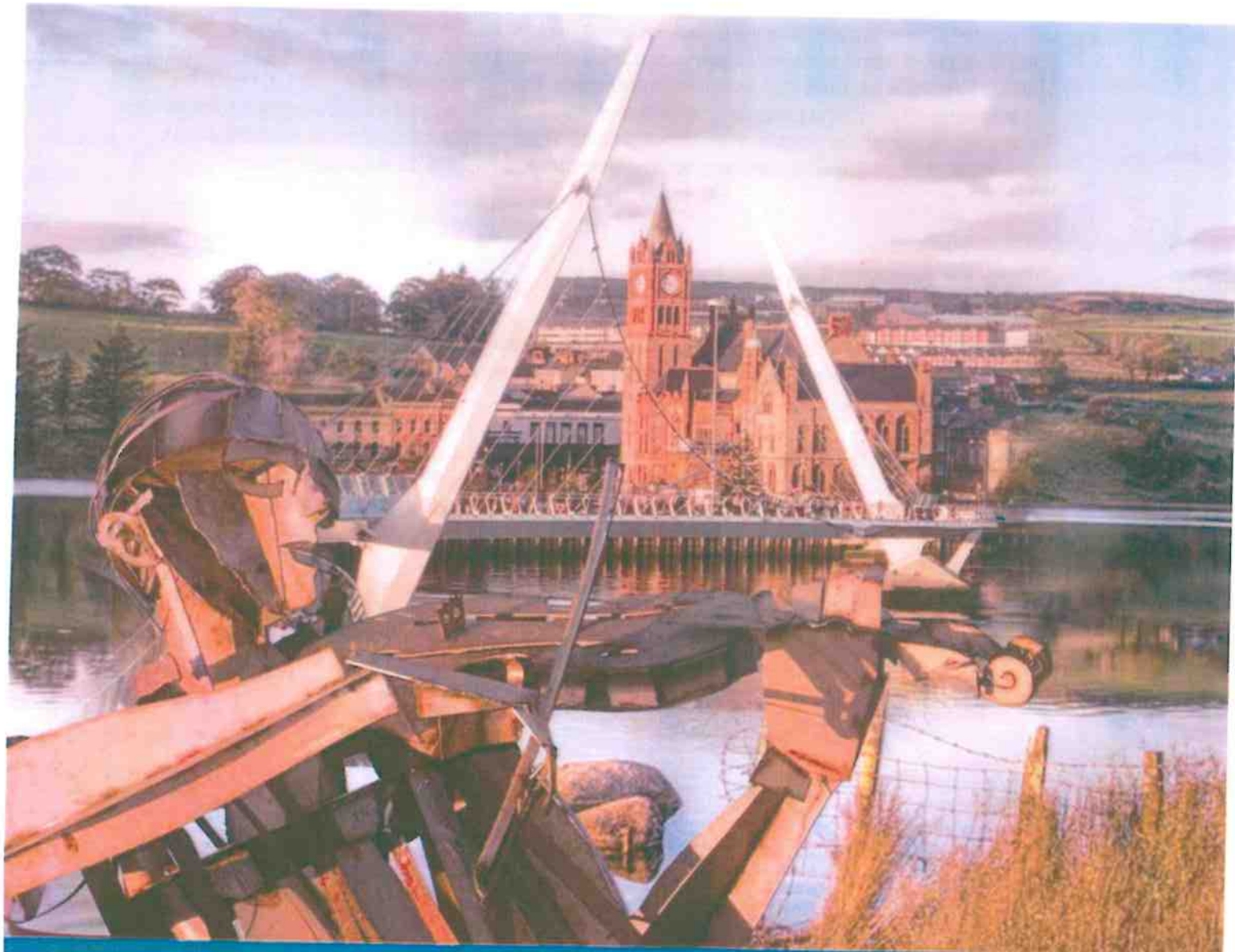
Derry City & Strabane District Council

Local Development Plan

(LDP) 2032



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



December 2019

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

Introduction

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

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

What is the Local Development Plan (LDP)?

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

What is the LDP Plan Strategy (PS)?

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

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

How We Are Consulting

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

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

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

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

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

Section A Data Protection

Local Development Plan Privacy Notice

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

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

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

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

Why are we processing your personal information?

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

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

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

Section B: Your Details

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

Please only tick one

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

Q2. What is your name?

Title

First Name (Required)

Last Name (Required)

Email

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

- Yes
- No
- Unsure

Section C: Individuals

Address (Required)

Town (Required)

Post code (Required)

On completion, please proceed to Section F

Section D: Organisation

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

Organisation / Group Name (Required)

Your Job Title / Position (Required)

Organisation / Group Address (if different from above) :

Address (Required)

Town (Required)

Postcode (Required)

On completion, please proceed to Section F

Section E: Agents

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

Client Contact Details

Title / First Name (Required)

Last Name (Required)

Organisation / Group Address - Foyle River Gardens

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 - Turley

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.

Derry Strategic Design Policy 1 (DSDP 1) - Arrival Points
Derry Strategic Design Policy 2 (DSDP 2) - Sustainable Connectivity for the City
Derry Strategic Design Policy 4 (DSDP 4) - Riverfront
Place-making & Design Principle 2 (PDP 2) - Secure Sustainable New Uses
Place-making & Design Principle 5 (PDP 5) - Capitalise upon Natural Assets
Place-making & Design Principle 17 (PDP 17) - Successful Integration into the Landscape

Please see accompanying report.

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:

Chapter 4 LDP Vision and Objectives; Chapter 12 Tourism; Chapter 17 Open Space, Sport & Outdoor Recreation; Chapter 21 Natural Environment; Chapter 23 Historic Environment;
- See enclosed report for further details.

