

# Independent Examination

## Lisburn & Castlereagh City Council Local Development Plan 2032 Draft Plan Strategy

### Questions for weeks 1 and 2 (Version 2)

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Public hearing sessions to be held during the period  
Monday 28<sup>th</sup> March – Friday 8<sup>th</sup> April 2022

#### Topics 1 – 14

#### Notes:

- This agenda should be read in conjunction with the guidance notes for participants, that were published on 28 January 2022. ([Link](#))
- Participants' contributions should focus on the questions in this agenda.
- The discussion will concern the soundness and legal compliance of the submitted plan. The tests of soundness are set out in Development Plan Practice Note 6 "Soundness".
- It is not the Commissioner's role to make the plan more sound.
- When referring to submitted evidence (including your own representation), legislation, policy or guidance **please** identify the page, paragraph, section etc as appropriate.
- Participants should have regard to the policies in the submitted plan together with the Council's "Consultation on Focussed Changes Addendum including Minor Changes Schedule" January 2022 ([SUBDOC-016](#)) and its Typographical Errors List ([SUBDOC – 032](#)).
- As both focussed and "minor" changes have been subject to public consultation, where policies are subject to either/both, I will only refer to them where I specifically need clarification. Otherwise, there is no need to remind me of them.
- The Council's "Typographical Errors" schedule will only be referred to where considered necessary.
- Topic 1 and the Sustainability Appraisal (SA) issue is concerned with whether the Council's submitted SA meets legislative requirements and those set out in Development Plan Practice Note 4 "Sustainability Appraisal incorporating Strategic Environmental Assessment". The merits of specific policies (such as Policy HOU10 Affordable Housing in Settlements and/or COU5 Affordable Housing) together with the capacity of existing infrastructure to cater for proposed growth will be discussed in subsequent public hearing sessions.
- The bulk of discussion of Strategic Mixed Use Designation SMU01 West Lisburn/Blaris, including: the principle of including housing on land previously zoned for employment use; the Key Site Requirements; roads and any other infrastructure needed to serve the zoning; and how they would be funded, will be dealt with in stage 2 of the public hearing sessions in May 2022. Discussion of SMU01 in Topic 2 will be strictly confined to its contribution to the Strategic Employment Land allocation and whether that overall quantum and distribution meets the tests for soundness.
- In contrast, as the only residential uses proposed by the policy for proposed Strategic Mixed Use Designation SMU02 Purdysburn/Knockbracken are (secure) residential institutions, it will be dealt with in Stage 1 as, at this stage of my preparation, no overlap with Strategic Housing Allocation is envisaged.

## Topic 1 – Legal & Procedural Issues

### Compliance with Local Development Plan Regulations

1. Regulation 14 of The Planning (Local Development Plan) Regulations (Northern Ireland) 2015 relates to additional matters to be taken into account in preparing a local development plan (LDP). Regulation 14 (1) (a) requires that one such is the objectives of preventing major accidents and limiting the consequence of such accidents. The Council addresses the requirement in its *“Self-Assessment of Soundness”* December 2020 (SUBDOC-034) at pages 15 and 16 and *“Clarification to DfI”* June 2021 (SUBDOC-083) at pages 4-6 inclusive. However, no explanation is given as to what facets of the strategic policies referred to are considered to satisfy the legislative requirements by minimising the risks that statute is concerned with. Can the Council assist in this matter?
2. Regulation 14 (b) is concerned with the control of major accident hazards involving dangerous substances. Again, consideration of the statutory requirement in the aforementioned documents is rather broad-brush. Therefore, can the Council expand on what policies it considers pertinent to the requirement imposed in Regulation 14 (b) and how they would do so?
3. Regulations 15 and 21 relate to the availability of the dPS, including supporting documentation, and documents submitted to DfI. Paragraph (a) of both Regulations refers to making the documents available for inspection *“at the places”* (my emphasis) referred to in paragraph (b), which are: (i) the council’s principal offices: and (ii) such other places within the council district as the council considers appropriate. The following matters arise:
  - At page 16 of its *“Self-Assessment of Soundness”* the Council addressed the requirements of Regulation 15 (b) (i) but not 15 (b) (ii). Can it advise how this obligation was satisfied?
  - Does availability of the documents at 5 no. 4 hour long “Public Engagement Events” referred to in the associated public notice (included as Appendices 11 & 12 in SUBDOC-034) satisfy the requirements of Regulation 15 (a)? and
  - Can the Council advise how the requirements of Regulation 21 (b) (ii) were complied with?

