



Fermanagh & Omagh  
District Council  
Comhairle Ceantair  
Fhear Manach agus na hÓmaí

# Local Development Plan 2030 Draft Plan Strategy

## PAC TECHNICAL APPENDIX

Fermanagh and Omagh District Council's response to queries raised by Planning Appeals Commission.

20<sup>th</sup> October 2021

## **1.0 Introduction**

- 1.1 This paper responds to the requests for information contained in the letter sent by the Planning Appeals Commission to the Council on 4 October 2021. These requests for information were made following initial assessment of the Fermanagh and Omagh draft Plan Strategy (dPS) ([FODC 101](#)).
- 1.2 The Council is hopeful that the detailed response to each of the requests set out below will be sufficient to answer any queries that the Commissioner may have, and that this will avoid the need for a formal, exploratory meeting to be held. If the Commissioner has further questions in response to the information provided below, the Council would be happy to answer these in writing. The Council is mindful that the queries raised will likely be subject to further discussion during the hearing sessions and looks forward to engaging in that discussion, in advance of which it would be premature to reach a concluded view on questions of legal compliance and / or soundness.
- 1.3 For ease of reference, where documents which are within the examination library are referred to here, the document reference follows in brackets and the reference is hyperlinked to an electronic copy of the document. Documents that are referred to in this response which are not within the examination library and which are not otherwise publicly available are enclosed.
- 1.4 The letter from the Planning Appeals Commission contains a series of requests for information, set out under three broad headings. For ease of reference, those broad headings are replicated in this response. The specific requests for information are set out in italics, followed by the Council response.

## 2.0 Legislative and Procedural Issues

### Request

- 2.1 *Within document FODC 109 a statement is made that whilst account has been taken of the SPPS there is no requirement to take account of the existing suite of PPSs. Given the statutory requirements of Section 8(5) of the 2011 Planning Act, how does the Council justify this statement?*

### Response

- 2.1.1 Section 8(5) of the Planning Act (Northern Ireland) 2011 says  
*“In preparing a plan strategy, the council must take account of —*  
  
*(a) the regional development strategy;*  
*(aa) the council’s current community plan;*  
*(b) any policy or advice contained in guidance issued by the Department;*  
*(c) such other matters as the Department may prescribe, or in a particular case direct,*  
*and may have regard to such other information and considerations as appear to the council to be relevant”*
- 2.1.2 ‘Development Plan Practice Note 6: Soundness’ (May 2017) provides guidance on what is required by section 8(5)(b) (see, paragraph 5.49) (underlining added):  
  
*“...the Strategic Planning Policy Statement (SPPS) sets out regional planning policy for the two-tier planning system. It covers issues such as the purpose of planning; new overarching planning principles; the role of Development Plans and Development Management; sustainable development; community engagement in planning. Whilst the SPPS consolidates existing subject planning policies, policy direction also provided by land-use planning policies within extant Planning Policy Statements and remaining provisions within the Planning Strategy for Rural Northern Ireland continue to be in force until such times as they are replaced. A council will therefore be required to ensure that it has taken account of the prevailing regional planning policy context in the preparation of its DPD...”*
- 2.1.3 The SPPS sets out at paragraph 1.13 the Planning Policy Statements that are retained.

