



Derry City & Strabane
District Council

Comhairle Chathair
Dhoire & Cheantar
an tSratha Báin

Derry Cittie & Stràbane
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DERRY CITY & STRABANE DISTRICT COUNCIL

LOCAL DEVELOPMENT PLAN (LDP) 2032



DRAFT PLAN STRATEGY
Evidence Base Paper EVB G Specialised Requirements

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DERRY CITY AND STRABANE DISTRICT COUNCIL

LOCAL DEVELOPMENT PLAN (LDP) 2032



EVIDENCE BASE PAPER EVB G: SPECIALISED REQUIREMENTS

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

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

This Specialised Requirements Evidence Base paper sets out the evidence base and sources that has informed the content of Section G within the draft LDP Plan Strategy. Evidence has been informed by feedback from public consultation, discussions with Elected Members, input from statutory consultees, stakeholder groups, from other Departments within the Council, liaison with adjoining Councils and through the iterative Sustainability Appraisal process.

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

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1.0 Introduction to Paper

- 1.1 The LDP will contain a Section known as Specialised Requirements. Whilst Section G will not contain any operational Planning policies, it will set out the position of the Council in relation to a number of matters that are closely related to the LDP and the application of the LDP when adopted.
- 1.2 Some of the Chapters cover topics that have specific legislative frameworks. The reader should always refer to the relevant legislation when interpreting the content of the Chapter as it is not the intention of the LDP to circumvent the full effect of the legislation, but rather to summarise and advise on how the legislation may be applied in practice.
- 1.3 This paper will provide background information and where relevant, legislative and policy contexts for each of the Chapters in Section G.

2.0 Hazardous Substances and Major Accidents

Legislative and Policy Context

2.1 Part 4, Section 14 of The Planning (Local Development Plan) Regulations (NI) 2015, sets out the requirement for LDPs to take into account the objectives of preventing major accidents and limiting the consequence of such accidents, and the need—

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

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

2.2 Directive 2012/18/EC, commonly referred to as the Seveso III Directive, came into force on 1 June 2015 and is the current European Directive dealing with the control of major-accident hazards involving dangerous substances. The Directive sets the parameters for land use Planning which are intended to prevent major accidents and must be applied in the same way in all member states based on the ‘duty of loyalty’ as defined in Article 4(3) of the Treaty on European Union, the latest version of which is commonly referred to as the Lisbon Treaty (December 2007).

2.3 Section 108(1) of the 2011 Planning Act requires consent to be sought from the Council when a hazardous substance is present on, over or under land (i.e. hazardous substances consent (HSC)) and requires the Department by regulation to specify the substances that are hazardous and to detail the threshold quantity for the substances that must be controlled.

2.4 The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015 (Hazardous Substances Regulations) 4 details the provisions required under the 2011 Act for implementing the European Union (EU) Directive in Northern Ireland. The regulations cover:

- Advice on the meaning and correct use of various aspects of the assessment;
- What is a hazardous substance;
- When is a consent required;
- The assessment of major-accident hazards;
- Notifications of major-accident hazards;
- The implications for land-use planning;
- Appeal mechanisms; and
- Public participation in the process

- 2.5 Section 119(1) of the 2011 Act denotes that nothing in a granted, or deemed to be granted, HSC requires or allows anything to be done in contravention of any of the relevant statutory provisions regarding health and safety. HSC does not replace or override compliance requirements under health and safety legislation, in particular, The Control of Major Accident Hazards Regulations (Northern Ireland) 2015 (COMAH Regulations), which covers all but the land use planning aspects of the Seveso III Directive. This aspect is administered jointly by the Health and Safety Executive for Northern Ireland (HSENI) and the Northern Ireland Environment Agency (NIEA). The Directive sets out two levels of qualifying quantities for substances, upper and lower tiers. Additional requirements apply under the COMAH Regulations for upper tier sites as per the Directive.
- 2.6 The COMAH Directive has been implemented in Northern Ireland by The Control of Major Accident Hazard Regulations (Northern Ireland) 2015. These regulations place a duty on operators who are subject to the regulations to notify whichever competent authority is the body responsible for enforcing the regulations, of their activities. For all hazardous substances including explosives, the competent authority will be the Health & Safety Executive for Northern Ireland (HSENI) and the Northern Ireland Environmental Agency (NIEA).