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)

See enclosed report

(and/ or) Relevant Policy number(s)

See enclosed report

(and/or) Relevant Paragraph number(s)

See enclosed report

(and/or) District Proposals Map

See enclosed report

Please give full details of why you consider this part of the LDP draft Plan Strategy to be unsound, having regard to the tests(s) you have identified above. Please be as clear and concise as possible.

See enclosed report

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

If you consider the LDP draft Plan Strategy to be unsound, please provide details of what changes(s) you consider necessary to make the LDP draft Plan Strategy sound.

See enclosed report

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

Section L: Sustainability Appraisal

If you wish to submit an 'expression of opinion' in relation to the Sustainability Appraisal (SA) of the LDP draft Plan Strategy (incorporating the Strategic Environmental Assessment (SEA)) please state them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the SA.

N/A

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

Section M: Draft Habitats Regulation Assessment (HRA or AA)

If you have any comments or opinions in relation to the Draft Habitats Regulation Assessment (HRA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the HRA.

N/A

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

Section N: Draft Equality Impact Assessment (EQIA)

If you have any comments or opinions in relation to the Draft Equality Impact Assessment (EQIA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the EQIA.

N/A

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

Section O: Draft Rural Needs Impact Assessment (RNIA)

If you have any comments or opinions in relation to the Draft Rural Needs Impact Assessment (RNIA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the RNIA.

N/A

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

Representation to Derry City & Strabane
**District Council's Local Development Plan -
Draft Plan Strategy**
On behalf of The Foyle River Gardens

January 2020

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Client
The Foyle River Gardens

Our reference
INN3002

Jan 2020

1. Introduction

- 1.1 This representation is submitted on behalf of the Foyle River Gardens (with respect to their proposed Eden Project Foyle proposal) in response to the publication of, and formal consultation on, the Derry City and Strabane District Council's (DCSDC) draft Plan Strategy (dPS) and in connection with the emerging Foyle River Garden's 'Eden Project Foyle'.
- 1.2 Our client welcomes the publication of the dPS and the progress that the Council is making towards adopting a local development plan for the area and the opportunity to provide comment on the policy proposals.
- 1.3 This representation seeks to highlight specific concerns expressed by our client with respect to the following:
 - Statutory requirements - in relation to the consultation period and publication of the evidence base;
 - Local Development Plan Vision and Objectives;
 - Tourism Development Strategy and Proposed Policy TOU 5;
 - Natural Environment – Proposed Policies NE 4 and NE 7;
 - Historic Environment – Proposed Policy HE 4; and
 - Open Space, Sport and Outdoor Recreation – Proposed Policy OS 4.
- 1.4 It also seeks to outline support for aspects of:
 - Derry Strategic Design Policy 1 (DSDP 1) - Arrival Points;
 - Derry Strategic Design Policy 2 (DSDP 2) - Sustainable Connectivity for the City; and
 - Derry Strategic Design Policy 4 (DSDP 4) – Riverfront.
- 1.5 To ensure that this representation is set within the appropriate planning context, we have reviewed all legislative, regulatory and policy requirements/guidance associated with local development plans in Northern Ireland and all supporting documents associated with the dPS and the preferred Options Paper, which are relevant to the topics/policies which we make comment on.

2. Legislative Compliance

Introduction

- 2.1 In preparing the draft Plan Strategy (dPS), Derry City & Strabane District Council (DCSDC) is required to adhere to the provisions of the Planning Act (Northern Ireland) 2011 ('Act') and the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 ('Regulations').
- 2.2 This section seeks to identify issues in the compliance of the dPS with the Act and the Regulations.

Planning Act (Northern Ireland) 2011

- 2.1 Part 2 of the Act stipulates that the Plan Strategy (PS) must be prepared in accordance with the Council's timetable and with the Council's Statement of Community Involvement, as approved by the Department for Infrastructure ('Dfi').
- 2.2 The Council's Local Development Plan (LDP) Timetable, as approved and published on their website is dated July 2019. We note that the Council published the dPS within the timeframes indicated in its timetable (i.e. between Q3 & Q4 2019/2020).
- 2.3 However, we note that this timeframe is also to include for the review of representations received and the consultation period for site specific counter-representations. In line with guidance issued by Dfi, we recommend that DCSDC carefully monitors this time period to ensure that that all phases of the LDP are undertaken within the approved timelines agreed by Dfi.
- 2.4 So far as the requirement of section 8(4)(b) of the Act is concerned, i.e. that the plan strategy must be prepared in accordance with the council's Statement of Community Involvement (SCI), we note the following sections of the Council's revised SCI (dated May 2018):
 - Para 1.5 – *'The Council is keen to ensure that by actively involving our citizens in **early and meaningful dialogue**, we will create a **culture of effective and worthwhile participation** within an **open and transparent planning process**' (our emphasis);*
 - Para 2.5 – *'We **want to provide ample opportunity** for groups, businesses and individuals **to be involved in shaping our District's planned development** and **by taking part in this plan making process** and being aware of the planning process, you can influence the decisions being made about the LDP and the built form of this District' (our emphasis);*
 - Para 2.6 – The SCI sets out the following 'Vision of Participation', 'A **sustainable society** must be instilled with democratic values. Its **citizens must share a sense of effective participation** in the decision making process. They must **feel they have a say in their society's development** and the skills, knowledge and ability to assume responsibility for that development' (our emphasis);

- Para 2.7 – *‘This is a shared vision of participation in decision making and it is therefore aimed to ensure that:*
 - (i) **Everyone has an early and informed opportunity to express their views on the development of the area and have it considered before decisions are made** (our emphasis);
 - (ii) **All groups in our community... are enabled and empowered to participate** (our emphasis);
- Under the Principles of Community Involvement (Para 2.9), the SCI states the following:
 - Culture of Engagement – *‘People should be aware of the opportunity to participate in the planning process, and be encouraged to take part in the knowledge that **the Council is truly interested in all opinions**’* (our emphasis);
 - Early Involvement – *‘We will **adopt a pro-active approach** to ensure that the **community are given the opportunity to engage** in the planning process **at an early stage to facilitate the greatest potential benefit**’* (our emphasis);