- 2.1.4. The Council accepts that section 8(5)(b) of the Planning Act (Northern Ireland) 2011 places it under an obligation to “*take account of*” policy issued by the Department, which in this case includes extant provisions of the Planning Policy Statements. The quotation from the Development Plan Practice Note set out above says so too.
- 2.1.5 The Council can confirm that it has taken account of extant provisions of the Planning Policy Statements, in accordance with its legal obligation do so under section 8(5)(b) of the Planning Act (Northern Ireland) 2011.
- 2.1.6 The Council considers that on a fair and complete reading of the dPS and the underlying evidence base, it is clear that this legal obligation has been complied with. The Council would bring the following examples to the attention of the Commissioner to highlight this, although would stress that this list of examples is not exhaustive. It is intended merely to illustrate compliance with section 8(5)(b), by drawing out some key examples of compliance.
- 2.1.7. First, the dPS itself acknowledges the need to take into account the regional context, including extant Planning Policy Statements ([FODC 101](#)). Pages 10 – 16 set out the policy context. Paragraph 2.2 acknowledges that the LDP will “*replace existing regional planning policy contained in Planning Policy Statements*”. Paragraph 2.4 notes obligation to “*take account of the regional context set by the Northern Ireland Executive and Central Government Departments*”, and then goes on to give a non-exhaustive list of policies, demonstrating a clear understanding of the section 8(5)(b) duty. Paragraph 2.14 then goes on to explain in some detail the transitional arrangements which are in place in respect of the Planning Policy Statements.
- 2.1.8 Second, page 9 of the ‘Fermanagh and Omagh District Council Local Development Plan Soundness Self-Assessment Checklist for Draft Plan Strategy for Independent Examination’ (December 2020) ([FODC 401](#)) confirms that “*the plan strategy has been prepared in line with regional policy*”.
- 2.1.9 Third, the Council prepared a large number of topic or position papers ([FODC 201 – FODC 223](#)). Most of these papers include a specific section entitled, ‘Regional Planning Context’. Within that section, the Planning Policy Statements that are relevant to the topic under discussion are referred to, and discussed.
- 2.1.10 Fourth, the ‘Preferred Options Paper’ (October 2016) ([FODC 701](#)) refers to the early preferred approach to the Planning Policy Statements in some detail. At paragraph 3.7, it acknowledges their importance and says that “*the Council intends to retain a number of policies contained in the existing PPSs and*

*these are discussed under the section heading ‘Carried Forward Planning Policies’*”, which is found on pages 89 – 106. Appendix 2 to that document provides a summary. It is the case that, in line with Appendix 2, many of the policies in the dPS have been carried across from policies within relevant Planning Policy Statements.

- 2.1.11 Fifth, many of the consultation responses commented on the existing suite of Planning Policy Statements. In the Consultation Report ([FODC 109](#)), the Council has discussed the Planning Policy Statements in response to comments made by consultees, explaining as relevant how the Planning Policy Statements were taken into account. There are 128 matches in that document for the phrase ‘PPS’, showing that it has been extensively covered. The Commissioner is invited to read through that document in full in order to appreciate the depth of consideration which the Council has given to the Planning Policy Statements in response to comments made by consultees.
- 2.1.12 Sixth, there is extensive reference made to the Planning Policy Statements in the Sustainability Appraisal ([FODC 103](#)). Notably, Appendix 3, ‘Plans, Policies, Programmes and Strategies (PPPs)’ goes through each of the Planning Policy Statements. They have been considered as part of the sustainability appraisal process.
- 2.1.13 Other examples could be given, however the Council considers that the examples given above are sufficient to demonstrate compliance with the section 8(5)(b) duty. The Council considers the above to be a proportionate response.
- 2.1.14 In so far as the comment referred to by the Commissioner is concerned, this comment was made in error and does not reflect the way in which the Council approached the dPS more generally. Its approach is reflected in the examples given above. The Council clearly did take Planning Policy Statements into account as relevant, as set out above. No question of legal non-compliance arises once the documents are read fairly, reasonably and as a whole.
- 2.1.15 It appears that the repetition of the language used within the representation led to this error. The response should have read *“whilst account has been taken of the SPPS and the PPSs, there is no requirement to replicate the policies within the PPSs”*.

### 3.0 **Growth Strategy**

#### Request

- 3.1.1 *The Growth strategy appears not to account for, or reflect, the true extent of the potential for housing growth within the Council area. The Council have acknowledged that there is a significant over supply of land for housing within the settlements yet have followed an approach which relies on the reduced HGIs. How does the Council consider that this approach is justified?*