The Regional Development Strategy 2035

- 2.7 The RDS provides an overarching strategic planning framework to facilitate and guide the public and private sectors. It addresses economic, social and environmental issues aimed at achieving sustainable development and social cohesion.
- SPG – ENV 2: To promote and manage the Northern Ireland Coastline;
SPG-ENV 6: To promote healthier living environments and to support healthy lifestyle.
- ENV 6.4: Promote an approach to building development and the use of land which is supportive to the wellbeing and safety of people. Maintain an appropriate safety cordon for new development around airports and in the vicinity of storage areas for hazardous substances, and other land uses which may present an exceptional risk to health.

Strategic Planning Policy Statement (SPPS)

- 2.8 The SPPS sets out that development for the storage of Hazardous Substances is not a permitted exception in respect of the Flood Risk section of the SPPS.

PPS4 – Planning and Economic Development (2006)

- 2.9 In addition to some Planning permissions, some industrial developments may also require consent under the Planning (Hazardous Substances) Regulations (Northern Ireland) 2015. The legislation allows the Council to consider whether the proposed storage or use of a significant quantity of a hazardous substance is appropriate in a particular location, having regard to the risks arising to persons in the surrounding area and the wider implications for the community. Consent is also required where a hazardous substance is introduced onto the site, or used differently within it, without there being any associated development requiring Planning permission.

PPS11 – Planning and Waste Management (2006)

- 2.10 During plan preparation, the Council waste management groups may wish to discuss the likely extent of future waste management facilities for the Plan Area. Sites for the development of waste management facilities may be identified together with the need for appropriate waste management facilities associated with new development. Development Plans will also consider the potential impact of existing or approved waste management facilities when zoning adjoining lands for other forms of development and the need to separate incompatible land uses. The COMAH Directive (EU Directive 96/82/EC) requires Development Plans to consider the location of hazardous installations including the need to maintain an appropriate distance between establishments where hazardous substances are present and residential areas, areas of public use or areas of nature conservation interest.

DCAN 12: Planning Control for Hazardous Substances

- 2.11 DCAN 12 was published in 2010. The purpose of this Advice Note was to give general guidance on hazardous substances controls contained in the Planning (Northern Ireland) Order 1991 and the requirements to obtain hazardous substances consent. DCAN 12 took into account changes introduced by Article 12 of Directive 96/82/EC on the control of major accident hazards involving dangerous substances.

This document can be viewed at:

https://www.planningni.gov.uk/index/policy/planning_statements_and_supplementary_planning_guidance/dcans/dcan12.htm

Development Management Practice Note 06 Hazardous Substances Control (DfI)

- 2.12 This Development Management Practice Note is published by the Department for Infrastructure is designed to guide Planning officers and relevant users through the legislative requirements for the control of hazardous substances

and deals primarily with procedures as well as good practice. It forms part of a series of practice notes stemming from the Planning Act (Northern Ireland) 2011 (2011 Act) and any related subordinate legislation. The emphasis is very much on advice but where explicit legislative requirements must be followed these will be highlighted.

This document can be viewed at:

<https://www.planningni.gov.uk/index/advice/practice-notes/dmpn-06-hazardous-substances-controls.pdf>.

COMAH

2.13 COMAH designates certain sites where dangerous substances are present. The Regulations seek to ensure that public safety protection of the environment are upheld and protected. The licensing and management of premises where such substances are stored is key to protecting the environment and health and well-being.

2.14 COMAH sites in Derry & Strabane District are all within the Maydown area. They are occupied by Coolkeeragh ESB Limited, Gouldings NI Fertilisers and LSS Limited. See below for COMAH sites in Derry & Strabane.