2.5 Having reviewed the Council’s revised SCI, we are concerned that the consultation period of the dPS is not in accordance with the SCI as required by ‘soundness test’ P1. Indeed, we note the following:

- the LDP timetable section of the Council’s website states: *‘At the Council’s Planning Committee on 25th March 2019, Members agreed to review and subsequently revise the LDP Workplan and Timetable which will deliver a published LDP draft Plan Strategy (dPS) **in Autumn 2019**’* (our emphasis);
- unlike other Local Authorities in Northern Ireland, the Council did not provide a 4 week ‘pre-consultation’ period prior to the publication of the dPS – it is disappointing that DCSDC did not adopt a ‘soft landing’ approach which has been adopted as best practice by other Local Authorities in Northern Ireland (such as Belfast City Council, Lisburn & Castlereagh City Council, etc) particularly noting that this ‘soft landing’ approach is widely welcomed by members of the public, practitioners and interested parties as it has enabled all those engaging with the plan to obtain a better understanding of the proposed components of the respective dPS;
- the Council’s 8 week consultation period included the Christmas holidays which has impacted the time available to engage with the plan. Furthermore, this approach prevented members of the public from accessing expert planning advice noting that most practices were closed for 2 weeks during the Christmas break and noting that the Council offices were closed for 4 days during the festive period; and

- the public consultation period of the Lisburn & Castlereagh City Council (LCCC) dPS, which ran from Friday 8th November 2019 to Friday 10th January 2020 and included the Christmas holidays, provided an extra week (i.e. 9 weeks instead of 8 weeks) for the consultation period to account for the obvious disruptions that the holidays would cause to the consultation process.

2.6 Noting the above concerns, we issued a letter by email (dated 19 December 2019) highlighting our concerns and respectfully requesting that the Council consider extending the consultation period to account for the Christmas holidays or at least the four days that the Council's offices were closed.

3. The Tests of Soundness

The Tests of Soundness

- 3.1 The Planning Act (Northern Ireland) 2011 does not define the meaning of 'soundness'. However, Development Plan Practice Note 6 – Soundness (DPPN 6), dated May 2017, suggests that it may be considered in the context of its ordinary meaning of 'showing good judgement' and 'able to be trusted' (our emphasis).
- 3.2 Furthermore, DPPN 6 states that the tests of soundness are based upon three categories, which relate to:
- how the development plan document (DPD) has been produced;
 - the alignment of the DPD with central government regional plans, policy and guidance; and
 - the coherence, consistency and effectiveness of the content of the DPD.
- 3.3 DPPN 6 advises that 'soundness' involves testing the principles, content and preparation process of the DPD against a list of key criteria. DPPN 6 then sets out the following tests which '***...aim to provide a framework to assess the soundness of the DPD, whilst taking account of all relevant procedural, legislative and policy considerations***':

Procedural tests

P1. Has the plan been prepared in accordance with the council's timetable and the Statement of Community Involvement?

P2. Has the council prepared its Preferred Options Paper and taken into account any representations made?

P3. Has the plan been subject to sustainability appraisal including Strategic Environmental Assessment?

P4. Did the council comply with the regulations on the form and content of its plan and on the procedure for preparing the plan?

Consistency tests

C1. Did the council take account of the Regional Development Strategy?

C2. Did the council take account of its Community Plan?

C3. Did the council take account of policy and guidance issued by the Department?

C4. Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?

Coherence and Effectiveness tests

CE1. The plan sets out a coherent strategy from which its policies and allocations *logically flow and where cross boundary issues are relevant is it in conflict with the plans of neighbouring councils.*

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

CE3. *There are clear mechanisms for implementation and monitoring.*

CE4. *The plan is reasonably flexible to enable it to deal with changing circumstances.*

Other Soundness Considerations

3.4 Section 10(6) of the 2011 Act states that the purpose of the Independent Examination is to determine if the dPS satisfies the requirements of Sections 7 and 8 of the 2011 Act.

3.5 So far as Section 8 of the 2011 Act is concerned, we note that it confirms that the Council must take account of any policy or advice contained in guidance issued by the Department.

3.6 It is considered that Development Plan Practice Note 07 (DPPN 07) entitled 'The Plan Strategy', which was issued by the Department in April 2015, can be regarded as 'guidance' for the purposes of Section 8(b) of the 2011 Act.

3.7 Indeed, this is reinforced by the Preamble section of DPPN 07 noting that it states the following:

- *'This Development Plan Practice Note is designed to **guide** planning officers and relevant users through the key requirements for the preparation of the Plan Strategy and deals primarily with procedures as well as good practice. It **forms part of a series of new practice notes stemming from the Planning Act (Northern Ireland) 2011**'*
- *'Where appropriate this practice note will therefore highlight... Procedural **guidance**'; and*
- *'**This guidance** is not intended to replace the need for judgement by planning officers in the local development plan making process'.*

3.8 In light of the above, we set out below some notable requirements identified in DPPN 07 with respect to the objectives of the dPS:

- *'...act as a basis for **rational and consistent decisions about the use and development of land**...' (our emphasis);*
- *'provide a **settlement hierarchy** which **identifies** settlements and **their role** within the hierarchy...' (our emphasis);*