#### Response

- 3.1.2 The legacy of the Department of Environment prepared, now aged, area plans for the Fermanagh and Omagh District Council area is one of settlements with extremely generous settlement limits at that time of adoption with generally permissive policies. The general presumption in favour of development within settlement limits resulted in permissions forthcoming on whiteland, in addition to those approvals resulting from applications on zoned housing sites. The Fermanagh Area Plan and Omagh Area Plan were adopted in March 1997 and September 1992 respectively and remain two of the older extant plans in Northern Ireland. They have little to no policy mechanism to control ‘the sustainability’ or ‘the where’ of housing approvals within the generous adopted settlement limits, which has impacted on the ability of the Council to control housing development in recent years.
- 3.1.3 The Council was aware of the need to take account of the existing supply of housing land when preparing the dPS. Notably, paragraph 6.139 of the SPPS requires Councils to “*take account of dwellings already constructed, approvals not yet commenced and residential development proposals likely to be approved*”. The inherited position, described above, was acknowledged and taken into account in the underlying evidence base. For instance, the ‘Updated Housing Paper including Housing Land Studies’ (November 2019) looked at the position in detail, on a settlement-by-settlement basis ([FODC 309](#)). The Sustainability Appraisal also acknowledged this too at paragraph 6.2 and the commentary to draft policy SP03 noted that, over time, the expectation is that the oversupply of housing, represented in existing commitments, will be redressed (page 196) ([FODC 103](#)). The existence of an oversupply at present, and the need for this to be addressed in way that promotes sustainable patterns of growth in the future, was, therefore, given careful consideration by the Council in the preparation of the dPS.
- 3.1.4 Although the Council, rightly, recognised the existence of an oversupply of housing land at present, it also, rightly, took the view that it would not necessarily be appropriate to align future growth aspirations with historic

oversupply. Historic oversupply is not necessarily a sound indicator of future housing need. The housing requirement figure must be based on a sound evidence base. The starting point, as recognised in regional policy, is the housing growth indicators. Alongside this, the Council took into account a number of factors, including commitments and historic annual completion rates in the district. The Council did not consider that the large number of commitments in the district justified inflating the housing growth indicator figure. The Council does not consider that the number of commitments is a true reflection of need. Notably, the annual completions rate is broadly in line with the housing growth indicator figure, which the Council considers to support the view that the housing growth indicator figure is much closer to the actual need. The broad alignment between housing growth indicators and completions was recognised in Appendix 2 of the 'Housing Growth Indicators (2016-based)' (September 2019) published by the Department for Infrastructure. The Council has also undertaken considerable work looking at completions, with the average annualised figure over the 2012 – 2019 period being 326, which broadly aligns with the annualised housing growth indicator figure ([FODC 309](#)).

- 3.1.5 The Council considers that the number of commitments is indicative of an oversupply of housing. The supply has been inflated for various reasons, including historically permissive policies under the old area action plans; speculative applications; a growing trend of high-density approvals being amended to reduce numbers; and, further submissions following the publication of the dPS. There is no evidence to support an uplift to the housing growth indicator.
- 3.1.6 It would not be sustainable to ignore the legacy of commitments within the district. For this reason, the dPS policy response must be to seek to manage both the oversupply and the potential for this oversupply to continue, through a phased release of land, which takes into account existing housing commitments. That is what draft policy SP03 does. It is also how it is described in the Sustainability Appraisal (page 196) ([FODC 103](#)). The Council considers this to be sound.
- 3.1.7 Additionally, the level of growth will be subject to annual monitoring under monitoring indicator one – indicative monitoring framework ([FODC 110](#)). Commitments will be taken into account at the LPP stage, with a phased approach to allocation set out in draft policy SP03 allowing the Council to control growth in a sustainable manner. The Council considers this to be a sound policy response to the local context.
- 3.1.8 Finally, it is noted that a similar query was raised and responded to in the consultation report (page 16) ([FODC 109](#)),

### Request

- 3.2.1. *Given your definitions of 'hard and soft commitments' within the FODC 109 (page 24) clarification is sought as to whether Phase 1 and 2 sites relate to land which has 'soft commitments' once the land which has 'hard commitments' has been taken into account and if so the justification for this approach?*

### Response

- 3.2.2 In terms of the definitions of hard and soft commitments referred to in [FODC 190](#) at paragraph 24, this is a summary description of commitments only. The full definition is set out in the 'Updated Housing Paper' (November 2019) ([FODC 309](#)), at Appendix B.1.
- 3.2.3 It should also be noted that whilst hard commitments are considered to be 'shovel ready', this does not reflect any requirements placed on the developer by planning condition, legal agreement or otherwise. Additionally, there may be barriers to the delivery of even hard commitments, e.g. financial or commercial.
- 3.2.4 The phased approach proposed under draft policy SP03 alongside draft policy HOU01 allows for the selection and allocation of sites to each phase based on the application of criteria ([FODC 110](#), Proposed Change 11). Therefore, Phase 1 and 2 will be made up of sites that meet the criteria, whether that be hard or soft commitments, or other sites. The LPP provides the opportunity to consider and select Phase 1 and 2 housing sites against the criteria set out in the draft policy, and other material considerations. As part of that process, the Council will liaise with statutory consultees and landowners to identify any existing or potential constraints to development of sites prior to zoning. This process will be carried out in tandem with a sustainability appraisal for each site. This will ensure that the release of land is sustainable as part of the LPP process.
- 3.2.5 As explained above in response to the previous question, it would not be sustainable for the Council to simply ignore the legacy of commitments in its preparation of the dPS.