List of COMAH Establishments in Northern Ireland (July 2016)						
Seveso status	Plant name	Name	Street	Town	County	Postcode
Upper Tier	AES Ballylumford	Ballylumford Power Station	Ballylumford Islandmagee	Larne	Antrim	BT40 3RS
Upper Tier	AES Kilroot Power Ltd	Kilroot Power Station	Larne Road	Carrickfergus	Antrim	BT38 7LX
Lower tier	BOC Gases Belfast		Prince Regent Rd	Belfast	Antrim	BT5 6RW
Lower tier	Bombardier Aerospace	Airport Factory	Airport Road West	Belfast	Antrim	BT3 9DZ
Upper Tier	BP OIL UK LIMITED	BP Oil Terminal	Airport Road West	Belfast	Down	BT3 9EA
Lower Tier	Brenntag UK Ltd	5 Seal Road		Belfast	Down	BT3 9LL
Upper Tier	Calor Gas Ltd		Airport Road West	Belfast	Down	BT3 9EE
Upper Tier	Cloghan Point Holdings Ltd	Larne Road		Carrickfergus	Antrim	BT38 9LX
Lower Tier	COOLKEERAGH ESB LIMITED	PO Box 217	2 Electra Road	Maydown	Londonderry	BT47 6UL
Upper Tier	DCC ENERGY LTD		111 Airport Road West	Belfast	Down	BT3 9ED
Lower Tier	Huhtamaki (Lurgan) Limited		41 Inn Road	Dollingstown	Armagh	BT66 7JW
Upper Tier	Gouldings NI Fertilisers	60 Clooney Road	Maydown	Londonderry	Derry	BT47 3PF
Lower Tier	Greenfield Fertilisers Ltd	20 Glenavy Road	Moira	Craigavon	Armagh	BT67 0LT
Lower Tier	Kelgar Haulage		122 Ballygawley Road	Dungannon	Tyrone	BT70 1TA
Upper Tier	LSS Ltd	Carrakeel Industrial Park	Maydown	Londonderry	Londonderry	BT47 6SZ
Lower Tier	Michelin PLC	190 Raceview Road	Broughshane	Ballymena	Antrim	BT42 4HZ
Lower Tier	Moy Park		Killyman Road	Dungannon	Tyrone	BT71 6LN
Lower Tier	National Coal Co.	20 Glenside Road	Dunmurry	Belfast	Antrim	BT17 0LH
Upper Tier	NuStar Terminals Ltd		Airport Road West	Belfast	Down	BT3 9DY
Upper Tier	OLD BUSHMILLS DISTILLERY Ltd		2 Distillery Road	Bushmills	Antrim	BT57 8XH
Lower Tier	Orica BQS Ltd	73 Hollywood Road	Craigantlet	Newtownards	Down	BT23 4TQ
Lower Tier	ENCIRC Glass Ltd		Gortamullan	Derrylin	Fermanagh	BT92 9AU
Lower Tier	Tennants Textile Colours Ltd		31-43 Ravenhill Road	Belfast	Down	BT6 8DP
Lower Tier	Ulster Industrial Explosives Ltd	Loughmourne	120 Beltoy Road	Carrickfergus	Antrim	BT38 0BN

3.0 Developer Contributions and Community Benefits

Legislative and Policy Context

- 3.1 Section 76 of the 2011 Act enables the relevant authority, that is either a council or, as the case may be, the Department to enter into a Planning agreement with any person who has an estate in land.
- 3.2 Section 76(1) of the 2011 Act provides that any person with an estate in land may enter into an agreement with the relevant authority to:
- facilitate or restrict the development or use of the land in any specified way;
 - require specified operations or activities to be carried out in, on, under or over land;
 - require the land to be used in any specified way; and/or
 - require a sum or sums to be paid to the relevant authority or to a Northern Ireland government department on specified date / dates or periodically.
- 3.3 Section 76(2) of the 2011 Act provides that a planning agreement may:
- be unconditional or subject to conditions
 - impose any restriction or requirement (mentioned in subsection (1)(a) to (c) of Section 76) for a defined period of time or indefinitely; and
 - if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by which the agreement is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.
- 3.4 A breach of a Planning agreement may be enforced by way of a court injunction as per Section 76(6). Modification and discharge of planning agreements
- 3.5 Section 77 of the 2011 Act allows an application to be made by a person against whom the agreement is enforceable to the relevant authority to modify or discharge the Planning agreement. Section 77(5) prohibits the submission of an application to modify an agreement within five years unless a different time frame has been included in the Planning agreement. Section 78 allows the appeal of that application if the Council or, as the case may be, the Department has not determined the application or has determined that it should not be unmodified or discharged.