- ‘facilitate **sustainable patterns of growth and regeneration** whilst promoting **compact urban forms** and protecting and **maintaining** distinctive local character and **viability**’ (our emphasis);
 - ‘**promote the development** of sustainable tourism, **recreational and other community facilities** that will **positively contribute** to the **amenity and wellbeing** of the population’ (our emphasis);
 - ‘...aim to ensure that [the] PS is **both realistic and deliverable** taking into account the **resources available and any potential constraints** which may arise during the plan period’ (our emphasis)
 - ‘...aim to incorporate **a degree of flexibility** within its PS **to ensure** that its objectives and strategic policies for its area can still be **delivered**’ (our emphasis).
- 3.9 In terms of making representations, DPPN 07 states that ‘...representations should **provide evidence** to demonstrate why the draft PS is **unsound** and/or how any proposed changes make the draft PS **more sound**’ (our emphasis) .
- 3.10 In a recent PAC Information Session chaired by Commissioner Rue, it was helpfully confirmed that the evidence component of representations need not be pages upon pages of facts and figures but that it can be as simple as explaining ‘why’ a proposed strategy or policy should be amended.
- 3.11 In accordance with this guidance and recent advice provided by the PAC, the following sections of this representation seek to set out ‘why’ certain aspects of the dPS are considered ‘unsound’ or could be ‘more sound’.

4. The Foyle River Garden's - 'Eden Project Foyle'

Introduction

- 4.1 The Foyle River Garden's - 'Eden Project Foyle' (EPF) represents a once in a generation opportunity for the City of Derry and the North West region.
- 4.2 It seeks to deliver a world-class tourism and heritage-led regeneration project, on the bank of the River Foyle, which will become a dazzling destination for people to play, grow and connect.
- 4.3 The emerging vision for the EPF is based on sensitively and respectfully unlocking the landscape along the River Foyle in a sustainable manner to enable all those who visit the area to re-connect with more than 400 years of the city's history.
- 4.4 As an inspiring eco-visitor attraction, the EPF will stretch from the Foyle Bridge to Culmore Point along the western bank of the Foyle River so as to place the Foyle at heart of the city's future once more.
- 4.5 The EPF covers an area of approximately 225 acres to the north of the City of Derry (as illustrated in Appendix 1 and 2) and includes the estates and buildings associated with Boom Hall and Brook Hall. The Project also has the potential to expand into adjoining land to the north and south of the identified site at a later date. This is particularly the case with respect to the riverside walkway that will connect the existing greenways to the city at Bay Road further down to Culmore village.

Project Partners

- 4.6 The project is a partnership between Foyle River Gardens Trust and the Eden Project.
- 4.7 Additional partners contributing to and developing the project are: Brook Hall Estate, Derry City & Strabane District Council, Queen's University Belfast, Ulster University, NW Regional College and Innovate-NI.
- 4.8 Innovate-NI and the Eden Project are the Executive Development Team (EDT).
- 4.9 Overall, the EPF seeks to fuse the skills and aspirations of the city, the expertise of the Eden Project, along with a range of renowned international and local partners, to deliver by 2023 the beginnings of a world-class visitor attraction that can provide a new optimism for the region.
- 4.10 As an educational Charity, any surplus generated from the operation will be used to deliver FRG Charitable mission. An independent economic impact assessment of the scheme also identifies that the public benefit generated by the project (economic, social and environment impacts) will far outweigh the private benefit accrued for the Charity.

Project Aims/Objectives/Ambitions

- 4.11 A key aim of the EDT is the development of a master plan for the EPF site. Indeed, considerable work has been undertaken and is still ongoing to progress the site master plan.
- 4.12 The following list sets out some of the main driving aims/objectives/ambitions of the EPF which have informed the project brief and the emerging master plan:
- establish Foyle River Gardens as part of Eden’s family of globally transformative projects linking China, USA, England and Ireland;
 - create a quality year-round world-class iconic signature tourism attraction enticing 400,000 visitors per annum;
 - make a significant contribution to the regeneration of Derry/Londonderry generating £62 million economic impact in the local economy each year and creating 2,200 net jobs within the local economy;
 - open up 225 acres of previously inaccessible land to the general public;
 - create 8km of riverside trails and connect the site to the city and Wild Atlantic Way;
 - enhance 15,000 sq.ft. of historic buildings including Boom Hall and Brook Hall;
 - bring 3 historic walled gardens and a 19th century Ice House back into use;
 - deliver an annual calendar of on-site activities; and
 - establish educational partnerships with Higher and Further Educational establishments to help support research and training opportunities on the site with a focus on ecology, the environment and wellbeing; It is noted that 2023 has been identified by the EDT as the target timeframe to deliver most, if not all, of the above aims.
- 4.13 To assist in articulating and understanding the untapped potential that the EPF represents, a site master plan has been developed and is currently being refined in consultation with local stakeholders, with inputs from Grimshaw and Benoy Architects. As this master plan evolves, we will seek to share it with the Council once it has reached an appropriately advanced stage. .

Project Progression

- 4.14 In terms of sowing the seeds of success for the EPF and building consensus around/support for this transformative and ambitious regeneration project, we summarise below some of the work that the Executive Development Team (EDT), i.e. Innovate-NI and the Eden Project, has undertaken since 2016.