### Request

- 3.3.0 *Draft Policy HOU 01 appears to introduce a mechanism for releasing unzoned greenfield land over and above those sites which have existing commitments as well that identified as being Phase 1 and 2 land or Housing Policy Areas.*



*Given the over-supply of land for housing, how does the Council consider this approach to be justified?*

Response

- 3.3.1 Draft policy HOU01 seeks to reinforce the presumption against the further unsustainable development of greenfield land. Draft policy HOU01, in reinforcing the approach to commitments and phasing set out in draft policy SP03, provides a level of flexibility to provide additional greenfield land in exceptional circumstances where it has been demonstrated that the future housing need exceeds the number of existing permissions and there is no evidence of this housing need being met through sites zoned for housing/housing policy area, or where it is demonstrated within the Housing Needs Assessment that there is an unmet need for Affordable Housing which cannot be met through any existing commitment, or on sites zoned for housing/Housing Policy area.
- 3.3.2 It is anticipated that it would be extremely unlikely that the existing Phase 1 and 2 sites within settlements would not meet housing need so as to warrant the use of the exceptions to policy. However, there is a need to ensure the policy provision incorporates flexibility through the provision of the tightly controlled exceptions. The Council is satisfied that the tightly drawn exceptions set out in draft policy HOU01 are justified, and would not lead to an unsustainable pattern of growth.

**4.0 Infrastructure**

Request

- 4.1 *How can the Council be satisfied that the necessary sewerage and flood defence infrastructure will be provided in order to support its Draft Plan Strategy?*

Response

- 4.1.1 The response below is split into two parts, the first of which addresses sewerage infrastructure, and the second of which addresses flood defence infrastructure.

Sewerage Infrastructure

- 4.1.2 At the outset, it is important to recognise that it is Northern Ireland Water and not the Council that has statutory responsibility to deliver necessary sewerage infrastructure. The Council acknowledges it has a role to play through the

LDP process, however it is ultimately the responsibility of Northern Ireland Water to identify, fund, and bring forward improvements to the sewerage network. It is noted that in June 2021 Minister Mallon announced £344.5 million funding for Northern Ireland Water, which is the full amount recommended by the Northern Ireland Utility Regulator for water and sewerage services in 2021/22. The Minister has also made additional funding available so that Northern Ireland Water can accelerate delivery of major water and wastewater works upgrades. The Commissioner will be aware that this issue is of regional importance, with other council areas dealing with the same issues as Fermanagh and Omagh is dealing with.

4.1.3 There are two paragraphs in regional policy that are of particular relevance to the dPS.

4.1.4 First, RG12 of the Regional Development Strategy refers to the need to “*promote a more sustainable approach to the provision of water*” and then goes on to say this:

*“land-use planning should be informed by current water and sewerage infrastructure and future investment programmes. This will involve close cooperation between planning authorities and the water industry in the preparation of local development plans and long-term water strategies”*

4.1.5 Second, paragraph 5.5 of Development Plan Practice Note 7, ‘Plan Strategy’ says this:

*“A PS should show how the objectives for a council area may be delivered by whom, and when. This includes making it clear how infrastructure which is needed to support a PS will be provided and ensuring that it is consistent with other relevant plans and strategies relating to adjoining areas. A council should also aim to ensure that its PS is both realistic and deliverable taking into account the resources available and any potential constraints which may arise during the plan period. Furthermore, in order to allow for unforeseen circumstances, e.g. withdrawal of funding or infrastructure proposals, a council should 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”*

4.1.6 In short, regional policy expects the dPS to be informed by current and proposed infrastructure provision; it expects councils to consult with statutory bodies with responsibility for delivering infrastructure; and it expects that the dPS will have taken into account, and addressed, infrastructure provision in an appropriate way.