### Sustainability Appraisal (SA)

4. In considering its Strategic Employment Allocation, what account was taken of reasonable alternatives to undeveloped sites that were zoned for employment use in the draft Belfast Metropolitan Area Plan 2015 (dBMAP)?
5. At pages 384 & 385 of its Public Consultation Report (SUBDOC-019) the Council responds to the issue that the SA does not consider any alternatives for the provision of affordable housing. Before inviting the other parties to comment on this if so wished, can the Council advise on:
  - Where it refers to its comments in relation to Policy HOU 10, is this a cross-reference to pages 211 & 212 of the Report? and
  - In the associated responses on page 212, can the Council pinpoint where the relevant information is found in its references to: the Housing and Employment Topic Paper, January 2021; and the Focussed Changes Consultation.

6. At page 384 of its Public Consultation Report, the Council did not address the contention in DPS-041 (page 3) that the overall approach taken to the assessment of options in respect of the sustainability of Strategic Mixed Use Designation SMU01 West Lisburn/Blaris is concerning whereby:
- No alternatives are assessed other than the “option” of a new policy provision for this site;
  - No other sites or policy options are assessed; and
  - A “no policy” option was not included.

How does the Council respond to each of these specific concerns?

7. Have the provision of the non-statutory West Lisburn Development Framework Review 2018 (Draft), which has not been subject to SA or HRA, been overly influential in the Council’s consideration of the sustainability of the proposed designation?
8. In respect of the above site, concern is raised that the dPS seems to indicate that the ability to provide growth in accordance with SMU01 West Lisburn/Blaris is only possible subject to new road/linkages thereby the SA assessment is overly optimistic. How does the Council respond?
9. At page 389 of its Public Consultation Report the Council refers to concerns raised about the lack of re-appraisal of an alternative option to Strategic Mixed Use Designation SMU03 Sprucefield Regional Shopping Centre in preparation of the dPS. Cross-reference is made to consideration of representations on that designation and Strategic Policy 14 Town Centres, Retailing and Other Uses. Given that there:
- Is no reference to DPS-084 on page 116 of the Report; and
  - No specific mention of the SA point on pages 136 & 137 of the Report

Can the Council pinpoint for me precisely where this specific concern with the SA is dealt with?

10. How does the Council respond to the point in CFC-005 [SUBDOC-019] about the proposed “minor change” in relation to the Addendum to the SA?
11. The DAERA SEA Team make extensive comments on the Council’s SA, which it has responded to on pages 385-389 of its Public Consultation Report. If DfI considers the Plan to be sound (subject to any recommended amendments) and makes a Direction for its adoption, prior to finalisation of the associated SA, would DAERA SEA have any further involvement at that stage?
- 11a In respect of focussed changes to Policy SP08 Housing in Settlements FC1A and FC1B, CFC-009 questions whether *“the revised Sustainability Appraisal of FC1A and FC1B is appropriate given that there is no resultant changes as a result of the likely increased pressure for greenfield land”*. How does the Council respond to this?

## Habitats Regulation Assessment (HRA)

12. The representation CFC-005 (page 2) notes proposed “minor changes” MC52E, MC63 and MC65A and refers to what it considers to be ramifications for the Addendum to the Habitats Regulation Assessment. Is this something that the Council will address in finalising its HRA before adoption of the Plan?