Strategic Planning Policy Statement (SPPS)

- 3.6 The SPPS details that the Council or, as the case may be, the Department may consider the use of a Planning agreement where a requirement cannot be adequately addressed by the imposition of Planning conditions and:
- is needed to enable the development to go ahead;

- will contribute to meeting the costs of providing necessary facilities in the near future;
- is otherwise so directly related to the proposed development and to the use of the land after its completion that the development ought not to be permitted without it;
- is designed to secure an acceptable balance of users;
- is designed to secure the implementation of development plan policies in respect of a particular area or type of development; or
- is intended to offset the loss of, or impact on, any amenity or resource present on the site prior to development.

3.7 In relation to developer contributions, the SPPS advises that contributions may be required in a variety of circumstances including:

- where a proposed development requires the provision or improvement of infrastructural works over and above those programmed in a Local Development Plan;
- where earlier than planned implementation of a programmed scheme is required;
- where a proposed development is dependent upon the carrying out of works outside the site; and/or
- where archaeological investigation or mitigation is required.

Voluntary Contributions

3.8 In some circumstances community benefits may be offered on a voluntary basis by developers likely to be affected by a development. Whilst the Department is committed to ensuring that local communities benefit from development schemes in their area, such community benefits cannot be considered material considerations in decision-taking and are distinct from developer contributions and Planning conditions.

Development Management Practice Note 21: Developer Contributions

3.9 This Development Management Practice Note is designed to guide planning officers and relevant users through the legislative requirements relating to the use of Planning agreements and deals primarily with procedures as well as good practice. The emphasis is very much on advice but where explicit legislative requirements must be followed these will be highlighted. The document sets out guiding principles in relation to developer contributions, as well as practical advice on application in relation to development management.

3.10 It also highlights the role of the plan led system in terms of planning ahead for developer contributions. This document can be viewed in full at the following address:

https://www.planningni.gov.uk/index/advice/practice-notes/development_managementpractice_note_21_section_76_planning_agreements_26.01.2017-6.pdf

Article 122 Agreements

- 3.11 The use of Article 122 Agreements are another mechanism used in terms of developer contributions, when dealing with the provision of roads infrastructure. Further details of this can be viewed at:

<http://www.legislation.gov.uk/nisi/1993/3160/article/122/made>

Existing studies on Developer Contributions in Northern Ireland

- 3.12 In 2016 a joint independent study into the economic impact of ‘Developer Contributions’ in relation to affordable housing was commissioned by the then Department of Social Development (DSD) and Department of Environment (DOE).

- 3.13 The aim of the study was to consider the following:

“Can a scheme of developer contributions be successfully introduced in Northern Ireland without impacting on the economic recovery of the local housing market; and if so, what type of scheme will deliver a successful outcome?”

- 3.14 The conclusion from the viability analysis was that introducing a scheme with a single percentage of affordable housing across the region is not realistic and for most of the region, a developer contribution scheme will not work. In Belfast and areas around Belfast, a scheme could be considered but the timing, percentage target and tenure mix (social rent versus shared equity) is best left to local decision makers working through the local development plan process – where targets and delivery mechanisms can be fully debated.

- 3.15 Belfast City Council also launched a Draft Developer Contribution Framework for consultation in August 2018. The Draft DCF was designed to bring greater transparency and certainty to the Planning application process and to clarify to the development industry the main instances when the Council may use Planning agreements to secure developer contributions for wider planning purposes. The document is intended to be read alongside the emerging LDP for Belfast.