- 4.1.7 The Council is satisfied that, in all material respects, the dPS accords with regional policy in this respect.
- 4.1.8 First and foremost, the Council was aware of constraints in the existing sewerage network when preparing the dPS. These constraints were taken into account. These constraints were addressed in some detail in ‘Position Paper Eight: Public Utilities’ (July 2015), in particular at paragraphs 2.12 – 2.14 and paragraphs 6.17 – 6.22 ([FODC 217](#)); in the ‘Public Utilities’ paper (October 2018), in particular at paragraphs 2.12 – 2,14 and paragraphs 6.17 – 6.22 ([FODC 218](#)); and in the ‘Public Utilities’ paper (November 2020), in particular at paragraphs 2.12 – 2.14 and at paragraphs 6.17 – 6.27 ([FODC 233](#)). Sewerage infrastructure was taken into account in the strategic assessment of settlements, explained in ‘Position Paper 12: Strategic Settlement Evaluation’ (November 2015), in particular at paragraphs 5.6 – 5.7 ([FODC 226](#)). Appendix 9 of the ‘Countryside Assessment’ (October 2018) contains individual assessments of the settlements, and under each settlement sewerage capacity is addressed under ‘Resource Test’ ([FODC 222](#)). The Sustainability Appraisal also assesses the issue of wastewater capacity, for instance in Appendix 3 relevant programmes of work are referred to (e.g. page 170) and in the assessment of reasonable alternatives for draft policy SP02, it is confirmed that additional physical infrastructure and capacity, “e.g. sewerage”, was taken into account ([FODC 103](#)). The Council is, therefore, satisfied that it has adequately taken these issues into account during its formulation of the dPS, in particular the spatial strategy, and the growth strategy.
- 4.1.9 Additionally, the Council, in particular through the development management process, is in regular contact with Northern Ireland Water about these capacity issues. For instance, the latest updated information was provided in April 2021. That update added a number of new settlements to the list as having no remaining capacity for 3% growth or beyond, but a number of other settlements actually had improved capacity even though no new upgrade works were undertaken. The Council continues to liaise with Northern Ireland Water on this matter and will do so during the preparation of its LPP and in the determination of applications for planning permission following adoption of the dPS. Engagement with Northern Ireland Water will be key to ensuring that capacity issues are identified and addressed at an appropriate stage. The position continues to evolve and will be kept under review.
- 4.1.10 Sewerage capacity will be taken into account by the council when allocating and zoning land at the LPP stage, at which point the most up-to-date figures available will be used. Northern Ireland Water will be consulted at that stage too.

4.1.11 Sewerage capacity will continue to be taken into account at the development management stage. Northern Ireland Water continues to encourage applicants to enter into pre-application discussions with it where capacity issues are identified. The preferred option is to connect to existing infrastructure, but where that is not possible Northern Ireland Water has shown a willingness to consider alternative solutions involving on-site permanent or temporary treatment plans until such times as an upgrade to the network is made. Such arrangements can be secured through a section 76 agreement if necessary. The dPS has a draft policy that deals specifically with non-mains sewerage, namely draft policy PU04 ([FODC 101](#)).

4.1.12 Additionally, in some cases where capacity issues have been identified at a strategic level, Northern Ireland Water has been willing to consider issuing a positive consultation response in response to applications for planning permission where developers can demonstrate:

- “(a) like for like development;*
- (b) extant previously approved development (where NI Water has given a positive response)*
- (c) where the development will offer a reduced loading on the sewer network, which may include storm separation and / or attenuation.”*

Criterion (a) is of particular relevance in Fermanagh and Omagh where a material contribution to its housing need is likely to come from commitments which may already been taken into account in the assessment of capacity constraints. This is a matter that can be considered with Northern Ireland Water during the development management stage.

4.1.13 The Council is aware that the Omagh Drainage Plan and the Enniskillen Drainage Plan have identified significant deficiencies in the existing sewerage network. However, the plan-process for both of those plans will identify solutions to address these issues which will be listed and prioritised in the Northern Ireland Water PC21 Business Plan. Delivery will then be subject to funding. The Council will continue to liaise with Northern Ireland Water on these matters.