## Timetable/Plan period

13. The Council updated its LDP Timetable in December 2020 (SUBDOC-042). Is that the current version?
14. That published timetable indicated that between Q1 2021 and Q1 2022 as part of the soundness based independent examination (IE): documents would be submitted to the Department for Infrastructure (DfI) for IE; the Commission would forward its advisory report to DfI; and DfI issues binding report to the Council. The Plan Strategy (PS) would be adopted between Q2 2022 and Q4 2022. These aspects of the timetable are already out of date. How does the Council intend to reconcile the published timetable with the current timeline whereby the public hearing sessions of the IE will only conclude in Q2 2022 and the ramifications for the timing of the next steps of the LDP process?
15. In light of the foregoing, is Q4 2025 a realistic estimate of when the LDP in its entirety will be adopted?
16. Representations have been made that the plan period should be extended to 2035. Without getting into consideration of the perceived merits of such an extension what, if any, statutory basis would empower me to make such a recommendation?
17. Conversely, would there be legal impediments to any recommended extension of the plan period to 2035 at this stage of the PS preparation process?
18. Representors say that the plan should have a later finish date in order to be consistent with policy and guidance issued by the Department. The Council identified what it considers to be the relevant policy and guidance at pages 86 and 87 of its Public Consultation Report. Albeit that they may not agree with its interpretation and application, are there additional provisions in Departmental policy and guidance that the other parties want me to consider? Do the other parties have any other comments on this particular response?
19. Does the identified policy and guidance constrain the Council in extending the plan period to 2035?
20. Belfast City Council’s Community Plan “*The Belfast Agenda*” covers the period to 2035, whereas this Council’s runs from 2017/2032. On the basis of representors’ concerns stemming from soundness test CE3, if I were to recommend that the Plan’s notional “end” date be extended until 2035, would this give rise to any associated ramifications for soundness tests P1 and C1?

21. With soundness test CE2 in mind, if the Council's evidence base for issues such as its Strategic Housing and Employment Allocations have been prepared with the plan period 2017-2032 in mind, could it then be reasonably used to support a 3 year extension?

~~22. I am not inviting discussion of the Strategic Housing Allocation as that will occupy quite a chunk of the second stage of the public hearing sessions. However, with regard to the specific issue of the appropriateness of the current plan period, is there anything that the other parties want to say in respect of the Council's associated comments at the bottom of page 62 and top of page 63 of its Public Consultation Report? (This question originally on Version 1 has been replaced with the question below)~~

22. I am not inviting discussion of the Strategic Housing Allocation as that will occupy quite a chunk of the second stage of the public hearing sessions. However, at paragraphs 2.48 - 2.57 inclusive of the Lichfields "*Housing and Employment Topic Paper*" January 2021 (SUBDOC-031) the issue of the plan period is the subject of further consideration; subsequent to how the Council responded to representors' concerns in its Public Consultation Report. Over and above what we have already discussed, is there anything that representors want to add in respect of this evidence that they have not previously had the opportunity to comment on?

### **Compliance with soundness test CE1**

23. Where necessary, I will address the requirements of soundness test CE1 in respect of cross-boundary issues in considering specific policies. However, some general concerns were raised in DPS-084 (pages 1 & 2) about the level and efficacy of engagement with adjoining councils. Note has been taken of:

- The Council's "*Consultation and Engagement Strategy with Neighbouring Councils*" (SUBDOC-033); and
- Pages 32-34 inclusive of the Council's "*Self-Assessment of Soundness*" (SUBDOC-034) together with Appendices 17 and 20 of that document.

Is there anything that the Council wants to add in respect of these general concerns?

### **Status of the draft Belfast Metropolitan Area Plan (dBMAP 2015)**

24. The provisions for Transitional Arrangements set out at page 16 of Part 1 of the plan are noted, as is the associated advice on page 77. For the sake of clarity, have dBMAP zonings just been used to inform the assessment of the overall quantum of employment land available/required during the plan period or, pending adoption of the Local Policies Plan (LPP), does the Council intend to use them when implementing the associated operational policies in Part 2 of the plan that we will go on to discuss in Topic 3?

25. It is noted that the dBMAP to which the Council refers is the post-examination version that the Court of Appeal declared to be unlawful. Two issues arise:

- As dBMAP 2015 is not a local development plan as defined by Section 6 of The Planning Act (Northern Ireland) 2011, what statutory justification does the Council have for the reliance placed on that document and the policies and designations therein? and

- Can designations that form part of the draft plan i.e. dBMAP 2015 be adopted as part of the Council's dPS or should they be read alongside it whereby the decision maker would consider what weight should be given to the dBMAP 2015 designations in implementing associated PS policies when adopted?