Stakeholder Engagement

- The project has been presented to Council on three occasions since 2016 – twice in camera and once in open session. It has been endorsed by all political parties.
- The EDT has engaged with the No. 10 Cabinet Office and has an agreement to make representation to the Cabinet Office in the near future.
- The EDT has presented the proposals to a team of senior civil servants with representatives from the Office of the First Minister and Deputy First Minister, the Department of Agriculture, Environment and Rural Affairs, the Strategic Investment Board and the Department for Communities.
- The EDT has made presentations to the Northern Ireland Office (NIO) and made an invitation to the Secretary of State to visit the site.
- The EDT has also made presentations to An Tánaiste's Office and has provided an invitation to visit the site. An Tánaiste's office has agreed to co-ordinate with the NIO on the site visit component.
- Over 250 interested parties have visited the site for a tour, both during EHOD weekends (2018 & 2019) and in response to individual requests from public, private and third sector organisations. These include Department of Agriculture, Environment and Rural Affairs, Northern Ireland Tourist Board, Loughs Agency, Derry City & Strabane District Council, Queens University Belfast, Ulster University, North West Regional College, Greater Shantallow Area Partnership.
- The return of the Stormont executive was heralded with a new deal for government document entitled 'New Decade, New Approach'. This document was agreed between both UK and Irish Governments and endorsed by all NI parties. The Foyle River Gardens project has been specifically named in the document where it states: *'The Government is ready to continue discussions through the North West Strategic Growth Partnership **on key projects for employment and sustainable development** in the region, including the **Foyle River Gardens Project** initiative'* (our emphasis).

Defining and Evolving the Opportunity

- Considerable engagement has been undertaken with recognised and award-winning professionals to help develop the project.
- The EDT has worked with Grimshaw and Benoy Architects to develop and progress a masterplan for the site.
- In developing the site master plan further engagement has been undertaken with local community groups and stakeholders, Aardman Animation, La Machine, the City of Nantes, Queen's University Archaeology Department, the Eden Project and the Lost Gardens of Heligan.
- A business case has been developed by the Eden Project and it has been independently evaluated and verified by Grant Thornton and Fourth Street Consultants.

- The EDT is currently undertaking an options appraisal sponsored by the Strategic Investment Board for Northern Ireland to determine a next steps process.

Research Assisting with Project Evolution/Development

- The EDT is currently working with Ulster University and Queens University Belfast on a Centre for Advanced Sustainable Energy (CASE) project to develop an Intelligent Sustainable Energy Management System for the EPF site to ensure that the site is carbon neutral or carbon negative and as far as possible 'off-grid'.
- The EDT is also leading on an Expression of Interest proposal to the Innovate UK Strength in Place programme on a £24m research programme exploring sustainable energy and carbon neutral high nutrient food production supporting both artisan food producers and commercial food factories with a view to ensuring food provenance and reduced carbon footprints in the supply chain.

Current Planning Policy Context

- 4.15 The EPF is not currently recognised in, or provided with any special planning policy status in the Derry Area Plan (DAP) 2011.
- 4.16 The subject site is located outside of the development limit as illustrated by 'Map No 2: City Map' of the DAP.
- 4.17 'Map No 1: District Strategy' of the DAP identifies the site as being located within an area designated as a 'Green Belt' and an 'Area of High Scenic Value'.
- 4.18 It is further noted that the site contains heritage designations such as listed buildings and historic parks, gardens and demesnes.

Enabling the Opportunity

- 4.19 The EPF represents a once in a generation opportunity to deliver a transformative world-class tourism and heritage-led regeneration project, on the bank of the River Foyle to the benefit of the local economy and the wider North West region.
- 4.20 The EPF will cement the primacy of the City of Derry at the top of the North West region's spatial/settlement hierarchy and it will deliver numerous benefits, which have been quantified by Grant Thornton in its Economic and Social Impact Appraisal of the EPF, dated July 2019 .
- 4.21 Indeed, the EPF, when delivered, will positively contribute to the following agendas:
- Tourism;
 - Education;
 - Heritage;
 - Environment;
 - Community/social cohesion (including Cross Border relations); and

- Health and Wellbeing.

4.22 However, the current planning policy context creates uncertainty for those wishing to invest in and progress this great opportunity. Thus, to better enable and assist in creating greater certainty for the EPF, the EDF respectfully request the Council to amend its draft Plan Strategy to:

- recognise the local and regional importance of the opportunity that exists with respect to the EPF and the benefits that it can provide;
- identify the EPF as a key component that will contribute to, and help to secure, the future growth of the City, district and North West region over the plan period;
- formally welcome the opportunity that the EPF represents and advise that the Council will support the progression and delivery of this transformative project; and
- outline a commitment to work with the relevant partners of the EPF and prepare Supplementary Planning Guidance for the EPF site.

4.23 It is considered that the proposed amendments to the dPS will ensure that the overarching strategy for the City and District is 'more sound', in accordance with Section 25.5 of the Department's Development Plan Practice Note 07 - The Plan Strategy, dated April 2015.

4.24 The remainder of this representation seek to set out 'why' specific aspects of the dPS are considered 'unsound' or could be 'more sound' with respect to the EPF.

5. LDP Vision and Objectives

5.1 Paragraph 4.1 of the dPS states that *'The Council's overall Vision for the District is set out in Our Community Plan – the inclusive Strategic Growth Plan for Derry City and Strabane District (SGP, 2017)'*.

5.2 The Council's Community Plan sets out the following Vision:

'Our vision is a thriving, prosperous and sustainable City and District with equality of opportunity for all'.

5.3 Paragraph 4.1 of the dPS advises that *'The LDP builds upon this Vision for the District, namely:*

To make Derry City and Strabane District a thriving, prosperous and sustainable area – Planning for balanced and appropriate high-quality development, whilst protecting our environment, and also promoting wellbeing with equality of opportunity for all'.

5.4 It is considered that the EPF, as detailed in the previous section, would make a significant contribution towards realising the vision for the City and District, and as such, it should be formally recognised within the dPS.

5.5 Indeed, the EPF (formerly known as the Boom Hall Partnership) is formally recognised in the Community Plan which identifies Boom Hall as a 'Key Strategic Capital Project' to be progressed by 2023 and as a 'major regional park site'¹.