4.1.14 Finally, the dPS contains policies that are supportive of upgrades to wastewater treatment works. In particular, draft policy WM02 is supportive of new works, upgrades or extensions to existing works where a need is identified. Draft policy SP01 is also supportive of sustainable development. There is, therefore, policy support in the plan for additional works. The policy is flexible in that it does not prescribe particular proposals or locations, in accordance with regional policy. It will be open to the Council to consider

whether to allocate land as part of the forthcoming LPP for wastewater improvement works. 'Development Plan Practice Note 8: Local Policies Plan', at paragraph 18.3, clearly envisages that any such allocation should take place as part of the local policies plan stage of the plan, not at this stage. That is further supported by paragraph 22.3 of that note. That is a decision which the Council will have to make when considering the LPP. The dPS is flexible enough to enable it to do so if it is considered desirable. The position continues to evolve and will be kept under review.

4.1.15 Overall, the Council is content that capacity issues within the existing sewerage network have been carefully considered in the preparation of the dPS, in accordance with regional policy. The dPS has been drafted with these constraints in mind. The Council will keep this matter under review, in consultation with Northern Ireland Water which has statutory responsibility in this area.

#### Flood Defence Infrastructure

4.1.16 The Department for Infrastructure (Rivers) has statutory responsibility for drainage and flooding under both the Drainage (Northern Ireland) Order 1973 and the Water Environment (Floods Directive) Regulations 2009 (other instruments apply too, but these are the principal instruments for present purposes). DfI Rivers is responsible for the maintenance of designated river and coastal flood defences, and manages a capital flood alleviation scheme programme.

4.1.17 As above, the Council does, however, acknowledge the role that it and the dPS plays in this area. It has taken into account relevant regional policy, including that set out above.

4.1.18 Flood risk was one of the factors that was acknowledged by the Council as an important issue in each of the public utilities topic papers ([FODC 217](#), [FODC 218](#), [FODC 233](#)). Flood risk was one of the factors considered in the strategic evaluation of settlements ([FODC 226](#)), detailed in Appendix 9 of the Countryside Assessment ([FODC 222](#)) where flood risk was considered under the 'Environmental Capacity Test' heading. Flood risk is covered extensively in the Sustainability Appraisal, being a separate objective under the 'Environmental' heading ([FODC 103](#)). The Council is, therefore, satisfied that it has adequately taken flood risk into account in the preparation of the dPS, in particular in the preparation of the spatial strategy, and the growth strategy.

4.1.19 The dPS contains a suite of draft policies which address flood risk management, namely draft policies FLD01 – FLD06 ([FODC 101](#)). These policies reflect the prevailing regional policy approach, in particular the

adoption of a precautionary approach. It is of note that DfI Rivers were consulted on these policies. They made several suggested amendments, many of which were considered appropriate and reasoned. DfI Rivers is largely satisfied with the precautionary approach taken by the Council in terms of flood risk management. The Council considers that the draft policies in the dPS are sound.

- 4.1.20 As with sewerage, the Council is in regular contact with DfI Rivers on these matters, and will continue to be during the preparation of the LPP and during the development management process. Flood risk will be an important consideration in the allocation and zoning of land at the LPP stage. Paragraph 6.127 of the SPPS states that flood risk may influence decisions on the zoning of land or the designation of land for open space use and may also be a consideration in the definition of settlement limits. The Council looks forward to consulting DfI Rivers in order to shape specific land use zonings at the LPP stage. Flood risk will remain an important consideration during the development management process, where draft policies FLD01 – FLD06 will apply, and DfI Rivers will continue to be consulted as a statutory consultee.
- 4.1.21 The Sustainability Appraisal at paragraph 2.7 ([FODC 103](#)) and the 'Public Utilities' paper (November 2020) at paragraph 6.12 ([FODC 233](#)) recognise that the flood defences in Omagh, while providing a degree of protection from flooding, are no longer considered to provide the minimum level of protection required under revised Planning Policy Statement 15: Planning and Flood Risk (September 2014). These flood defences were designed and constructed by Rivers Agency following the 1987 flood in the town. DfI Rivers recently undertook an extensive programme of river modelling and mapping for areas of significant flood risk, including Omagh. It was this work which indicated that the flood defences in Omagh did not provide the minimum level of protection required by PPS 15. The causes of this are complex, relating largely to updates to the modelling software and hardware.
- 4.1.22 In so far as improvements to existing infrastructure are concerned, this is principally a matter for DfI Rivers. The Water Environment (Floods Directive) Regulations 2009 place the DfI Rivers under a duty to prepare flood risk management plans. The extant plan covering the Omagh area is the 'North Western River Basin Flood Risk Management Plan' December 2015 (Appendix 4). It was taken into account in the preparation of the dPS, and is referred to in the Sustainability Appraisal, at page 156 ([FODC 103](#)). The second iteration of the plan was published for consultation in early 2021, entitled 'Second Cycle: Draft Northern Ireland Flood Risk Management Plan' December 2020 (Appendix 5). It refers to the need to undertake a further feasibility study with regards to a flood alleviation scheme for Omagh Town