- 3.16 The Draft DCF has a broader scope than the study carried out by Central Government and sets out the areas and thresholds when developer contributions will be needed. These go beyond the provision of affordable

housing and look at thresholds closely related to the topics of the LDP, such as open space, local neighbourhood facilities, and public realm.

Developers Contributions Framework

- 3.15 The Council is currently preparing a draft Developer Contributions Framework. We will shortly consult on this framework after the consultation of the dPS. It is expected that this guidance will be consolidated when the new DC&SDC LDP is in place. Where relevant to a specific development proposal, this draft framework once adopted will be a material consideration when determining Planning applications.

4.0 Demolition and Re-development

Legislative and Policy Context

- 4.1 The Planning Act 2011 sets out the meaning of development under Section 23 (1) as:

‘the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land’.

- 4.2 Section 23 (2) expands on this to clarify that:

For the purposes of this Act “building operations” includes—

(a)demolition of buildings;

(b)rebuilding;

(c)structural alteration of or addition to buildings; and

(d)other operations normally undertaken by a person carrying on business as a builder.

- 4.3 Section 23 (3) lists a number of ‘operations or uses of land shall not be taken for the purposes of this Act to involve development of the land’. Within this list it includes the ‘demolition of any description of building specified in a direction given by the Department to councils generally or to a particular council.’

- 4.4 Part 33 of the Planning (General Permitted Development) Order (Northern Ireland) 2015 states that any ‘building operation consisting of the demolition of a building’ is considered ‘permitted development’ with the exception of the following:

Development is not permitted by Class A if the building is in an area of townscape character or an area of village character except any such building—

(a) the demolition of which is required or permitted to be carried out under any statutory provision;

(b) the demolition of which is required to be carried out by virtue of an obligation arising under an agreement made under section 76 of the 2011 Act; or

(c) included in a vesting order under Article 48 or 87 of the Housing (Northern Ireland) Order 1981(29).

- 4.5 Section 85 (1) of the Planning Act 2011 sets out the legislative requirements for the ‘Control of works for demolition, alteration or extension of listed buildings’. 85 (2) states that:

Works for the demolition, alteration or extension of a listed building are authorised under this Part if—

(a) written consent for the execution of the works has been granted by a council or the Department and the works are carried out in accordance with the terms of the consent and any conditions which may be attached to the consent; and

(b) in the case of demolition—

(i) a person duly authorised in writing by the Department has been afforded reasonable access to the building for a period of at least one month following the grant of listed building consent and before the commencement of the works, for the purpose of recording it; or

(ii) the Department has stated in writing that it has completed its recording of the building or that it does not wish to record it.

- 4.6 Section 85 shall not apply to works for the demolition, alteration or extension of—

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works; or

(b) a building for the time being included in the schedule of monuments compiled and maintained under Article 3 of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9);

- 4.7 Section 105 of the Planning Act 2011 sets out the legislative requirements for ‘Control of demolition in conservation areas’. This section applies to all buildings in conservation areas other than—

(a) listed buildings;

(b) buildings of a class specified in section 85(8);

(c) buildings in relation to which a direction under subsection (4) is for the time being in force.

- 4.8 Section 105 (2) states that a building to which this section applies shall not be demolished without the consent (in this Act referred to as a “conservation area consent”) of the appropriate authority. Section 105 also states that the ‘The Department may direct that this section shall not apply to a description of buildings specified in the direction’.

Legislative Directions

- 4.9 Directions are legally binding and given by the Department under enabling provisions in both primary and subordinate legislation. They are a means of modifying the detailed application of the legislation. For example, under [section 23\(f\) of the Planning Act \(Northern Ireland\) 2011](#) demolition of any description of building specified in a direction given by the Department is not to be taken to involve the development of land.
- 4.10 Two directions issued by the Department are relevant to demolition and re-development.
- 4.11 Department of the Environment Planning Act (Northern Ireland) 2011 Planning (Demolition- Description of Building) Direction 2015: This direction to all District Councils gives an overview of types of works that it does not consider to be ‘development’ as per Section 23. It also sets out the same for Areas of Townscape/ Village Character. Full details can be viewed at:
https://www.planningni.gov.uk/Primary%20Nav/direction_on_demolition_2015_final_version.pdf
- 4.12 Department of the Environment Planning Act (Northern Ireland) 2011 Planning (Control of Demolition on Conservation Areas) Direction 2015: This direction, to all District Councils, gives an overview of types of works that it does not consider that Section 105 of the Planning Act applies to. Full details can be viewed at:
https://www.planningni.gov.uk/Primary%20Nav/planning_control_of_demolition_in_conservation_areas_direction_2015-2.pdf
- 4.13 The Council will consider applying Section 4 of The Planning (General Permitted Development) Order (Northern Ireland) 2015, in relation to the restriction of the permitted development rights for demolition, in areas where the Council deems that a proliferation of demolition works is having an adverse impact on the character or urban built fabric of that area.