### **Status of Focussed & Minor Changes**

26. The definition and function of focussed changes, set out in paragraphs 4.3 and 4.7 of Development Plan Practice Note 10 "*Submitting Development Plan Documents for Independent Examination*", is noted. It provides for the instance where, following consideration of representations, the Council identifies an unforeseen soundness issue and wishes to make changes to the development plan document to ensure that issues impacting upon its soundness are addressed. I want to check what the Council considers to be the status of its proposed focussed changes in the context of the Independent Examination and the discretion that the examiner has in their consideration. For example, FC1B, relating to Strategic Policy 08 Housing in Settlements whereby the future need for dwelling units across the Council area over the LDP period from 2017 to 2031 has been uplifted from 10,500 in the published dPS to 12,375 in the Consultation of Focussed Changes Addendum including Minor Changes Schedule January 2021 (SUBDOC-016). I take it that because the uplift is considered necessary to address soundness issues and has been the subject of public consultation that it is only the revised figure that I am tasked with considering in the context of soundness?
27. Is that position consistent with *Performance Retail Limited Partnership v Eastbourne Borough Council and Secretary of State for Community and Local Government [2014] EWHC 102 (Admin)*?
28. If my understanding of the examiner's task is correct, how does it sit with paragraph 4.11 of DPPN 10 that says: "*Any proposed focussed changes are without prejudice to the examiners (sic) final recommendations following consideration of issues through the IE*"?
29. With regards to "minor changes", paragraph 4.5 of DPPN 10 says that: "*The independent examiner will not treat those changes as part of the proposed plan to be examined*". In that context, what does the Council envisage is my role with regard to the suite of "minor changes"?

### **Any other issues**

## Topic 2 – A Thriving Place

### Strategic Employment Allocation & Economic Development in Settlements

1. The Council's Housing and Employment Topic Paper of January 2021 (SUBDOC-031) says at para 1.3 that it should be read alongside the Council's schedule of Focussed Changes. It is not mentioned on the Focussed and Minor Changes Consultation Document (SUBDOC-016) dated the same month so, in writing my questions, I have assumed that representors have not had the opportunity to comment on it in advance of these public hearing sessions – is this correct?
2. To set the context for our discussion, can the Council succinctly signpost where its evidence base has taken account of each element of RDS Table 3.1: The Employment Land Evaluation Framework?
3. At pages 40 and 41 of its Public Consultation Report, the Council respond to concerns about employment land assessment including reliance on zonings within the draft Belfast Metropolitan Area Plan 2015 (dBMAP). Do the other parties wish to respond to this?
4. The Council's response to an associated concern at page 108 of its Public Consultation Report suggests that a specific quantum of employment land hasn't been allocated to the 85.54 hectares (ha) strategic site SMU02 Purdysburn/Knockbracken [as shown on Map 8 of the dPS] in consideration of its Strategic Employment Allocation.
  - Is this the case?
  - If so, how does the overall consideration of the employment land issue satisfy soundness tests CE1 and CE2 when the contribution that this site might make hasn't been factored into quantitative availability?
5. How is the retention of 220 ha of developable land for economic uses within industrial zoned sites, provision for business use on strategic designation SMU02 at Purdysburn/Knockbracken and the identified need for less than 45 ha of developable land over the plan period, with the intention of revisiting zonings in dBMAP 2015 as part of the LPP process, consistent with:
  - Principles of sustainable development?
  - Objective B of the dPS that aims to "*Support a thriving and diverse economy with a sufficient (my emphasis) supply of land.....*"; and
  - Strategic Policy 04 Supporting Sustainable Economic Growth whose objective is sustainable (my emphasis) economic growth?
6. Criticism has been levelled that the Council's evidence base is deficient in that:
  - It is said to provide no explanation or rationale for the retention of all zoned, undeveloped employment lands included in dBMAP 2015 (save for the adjustment proposed at West Lisburn/Blaris);
  - It does not show that consideration was given to the Lichfields evidence regarding changes in the employment market (set out at para 3.8 of DPS-044).

How does the Council respond?