5.6 Section 4 of the Community Plan sets out 'Outcomes and Actions', which include 'Environment and Regeneration'. Under the 'Physical & Environmental Regeneration' section, the Community Plan states the following as a key action:

*'Develop our parks and green spaces **including major regeneration and enhancement schemes** in Ballyarnett Country Park, Culmore District Park, Castledearg Castle and Gardens, **Boom Hall**, Riverine, Carricklee in Strabane and St. Columb's Park' (our emphasis).*

5.7 It is surprising therefore that the dPS does not give any formal recognition of the EPF (referred to as Boom Hall in the Community Plan), particularly noting the following:

- Paragraph 4.2 of the dPS states that *'The LDP **is required to 'take account of the Community Plan'*** which aligns with Section 8(5)(aa) of the Planning Act (Northern Ireland) 2011;

¹ Noting the passage of time since the publication of the Community Plan in November 2017, the Boom Hall Partnership has evolved and the name has changed to the FRG – references to Boom Hall in the Community Plan are in fact references to the same lands/aspirations of the EPF.

- Paragraph 4.2 of the dPS states ‘...the **two documents** [i.e. the dPS and Community Plan] **are closely aligned**, having been initiated at the same time, with **similar vision and priorities** for the District to 2032...’ (our emphasis);
 - Paragraph 36.6 of the dPS states that ‘The LDP and the Council’s Strategic Growth Plan (SGP) 2032 **are in concert in respect of regeneration**’ (our emphasis); and
 - Paragraph 36.6 of the dPS identifies a number of capital projects to be progressed or completed within the District by 2025 but this list does not include reference to Boom Hall ‘Key Strategic Capital Project’/‘major regional park site’ (now known as the EPF).
- 5.8 Noting the foregoing, the dPS does not appear to take account of, nor is it ‘closely aligned’ with or ‘in concert’ with, the Community Plan in this regard.
- 5.9 Thus, to ensure that the dPS satisfies the statutory requirements and the above-mentioned outcomes, the Council is respectfully requested to amend this section of the dPS to:
- recognise the local and regional importance of the opportunity that exists with respect to the EPF and the benefits that it can provide;
 - identify the EPF as a key component that will contribute to, and help to secure, the future growth of the City, district and North West region over the plan period;
 - formally welcome the opportunity that the EPF represents and advise that the Council will support the progression and delivery of this transformative project; and
 - outline a commitment to work with the relevant partners of the EPF and prepare Supplementary Planning Guidance for the EPF site.
- 5.10 Amendment of the dPS in this manner will help to ensure a more ‘sound plan’, in accordance with Section 25.5 of the **Department’s Development Plan Practice Note 07 - The Plan Strategy**, as the EPF will help to deliver on the vision for the City and District set out in the dPS and Community Plan.
- 5.11 The requested amendments will enable the EPF to make significant contributions towards achieving a number of the objectives of the dPS set out under Paragraph 4.4 of the dPS.
- 5.12 Furthermore, as the requested amendments will help to enable the locally and regionally significant EPF opportunity, we consider that these amendments will also ensure that the dPS takes account of the Regional Development Strategy (RDS) 2035 as it will align with the following aspects of the RDS:
- Aim 2 of 8: Strengthen Belfast as the regional economic driver and Londonderry as the principal city of the North West;

- SFG7 Strengthen the role of Londonderry as the Principal city of the North West; and
- SFG9 Protect and enhance the environmental assets of Londonderry and the North West.

5.13 We respectfully submit that in its current form, and until the above requested amendments are made, the dPS does not satisfy soundness tests C1, C2, CE1, CE2 and CE4.

6. Tourism Development

LDP Strategy for Tourism

- 6.1 The Council's overall proposed tourism strategy is welcomed, particularly noting that *'...Derry City will remain the prime tourism opportunity and will have the greatest economic benefit'*.
- 6.2 It is also encouraging that the dPS acknowledges *'...the Council's increased role in promoting tourism development...'* and that its strategy will seek to *'...support and facilitate appropriate sustainable tourism development'*.
- 6.3 The Council's commitment under Paragraph 12.9 of the dPS is also welcomed, i.e. *'A positive approach will be adopted in determining applications for tourism development in the District, especially for those proposals which are sustainable and will result in high quality forms of development'*.
- 6.4 It is noted that the strategy seeks to direct tourism proposals *'...primarily to the city, towns and other key settlements in order to ensure that there will be economic benefit and environmental sustainability across our District'*.
- 6.5 Noting the significant local and regional opportunity that the EPF represents, it is disappointing that the strategy does not acknowledge that there is likely to be significant tourism opportunities (that are sustainable and will result in high quality forms) that cannot be located within key settlements due to the type of the tourism offer/product/proposal.
- 6.6 Including this acknowledgement would: ensure that the strategy aligns with the proposed 'positive approach' by the Council; set up the justification for the inclusion of proposed policy TOU 5; and ensure that the strategy will comply with soundness tests CE1 and CE2, and CE4.

TOU 5 - Major Tourism Development in the Countryside – Exceptional Circumstances:

- 6.7 The inclusion of this policy exception is welcomed.
- 6.8 However, it is noted that some large scale major tourism proposals take time to come forward and may be delivered in phases.
- 6.9 To account for this scenario and to ensure that an appropriate degree of flexibility is built into the proposed policy, it should be amended to acknowledge this scenario and advise that smaller tourism proposals, which form part of an overall master plan for a major tourism site, can be brought forward under this policy.
- 6.10 Noting the preceding sections of this representation and the significant opportunity that the EPF represents, the Council is also respectfully requested to include a commitment to prepare SPG for the EPF site.

- 6.11 Furthermore, it should be noted that the concept of 'tourism' and what represents a 'tourism' offer or product is evolving with time. Indeed, to ensure that major tourism opportunities are not stifled from innovating or delivering a diverse range of uses and attractions that would sustain/complement the development and extend the tourism season for the benefit of all in the locality/region, this proposed policy should build in flexibility in terms of what can be regarded as 'tourism'.
- 6.12 Without the proposed amendments outlined above, proposed policy TOU 5 will not satisfy soundness tests CE1 and CE4.