Centre with an estimated completion date of 2023, after which there will be a further period of time for detailed design and construction. In its consultation response to the draft plan, the Council welcomed the promise of feasibility work with regards to a flood alleviation scheme for Omagh Town Centre, but asked that consideration be given to bringing the timescales forward for the work to reflect acknowledged risk (**Appendix 1**). The Council will continue to liaise with DfI Rivers on these matters. The dPS is flexible enough to accommodate further flood defence work within the plan period. If proposals come forward for works, then consideration could be given to allocating land at the LPP stage. As matters stand, work is only at the feasibility study stage.

4.1.23 In order to provide the Commissioner with the most up to date information in response to this request, the Council wrote to DfI Rivers upon receipt of the letter from the Commission for an update on flood defence works in the district. The response is enclosed (**Appendix 2**). It shows that work is ongoing.

4.1.24 The update confirms the Beragh flood alleviation scheme was completed in June 2014 affording protection to 17 no. residential properties and Beragh Red Knights GAA club facilities. The benefits of these new defences are reflected on Flood Maps NI. Despite improvements at Hunters Crescent (Omagh), Fintona and in Beragh, the position remains, however, that the defences at Omagh are not considered to provide the minimum level of protection now required under revised PPS 15. DfI Rivers are currently engaging with their partner consultant to revisit the most recent flood study for Omagh Town, which was completed in 2016. This review of the feasibility study will take account of revised climate change guidance and consider opportunities for natural flood risk management, to determine if any viable options can be identified to reduce flood risk. It is anticipated that this study could take twelve to eighteen months to complete. DfI Rivers have indicated four watercourses are considered for flood alleviation schemes and prioritised under the current works study programme: Killyclogher Burn, Killyclogher Burn Branch B, Killyclogher Burn Branch C, and Mullaghmore Burn.

4.1.25 Prior to infrastructure improvements being put in place, the Council will continue to take a precautionary approach, as set out in draft policies FLD01 – FLD06, and will consult DfI Rivers as part of the development management process. Any completed or proposed improvements will be considered as part of the LPP stage, if relevant.

4.1.26 Finally, for completeness the Council has enclosed a letter sent to Pat Aldridge (Director of Engineer, Rivers Agency) by Angus Kerr (Department for Infrastructure, Director of Planning Policy Division) on 12 December 2014 which addresses the question of the Omagh flood defences (**Appendix 3**). In that letter, it was advised that although the existing flood defences were

considered to be below minimum standards, the relevant areas in Omagh should continue to be identified as “*defended*” in policy terms; and issues relating to flood risk in this area should be dealt with in a flexible way, through the development management process.



## **Appendices**

Appendix 1 – Council’s response to the DfI consultation exercise for the draft Flood Risk Management Plan 2021-2027.

Appendix 2 – Email from Eoghan Daly, Planning Advisory and Modelling Unit, DfI Rivers providing update on Hunters Crescent (Omagh), Fintona (east) and Beragh Flood Alleviation schemes.

Appendix 3 – Letter from Angus Kerr, Director of Planning Policy Division to Mr Pat Aldridge, Director of Engineering at DARD Rivers Agency, dated 12/12/2014 clarifying Department of Environment’s position in relation to the status of flood protection for the purposes of policy interpretation under Revised PPS 15.

Appendix 4 – North West Flood Risk Management Plan – December 2015 - DARD NIEA Water Management Unit.

Appendix 5 –Draft NI Flood Risk Management Plan 2021 – 2027 - DfI Water Drainage Policy Division.