7. Paragraph 5.13 of Technical Supplement 3 Employment Land Review (TS3) [SUBDOC-022], page 71, concludes that 51.19 ha of zoned employment land is identified as being of high quality. Given the forecast that 45 ha of land for employment purposes will be required over the Plan period, is the Council's approach to zoned employment sites identified as poor quality (pages 71 and 72 of TS3) realistic and appropriate?
8. Regional policy refers to "*ample*" and "*adequate*" supplies of employment land. Looking at paragraph 5.14 of TS3, the revised figure for high quality sites alone is more than twice the forecast need. On this basis, why does the Council consider that the requirements of regional policy cannot be met by the high quality lands alone?
9. TS3 (page 59, para 8.17) said that the Council should consider the scope to which existing legacy estates and sites are no longer productive for employment use and could be better placed to support non-B class employment uses in the future. Is this something that the Council has done in considering its Strategic Land Allocation? If not, how does that facet of the plan satisfy soundness test CE2?
10. The Strategic Employment Allocation is said to be inconsistent with soundness tests C1 and C3 in terms of the sustainability objectives of the RDS and SPPs in that 91.6% zoned employment lands are greenfield (TS3, para 4.6, point 4) [it is noted that this includes the entire West Lisburn/Blaris site as zoned in dBMAP]. On this basis, a sequential approach to Employment Land Review is advocated by a representor whereby more favourable consideration should be given to existing, suitable, unzoned brownfield sites ahead of new greenfield zoned sites. Arising from this:
  - How does the Council respond?
  - Is its approach consistent with principles of sustainability?
  - How does it square with evidence in TS3, para 4.7, point 4 that there is market preference for existing properties that are cheaper to refurbish than new builds on undeveloped sites?
11. At pages 103, 107 and 108 of its Public Consultation Report, the Council addresses the contention that in order to make the dPS sound, designations SMU01 and SMU02 should be removed. Do the parties wish to comment on its response?
12. The contention was made that the Council's strategic approach has failed to consider the consequences to the local economy of development sites that are allegedly being blighted as a direct result of being zoned for employment use when there is no/limited market demand for them. The assertion is made that this does not properly take account of the aims of regional planning policy. How does the Council respond to this?
13. What account has the Council's Employment Land Review taken of:
  - The re-use of "*suitable*" unzoned brownfield sites; and
  - Underutilised existing unzoned employment lands?
14. In addressing representations relating to Strategic Policy 11 Economic Development in Settlements in its Public Consultation Report (pages 97-101 inclusive) the Council says that: "*A full review will be carried out at the LPP stage to determine the designation of sites based*



*on the ELR in accordance with Strategic Policy 11*". On page 82 of Part 2 of the plan, in respect of the 220ha of dBMAP undeveloped employment land, it says that: "*Pressure to release existing employment land for alternative uses could be detrimental in the long term to this continuous supply*". Does the second quotation simply relate to the release of employment land other than through re-zoning of surplus during the LPP process or, contrary to the first quote, will alternate uses for some of those lands not be considered during the LPP process?

15. Other than what we have already covered in discussion, what is provided for in subsequent questions and save for justification of introducing mixed use on the West Lisburn/Blaris site and funding of associated infrastructure costs that will be discussed at stage 2 of the public hearing sessions, is there anything else in the Lichfields Housing and Employment Topic Paper January 2021 (SUBDOC-031) that parties want to seek clarification on and/or respond to in respect of the strategic issue of employment land allocation only?
16. At page 77 of the dPS the Council has set out its rationale for exclusion of the 141 ha site at the Maze from the Employment Land Review and any accompanying figures. It also addressed the issue in Section 9.0 of its Public Consultation Report. Do the other parties want to comment on this evidence?
17. The potential of the Maze appears to have been factored into the Preferred Options Paper (POP) at pages:
  - 14 & 15;
  - 69 – "*This key strategic site will form a central part of the new Local Development Plan*";
  - 70 – "*The Maze Lands, for example, offers significant new opportunities*";
  - 75 – *The Council is considering the possibility of a Simplified Planning Zone at....the Maze Lands*"; and
  - It was the subject of Key Issue 8

The POP suggests that the site could be considered as part of the LDP. How does the Council reconcile these citations with what it says at page 77 of the dPS?

18. How does the Council's position at page 77 of the dPS vis-à-vis the Maze reconcile with its consideration in the West Lisburn Development Framework (2018 Review) [SUDDOC-070] and soundness test C4?
19. In omitting consideration of the Maze from its Employment Land Review, was account taken of the first sentence of paragraph 11.3 of Development Plan Practice Note 7: "*The Plan Strategy*"?
20. Did dBMAP 2015 take account of the Maze lands in its employment land allocation?
21. At this juncture, I do not want to get into the specifics of Policy SMU03 Sprucefield Regional Shopping Centre as the issue of its inclusion within the dPS is the subject of questions in Topic 4. However, in deciding to address that site of regional significance within the dPS, how is that consistent with the omission of the Maze lands?
22. How does the Council respond to the concern that if the potential for an additional 141 hectares of employment land is realised within the Maze Strategic Land reserve that the full

extent of lands (52 ha for employment opportunities) within the Strategic Mixed Use Designation West Lisburn/Blaris may not be required?