7. Open Space, Sport and Outdoor Recreation

OS 4 - Outdoor Sport and Recreation in the Countryside

- 7.1 The Justification and Amplification section of this policy acknowledges that *'Countryside recreation can contribute to the rural economy and the promotion of tourism'*. However, the dPS then advises that *'The environmental impact of certain countryside pursuits and their related developments can be a concern and the Council wishes to ensure that new recreational development in the countryside is sustainable...'*.
- 7.2 Having reviewed the proposed policy, it is considered to be overly restrictive and presents considerable obstacles and uncertainty for anyone seeking to bring forward a proposal to deliver popular and in demand sport and outdoor recreation opportunities/facilities in the most sought after and suitable locations, such as hill walking, rambling, cycling, angling, horse riding, orienteering, mountain-biking, rowing, sailing and canoeing.
- 7.3 Similar to previous comments with respect to the Natural Environment, this policy does not include an appropriate degree of flexibility.
- 7.4 In its current form, the proposed policy is vulnerable to prescriptive interpretation that could prevent or stifle sustainable and beneficial projects from coming forward, such as the EPF.
- 7.5 Further flexibility should be built into the proposed policy to ensure that it satisfies soundness test CE4. The proposed policy could be amended to:
- acknowledge the planning balance that must be achieved when applying this policy to future proposals, i.e. having regard to the proposal's overall economic, social and environmental contributions;
 - include an additional component in the policy that potential impacts could be offset with mitigation and/or compensatory measures; and
 - adopt a more proactive and positive approach to such developments by advising that the Council will support sustainable proposals for these types of uses;
 - adopt a more positive approach by acknowledging (within the policy box) the substantial benefits that these types of uses can deliver for the local population and the growing number of tourists in terms of health, well-being, community, society, environment, and economy.
- 7.6 Without the proposed amendments outlined above, proposed policy OS 4 will not satisfy soundness test CE4.

8. Natural Environment

NE 4 - Development adjacent to Main Rivers and Open Water Bodies

- 8.1 Having reviewed this proposed policy, it is considered that it is overly restrictive and it does not include an appropriate degree of flexibility.
- 8.2 In its current form, the proposed policy is vulnerable to prescriptive interpretation that could prevent or stifle sustainable and beneficial projects from coming forward, such as the EPF.
- 8.3 Further flexibility should be built into the proposed policy to ensure that it satisfies soundness test CE4. The proposed policy could be amended to:
- acknowledge the planning balance that must be achieved when applying this policy to future proposals, i.e. having regard to the proposal's overall economic, social and environmental contributions;
 - include an additional component in the policy that potential impacts could be offset with mitigation and/or compensatory measures.
- 8.4 In terms of the impact on the landscape character and setting and on nature conservation, this could be amended from 'adverse' to 'significant adverse' as any form of development in these areas, no matter how sensitively designed or sited, could be argued as creating 'adverse' impacts.
- 8.5 Furthermore, the requirement for a biodiversity strip should account for the following exceptions:
- when this area of the river is required to provide required access or facilities for the development (such as aqua sports, etc); and
 - if the 10m biodiversity strip would negatively impact on the delivery of a quality project (such as a river bank walkway) or if it would create viability or maintenance/management issues then a smaller biodiversity strip will be accepted.
- 8.6 Without the proposed amendments outlined above, proposed policy NE 4 will not satisfy soundness tests CE2 and CE4

NE 7 - Development within Areas of High Landscape Importance (AHLIs)

- 8.7 Similar to NE 4 above, having reviewed proposed policy NE 7, it is considered that it is overly restrictive and it does not include an appropriate degree of flexibility.
- 8.8 In its current form, the proposed policy is vulnerable to prescriptive interpretation that could prevent or stifle sustainable and beneficial projects from coming forward, such as the EPF.

- 8.9 Further flexibility should be built into the proposed policy to ensure that it satisfies soundness test CE4. For example, the proposed policy could be amended to acknowledge the planning balance that must be achieved when applying this policy to future proposals, i.e. having regard to the proposal's overall economic, social and environmental contributions.
- 8.10 The proposed policy also states that *'In exceptional circumstances, significant proposals will only be permitted within AHLIs where their regional or District-wide importance is considered to outweigh any potential adverse impact on the intrinsic features of the AHLI'*.
- 8.11 This aspect of the proposed policy is welcomed, however, it is not clear what the Council will consider to be exceptional circumstances or how it intends to weigh up the importance of the proposal - v - any adverse impacts on intrinsic features of the AHLI.
- 8.12 To ensure that this proposed policy satisfies soundness test CE3, further information should be provided with respect to what 'exceptional circumstances' the Council will consider and what it will take into account when undertaking the weighing/balancing exercise. This information will help to ensure that the mechanisms for implementation of this proposed policy will be clear.
- 8.13 Without the proposed amendments outlined above, proposed policy NE 7 will not satisfy soundness tests CE3 and CE4

9. Historic Environment

HE 4 Listed Buildings and their Settings

- 9.1 Having reviewed this section of the dPS, it is clear that the proposed policies replicate/
/closely follow the provisions of Planning Policy Statement 6: Planning, Archaeology
and the Built Heritage.
- 9.2 Nevertheless, 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.
- 9.3 Listed buildings come with added costs and bringing these buildings back into
successful use requires a flexible planning policy approach and this should be
acknowledged in the dPS.
- 9.4 Furthermore, the ability of listed buildings and their settings to absorb impacts and
changes can vary incredibly. The Council should also acknowledge this in the proposed
policy.
- 9.5 The Council should also advise that it will seek to form a full and proper understanding
of the merits of the listed building, and indeed any parts of the building that do not
merit protection, so that it can form a reasoned and balanced judgement with respect
to proposed alterations, additions, demolition, etc.
- 9.6 Without the proposed amendments outlined above, proposed policy HE 4 will not
satisfy soundness test CE4. It is also unclear what alternatives were proposed or what
robust evidence base was utilised to substantiate the use of these regional policies
over alternatives, as required by CE2.