5.0 Regeneration & Comprehensive Re-Development

Legislative and Policy Context

- 5.1 The Regional Development Strategy (RDS) 2035 promotes regeneration at both a regional and local level, directing focus to areas of high deprivation and low employment. RG7 supports urban and rural renaissance for the region and SPG7 provides for strengthening the role of the City as the principal city for the North West through its continued regeneration.
- 5.2 The Strategic Planning Policy Statement (SPPS) prioritises urban and rural regeneration and advises that for environmental regeneration to be successful, initiatives must also address the social and economic challenges of multiple deprivation and social exclusion. It also advises that regeneration projects which involve peace lines and/or contested spaces should be part of a wider comprehensive neighbourhood development.
- 5.3 Regeneration and Redevelopment are key themes which are embedded in the Council's Inclusive Strategic Growth Plan (Community Plan). The SGP states that 'Our City and town centres stand primed for regeneration and investment. Locations in Derry City Centre - Ebrington, Fort George; and Strabane Town Centre together with a range of other underdeveloped physical assets in our towns and villages await investment to realise their full potential'. Full details of the regeneration themes within the SGP can be viewed at:
- <https://www.derrystrabane.com/Subsites/Community-Planning/An-Update-on-Our-Community-Plan>.
- 5.4 Through the Outline Bid for City Deal, the Council has set out additional details in relation to regeneration for a number of key sites. These are the Central Riverfront Regeneration Areas in Derry and the Canal Basin area in Strabane. Additional details on these projects can be viewed at:
- <https://www.derrystrabane.com/citydeal>.
- 5.6 There are also a number of existing re-development frameworks and regeneration projects, such the Ebrington Development Framework. Details of these are set out in EVB F Place-making and Design Paper.

6.0 Other Specialised Requirements

Planning as it relates to other approvals by the Council

- 6.1 The Council has a range of other licensing and regulatory responsibilities that, whilst may be connected to Planning, require separate licences or approvals under other statutory regulations. This Chapter gives additional guidance to when a licence/approval may be considered a relevant material planning consideration. As the Council may or may not grant a license/approval, this is no indication that Planning permission will be forthcoming and vice versa. In practice, such applications may be submitted at separate times and each regulation will have different requirements and will therefore be assessed against different criteria. In some cases it is necessary to hold a valid planning permission before the other license will be issued. As a result of the above, it is important to establish the principle that, whilst the Council may take account of the other required licenses/approvals, securing planning permission is largely a separate procedural and legal process so they will rarely be a relevant material Planning consideration that is given significant or determining weight in determining any Planning application.
- 6.2 The Council's Environmental Health, Building Control, Licensing and other departments also play a regulatory role in the licensing and registering of certain types of development / land uses such as: building control approvals; licensing of houses in multiple occupation (HMOs); amusement centres; public houses; public entertainment events and a wide range of other business activities which are listed on the Council's website. They are also responsible for caravan site licences, both for tourism / residential purposes and for Traveller accommodation. Some developments that are related to these permits / licenses / approvals also require separate Planning permission. Any such planning applications will be assessed against Planning policy and guidance, as set out in the LDP, and whether or not such a permit / licence / approval has been granted prior to Planning approval **will not** be considered a material consideration in assessing the Planning application. The assessment criteria used for the granting of any of the above permits/licences/approvals shall **not be** considered to be a material planning consideration when assessing applications in accordance with this LDP.