23. At pages 97 and 98 of its Public Consultation Report the Council responds to cross boundary concerns about the allocation of land for employment uses. Given the provisions of Policies SMU01 & 02 for strategic mixed use sites in addition to the gulf between the quantum of undeveloped zoned land for employment uses and that identified as being required over the plan period, does the strategic employment allocation satisfy soundness test CE1 in respect of its potential ramifications for neighbouring Councils?
24. Notwithstanding the transitional arrangements that the SPPS sets out for pending adoption of the PS, Planning Policy Statement 4 is extant policy that the Council has not engaged with in its response at pages 98 & 99 of its Public Consultation report to concerns about a perceived conflict between criterion c) of Strategic Policy 11 Economic Development in Settlements and Policy PED7 Retention of Zoned Land and Economic Development Uses (as clarified). What account was taken of that facet of policy?
25. The first paragraph of the J&A text relating to the proposed Strategic Mixed Use Designation SMU01 at West Lisburn/Blaris says that approximately half the site (52 ha) is designated for the creation of new employment opportunities. Map 8 doesn't include any spatial designation within the overall site and the lands within the Study Area of the West Lisburn Development Framework and 2018 Review (shown on Figure 4 thereof) do not relate to the same site. Therefore, what map is the Council referring to in that second sentence?
26. On pages 99 and 100 of its Public Consultation Report, the Council responds to concerns about the disconnect between the identified need for developable land over the plan period (44.85 ha) and, not only the retention of almost all employment land zoned in dBMAP 2015, but also that provided for in the strategic zoning subject of Policy SMU02. Over and above what I already have in their representations and what we have discussed, do the other parties have anything to add in response to this or has the point been exhausted?
27. At pages 97 and 98 of its Public Consultation Report the Council responds to cross boundary concerns about the allocation of land for employment uses. Given the provisions of Policies SMU01 & 02 for strategic mixed use sites in addition to the gulf between the quantum of undeveloped zoned land for employment uses and that identified as being required over the plan period, does the strategic employment allocation satisfy soundness test CE1 in respect of its potential ramifications for neighbouring Councils?
28. Section 6 of the Council's Housing and Employment Topic Paper of January 2021 (SUBDOC-031) considers the economic impact of the Covid 19 pandemic. It concludes at Section 6.5 that although the dPS was prepared prior to the onset and in a very different economic climate, it should not be adjusted to provide for a lower level of future development and growth. Is the dPS coherent and effective in this respect?
29. Notwithstanding the transitional arrangements that the SPPS sets out for pending adoption of the PS, Planning Policy Statement 4 is extant policy that the Council has not engaged with in its response at pages 98 & 99 of its Public Consultation report to concerns about a perceived conflict between criterion c) of Strategic Policy 11 Economic Development in Settlements and

Policy PED7 Retention of Zoned Land and Economic Development Uses (as clarified). What account was taken of that facet of policy as required by soundness test C3?

### **Any other issues**

#### **SMU 02 Purdysburn/Knockbracken**

31. Criterion h) of the designation refers to an “*appropriate mix*” of the uses deemed acceptable on the site and the J&A text does not assist with a definition. In the Plan-led system and taking account of the first sentence of paragraph 2.1 of the SPPS, is criterion h) consistent with soundness test CE3?
32. The Council’s response to a suggested change to criterion i) of the designation at page 109 of its Public Consultation report is noted. However, what account was taken of the first bullet point of paragraph 6.271 and paragraph 6.85 of the SPPS in dismissing the Lisburn City Centre first sequential approach?
33. The Council’s response to NIEA’s concerns is noted at page 108 of its Public Consultation Report. This gives rise to two associated questions:
  - Given that a Concept Masterplan is to be drawn up for development of the site why is it considered that: retention of natural heritage features; appropriate enhancement and mitigation to any natural heritage or landscape features lost; and the use of green and blue infrastructure to connect development with surrounding features should be left to the implementation of operational policy rather than addressed in the Concept Plan? And
  - Criteria e) and l) of the designation take a proactive approach to consideration of landscape character and site topography within the Concept Masterplan rather than leaving them to operational policy. What distinguishes them from the aforementioned considerations?