10. Other Components of the dPS

Derry Strategic Design Policy 1 (DSDP 1) - Arrival Points

- 10.1 The EPF site is located adjacent a strategic arrival point to the city, as identified in 'Figure 10: Strategic Development of Derry-Londonderry City' on page. 69 of the dPS.
- 10.2 Our client agrees that *'Arrival should be celebrated at these key locations, so as to create a positive welcome and image of our City'* and it considers that the EPF provides an exemplary flagship project that would create a positive welcome and image of our City in keeping with the strategic policy.

Derry Strategic Design Policy 2 (DSDP 2) - Sustainable Connectivity for the City

- 10.3 The inclusion of the presumption in favour of Blue and Greenways and cycle paths / lanes under this proposed policy is welcomed.

Derry Strategic Design Policy 4 (DSDP 4) - Riverfront

- 10.4 The inclusion of the commitment to 'Create a Fully Connected and Accessible Riverfront' is welcomed.
- 10.5 The EPF can make a significant contribution to this commitment and complement ongoing/emerging plans and proposals along the 'Riverfront' area identified in 'Figure 18: Derry Study Areas' on page 410 of the dPS.

Place-Making and Design Objectives (PDOs)

- 10.6 Our client also wishes to express support for the inclusion of the following aspects of the proposed place-making objectives in the dPS:
 - **PDO 1) To Protect and Promote Built Environment and Townscape Features**
 - Place-making & Design Principle 2 (PDP 2) - Secure Sustainable New Uses: *'Towns and cities are not museums and it is important that they have capacity to evolve and adapt in response to changing social and economic conditions. This will require a pragmatic attitude to historic assets that ensures core attributes are protected, but at the same time new uses, spaces and life can be appropriately accommodated to ensure their sustainability'*.
 - **PDO 2) To Enhance the Value of the Natural Environment**
 - Place-making & Design Principle 5 (PDP 5) - Capitalise upon Natural Assets: *'Good urban design and landscape architecture is needed to ensure that natural features are not viewed as constraints to development, but as integral assets that increase the environmental, social and economic value of the place in question'*.

- **PDO 6) To Maintain the Character of the Countryside**

- Place-making & Design Principle 17 (PDP 17) - Successful Integration into the Landscape: *'Whilst it is accepted that development will result in some degree of visual intrusion into the landscape, every effort should be made to integrate new buildings into their surroundings'*.

- 10.7 These objectives are welcomed as they seek to build in a positive approach to development within the dPS and provide needed flexibility, which should also be incorporated throughout the entire dPS.
- 10.8 This approach will help to provide certainty and clarity for all of those who are interested in investing in the District and seeking to deliver high quality, transformative and sustainable developments.

11. Recommendations

- 11.1 Section 10(2) of the 2011 Act advises that the Council must not submit a plan to the Department unless: it has complied with any relevant requirements contained in regulations; and it thinks the document is ready for Independent Examination. Section 10(6) of the 2011 Act states that the purpose of the Independent Examination (IE) is to determine, in respect of the development plan document, whether it satisfies a range of requirements, such as Departmental guidance, and whether it is 'sound'.
- 11.2 'Soundness' is not defined in the 2011 Act, but DPPN 06 and 07 provide guidance on 'soundness' to assist Councils and practitioners. Indeed, there is a clear focus on the need to provide evidence and to address the 12 'soundness' tests identified by DPPN 06. However, DPPN 06 also advises that 'soundness' may be considered in the context of its ordinary meaning of '*showing good judgement*'.
- 11.3 The aim of the 12 'soundness' tests is to provide a 'framework' to assess the soundness of the dPS and dLLP. However, it is equally noted that DPPN 07 advises that the dPS should aim to be '*...both realistic and deliverable*', take account of '*potential constraints which may arise during the plan period*' and '*incorporate a degree of flexibility*' to ensure the objectives and strategic policies of the dPS can '*be delivered*'.
- 11.4 This representation focuses on the 'soundness' tests and identifies the relevant evidence where available, but it also seeks to identify weaknesses of the dPS and offer recommendations/suggestions which will assist with ensuring a more 'sound' plan, in accordance with accordance with Section 25.5 of the DPPN 07.
- 11.5 This representation also relies on 'good judgement' as per DPPN 06 and aims to assist in the development of a 'realistic and deliverable' plan that will incorporate an appropriate 'degree of flexibility' and have regard to 'potential constraints that may arise', in accordance with DPPN 07.
- 11.6 Noting the issues and recommendations set out within this submission, we respectfully request the Council to not submit the dPS to the Department in its current form as we have concerns about its 'soundness'. The issues identified in this representation prejudice the entire Local Development Plan (LDP) process and the Council's ability to formulate a sound and lawful local development plan.
- 11.7 However, if the Council decides to submit the DPS in its current form to the Department for Infrastructure for an independent examination, we respectfully request an opportunity to appear and be heard at the Examination in Public in accordance with Section 10(7) of the Planning Act (Northern Ireland) 2011.
- 11.8 Our client looks forward to engaging with the Council to define a viable future for the identified lands and to working in partnership with the Council to create a long term vision for the social, environmental and economic wellbeing of the City and Region so as to benefit the local population and the growing number of visitors/tourists.

Appendix 1: Location of the FRG EPF Site



Appendix 2: Approx. Extent of FRG EPF Site