- 6.3 Details of the other approvals and licences that are administrated by Council can be viewed at: <https://www.derrystrabane.com/Licensing/Licensing>.

Airport Safeguarding

- 6.4 Responsibility for air safety issues, including public safety zone policy throughout the UK, is a matter for the Secretary of State for Transport and the Civil Aviation Authority (CAA). The SPPS states that LDPs should highlight airport public safety zones (PSZs) where appropriate. The CAA has not declared a PSZ at City of Derry Airport.
- 6.5 Despite having no declared public safety zones at City of Derry Airport, airport safeguarding is still an important planning consideration. The Council will consult with a number of bodies, including the CAA and airport operators, regarding proposals for development where the height of proposed structures would exceed the various specified limits within a safeguarded area (as defined by the CAA) around City of Derry Airport and in the case of certain developments, for example some wind farm development, Belfast International Airport.

7.0 Supplementary Planning Guidance

Legislative and Policy Context

- 7.1 The Planning Act 2011 sets out at Section 5 that a Council in carrying out the exercise of preparing a LDP, ‘must exercise that function with the objective of furthering sustainable development’. It goes on to clarify that for the purposes of meeting that objective in the LDP, the person must take account of– (a) policies and guidance issued by– (i) the Office of the First Minister and deputy First Minister; (ii) the Department; (iii) the Department for Regional Development; (b) any matters which appear to that person to be relevant. Therefore it follows that in the preparation of the LDP account must be taken of the SPGs issued by the Department in relation to planning.
- 7.2 This chapter sets out the supplementary planning guidance (SPG) that the Council is adopting as part of the Plan Strategy. These adopted documents will continue to be treated as material considerations during the transitional interim period (or as the case may be after the expiry of the transitional period). The weight to be attached to SPG in making decisions will be a matter for the Council to consider on a case by case basis, in so far as being material to the application in question.
- 7.3 The Council took account of supplementary planning guidance published by the Department including Design Guides, Development Control Advice Notes and other supplementary guidance such as technical guidance relating to parking or transport.
- 7.4 The suite of supplementary planning guidance considered can be viewed at the following link:

https://www.planningni.gov.uk/index/policy/planning_statements_and_supplementary_planning_guidance.htm.
- 7.5 The Council was also aware of the updated position of DfI in relation to supplementary planning guidance and took on board the advice as set out at:

<https://www.infrastructure-ni.gov.uk/articles/guidance-update>

8.0 Transitional Arrangements

8.1 The LDP recognises the need for transitional arrangements up until key stages of the LDP, including the adoption of Plan Strategy and the adoption of the Local Policies Plan. The SPPS sets out arrangements known as the ‘transitional period’, which are to be applied up until the adoption of the Plan Strategy. This chapter provides additional guidance on the arrangements to be applied between adoption of the PS and adoption of the LPP.

Transitional Period

8.2 The ‘transitional period’ operates until such times as the LDP Plan Strategy for the Council area has been adopted. During the transitional period the Council will apply existing policy contained within the documents listed below, together with the SPPS (PPS 1: General Principles, PPS 5 Retailing and Town Centres and PPS 9: The Enforcement of Planning Control were superseded by the SPPS). Any best practice guidance associated with these policies will also continue to apply.

8.3 The policy provisions of the following documents are retained

- PPS 2: Natural Heritage
- PPS 3: Access, Movement and Parking
- PPS 3: (Clarification) Access, Movement and Parking
- PPS 4: Planning and Economic Development
- PPS 6: Planning, Archaeology and the Built Heritage
- PPS 6 (Addendum): Area of Townscape Character
- PPS 7: Quality Residential Environments
- PPS 7 (Addendum) Residential Extensions and Alterations
- PPS 7 (Addendum): Safeguarding the Character of Residential Areas
- PPS 8: Open Space, Sport and Recreation
- PPS 10: Telecommunications (Policy TEL 2 is cancelled)
- PPS 11: Planning and Waste Management
- PPS 12: Housing in Settlements
- PPS 12: Policy HS 3 (Amended) ‘Traveller Accommodation
- PPS 13: Transportation and Land use
- PPS 15 Revised: Planning and Flood Risk
- PPS 16: Tourism
- PPS 17: Control of Outdoor Advertisements
- PPS 18: Renewable Energy
- PPS 21: Sustainable Development in the Countryside
- PPS 23: Enabling Development
- Relevant provisions of ‘A Planning Strategy for Rural Northern Ireland’.