### **Any other issues**

### **Topic 3 – Economic Development**

#### **Redevelopment of an Established Economic Development Use in the Countryside**

1. On page 251 of its Public Consultation Report December 2020, the Council responds to the contention that Policy ED4 Redevelopment of an Established Economic Development Use in the Countryside has removed the exception in respect of proposals for social and affordable housing that is set out in the final paragraph of the correspondent Policy PED4 in Planning Policy Statement 4 “*Planning & Economic Development*”. Unlike Policy COU5 Affordable Housing of the dPS, Policy PED4 does not qualify the site’s relationship to a village or small settlement. This existing policy is arguably more flexible as it would allow the redevelopment of a site in the open countryside where there are not only benefits in terms of social or affordable housing provision but possibly the chance to remove a non-conforming use and/or yield environmental and visual benefits. In this respect, is the policy consistent with soundness tests C3 and CE4?
2. As set out in the guidance notes for the public hearing element of the independent examination discussion of site-specific matters is not appropriate at this stage of the overall LDP process. With that caveat in mind, is there anything that the parties want to address in respect of the Council’s comments on O’Kane Property Ltd’s representation in respect of Policy ED4 as set out on pages 250 & 251 of its Public Consultation Report?

#### **General Criteria for Economic Development**

3. A “minor change” (MC62) is proposed whereby criterion o) would read: “*it meets the requirements of Policy NH1*”. Given what is set out in paragraph 3 of the Preamble to Part 2 of the dPS at page 03 thereof, why is this considered to be necessary?

#### **Any other issues**

## Topic 4 – A Vibrant Place

### Town Centres, Retailing and Other Uses (including the Retail Hierarchy)

1. What account did the Council take of the 3<sup>rd</sup> bullet point of paragraph 6.277 in defining the retail hierarchy and the scope of the associated Strategic Policy 14 Town Centres, Retailing & Other Uses?
2. In its Public Consultation Report (page 120) the Council suggests that proposals for local, neighbourhood shops, other than those coming under the auspices of Policy TC6 Petrol Filling Stations and Roadside Service facilities, sit outwith the retail hierarchy at Figure 5 and are a matter for the development management process. When considering whether the Plan is sound, the Department is statutorily required to formulate and co-ordinate policy for securing the orderly and consistent development of land and planning for that development. In that context:
  - Should there be some specific policy provision to give certainty to promoters of such proposals; and
  - In the absence of such a policy, is the retail hierarchy consistent with Plan Objective C in this respect?
3. The retail hierarchy omits reference to the wide range of local, neighbourhood convenience retailing facilities, which are said to often include other community, office and sui generis uses. The Glossary to Part 2 of the Plan (page 121) defines a Local Centre as: *“small groups of shops and offices providing commerce and community services to a local population”*. In light of the omission of local, neighbourhood convenience retailing from Figure 5 and the designation of only Dundonald as a Local Centre, is the Plan consistent with soundness test CE2 in these respects?
4. Representations DPS-036 & 066 raised a number of issues with regard to Forestside and Drumkeen Retail Park that I need the Council’s assistance with. These are as follows:
  - The robustness of the evidence base (SUBDOC-24) was challenged in respect of the provisions that the dPS makes for the District Centre. In its Public Consultation Report, the Council says it is content with its Retail Capacity Study (RCS). However, in considering whether soundness tests CE2 and CE4 have been satisfied in this respect, it would be of assistance if the Council could address the specific alleged short-comings in the RCS in respect of Forestside/Drumkeen, including the cited inconsistency between the RCS and dPS set out at para 29 of DPS-036 and the failure to recognise the *“important role”* of Forestside District centre and its relationship with Carryduff set out at paragraph 31 of DPS-036;
  - Associated points were made in the final 3 paragraphs of page 6 of DPS-066 that bring into question the robustness of the evidence base – how does the Council respond?
  - Should Forestside be designated as a Metropolitan District Centre albeit that the term is not defined in regional planning policy?