- 8.4 When the Plan Strategy is adopted, existing policy retained under transitional arrangements shall cease to have effect in the district and shall not be material from that date, whether the planning application has been received before or after that date.
- 8.5 Any conflict between the SPPS and any policy retained under transitional arrangements must be resolved in favour of the SPPS. For example, where the SPPS introduces a change of policy and / or provides a policy clarification that would be in conflict with the retained policy, the SPPS should be accorded the greater weight in the assessment of individual planning applications. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded by the retained policy.

Interim Measures

8.6 This LDP Plan Strategy contains a number of elements of policy direction, which are based on a spatial entity such as a policy area / designation. The full extent and nature of these spatial entities cannot be defined until the Local Policies Plan (LPP) stage of the LDP. Therefore, transitional arrangements are outlined in this PS which make specific reference to policy direction relating to existing spatial entities contained in the Derry Area Plan 2011 or Strabane Area Plan 2001. In the ‘transition period’ between the adoption of the PS and the adoption of the LPP, the policies will apply to these ‘interim’ areas until such times that the extent and nature of the new spatial entity is confirmed in the adopted LPP. Thereafter, the policy will apply to the new spatial entity as set out in the LPP. The following policies will be subject to these arrangements and interim measures are outlined in these policies:

- GB 1 – Green Belt
- DPA 1 – Development Pressure Area
- HOU 3 - Density of Residential Development
- HOU 12 - Flats and Apartments
- HOU 13 - Houses in Multiple Occupation (HMO) Management Areas
- TAM 9 – Car Parking and Servicing
- RP 1 – Town Centre First
- RP2 – Derry Primary Retail Core (PRC) and City Centre
- RP3 – Strabane Primary Retail Core (PRC) and City Centre
- RP4 – Other Town and District (in relation to Town Centres)
- GEDAs - General Economic Development Areas
- ED2 – Office Development
- ED3 – Economic Development in Settlements
- ED4 – Protection of Zoned and Established Economic Development Land

- MIN 2 - Areas of Constraint on Minerals Development (ACMDs)
 - HE 1 - Areas of Special Archaeological Interest (ASAI) and Candidate ASAI
 - HE 5 – Conservation Areas (in relation to existing CAs)
 - HE 6 – Areas of Townscape/Village Character (in relation to existing ATCs)
- 8.7 Furthermore, new policy areas will be introduced at PS stage that have no equivalent spatial designation within the Derry Area Plan or Strabane Area Plan. At LPP stage, the nature and spatial extent will be defined and any interim measures relevant to these policy areas / designations have been set out for each area in the relevant Chapter in the PS.
- HOU 1 - Strategic Allocation and Management of Housing Land (in relation to LUPAs)
 - HOU 13 - Houses in Multiple Occupation (HMO) Management Areas
 - RP4 – Other Town and District Centres (in relation to District Centres)
 - RP5 – Local Centres
 - MIN 3 - Mineral Reserve Areas (MRAs)
 - RED 1 - Renewable and Low Carbon Energy Development – General Criteria (in relation to WECAs - Wind Energy Capacity Areas).
 - NE 7 - Development within Areas of High Landscape Importance (AHLIs)
 - NE 8 - Development within Local Landscape Policy Areas (LLPAs)
 - Strategic Redevelopment Areas (SRAs) within Economic Development Chapter
 - Special Economic Development Areas (SEDAs) within Economic Development Chapter
 - New Economic Development Areas (NEDAs) within Economic Development Chapter

Commencement of Plan Strategy Policies and Prematurity

- 8.8 The SPPS states that the LDP dPS policies will come into effect upon adoption of the PS.