- The contention that soundness test P2 has not been complied with in respect of this site especially with regard to designation of the boundary of the District Centre. What account was taken of associated representations and where can I find this in the Council's evidence base?
  - Given that District centres are included in the Retail Hierarchy set out in Figure 5 and that paragraph 6.277 of the SPPS is silent as to what stage of the LDP process that the spatial extent of district centres should be defined, is soundness test C3 satisfied in these respects?
  - The submission that to make the Plan sound it needs to designate Forestside as a District centre and include Drumkeen Retail Park within its boundary "*suitable to accommodate defined retail need*";
  - Is the Council's approach consistent with guidance set out at paragraph 1.2 of DPPN7?
  - The representation (paras 25-27) identifies four broad matters that it considers that dPS should deal with; what is the Council's stance on that contention?
  - The contention that to make the Plan sound the Council needs to prepare a robust RCS for the south Belfast/Castlereagh area that understands turnover and the alleged level of overtrading occurring at Forestside;
  - The suggested amendment to Strategic Policy 14 whereby: it would note that Forestside District centre is an important part of the retail hierarchy and that it will be promoted as a location to accommodate retail needs as identified in the RCS; and allow the future growth of Forestside District centre catering for convenience and comparison needs;
  - Contrary to what the Council says at the top of page 118 of its Public Consultation Report, DPS-036 (para 33) says that Strategic Policy 14 should note that Forestside District centre is an important part of the retail hierarchy and that it will be promoted as a location to accommodate retail need as identified in the Retail Capacity Study. Is such an amendment needed?
5. Why does the Council consider that the contention that Dundonald should have a designated Town Centre as opposed to being earmarked as a Local Centre is a matter for the LPP stage. Whilst definition/delineation of an associated boundary is doubtlessly the domain of the LPP, surely this is a strategic matter?
  6. Can the Council point me to the evidence base that informed its designation of Dundonald as a Local centre rather than a Town Centre?
  7. Representors expressed misgivings about the capacity of Moira to absorb additional development given existing issues with congestion in the town. In designating Moira as a Town Centre in the Retail Hierarchy was the capacity of the local road network to cater for additional retail development without prejudice to public safety and convenience taken into account? If so, it would be helpful if the Council could direct me to where this issue has been considered in its evidence base.

8. In response to the proposed “minor change” MC4, CFC-020(a) suggested that the penultimate paragraph of the J&A text to Strategic Policy 14 should be deleted to ensure consistency with the amended policy itself. Does the Council agree?
9. I appreciate that the Covid 19 pandemic arrived late in day in the Council preparing its dPS for submission to DfI for independent examination but what consideration was given to its implications for the Retail Hierarchy especially the impact that it had on the growing trend for on-line shopping?

### **Sprucefield Regional Shopping Centre**

10. Paragraph 3.41 of the RDS says that Sprucefield will continue to retain its status as a regional out-of-town shopping centre. Paragraph 1.8 of the RDS states that it is material to decisions on individual planning applications and appeals whereas paragraph 1.5 says that it does not contain operational planning policy. On the other hand, paragraph 1.8 mirrors the requirement of soundness test C1 whereby in preparing its LDP, the Council must take account of the dPS. The SPS is silent on the issue of regional shopping centres neither document provides a definition of the term or what their function/role and relationship to city/town centres should be. On that basis, is it the responsibility of the Council and a function of the dPS to define what Sprucefield’s role is given that it is a regional out-of-town shopping centre; should that obligation rest with DfI Planning?
11. The draft Belfast Metropolitan Area Plan 2015 (dBMAP) included policy for Sprucefield in its Belfast Metropolitan Area Retail Strategy and Policy R4 Sprucefield Regional Shopping Centre. Whilst I appreciate that associated criteria about the type of goods to be sold and floorspace restrictions are different from those proposed by Policy SMU03 Sprucefield Regional Shopping Centre, to those representors saying that the LDP is not the appropriate forum for setting out operational policy for Sprucefield, didn’t dBMAP set that precedent?
12. The J&A text to Strategic Mixed Use Policy SMU03 (3<sup>rd</sup> paragraph, page 103) says that: *“In the absence of regional policy or guidance relating to Sprucefield regional shopping centre, it is the responsibility of the Plan to define what this role is”*. What led the Council to this conclusion?
13. At page 127 of its Public Consultation Report the Council advises that as the SPPS is silent on the issue of Sprucefield that it *“sought advice and as a result recognise it is the purpose of the Plan to define the role and function of Sprucefield as a regional shopping centre”*. Was this the advice of DfI Planning?
14. I am not bound by the Planning Appeals Commission’s report on dBMAP, dated 31<sup>st</sup> March 2011 and must apply the tests for soundness to the dPS before me. Nevertheless, what account did the Council take of the Commission’s conclusion at paragraph 6.4.8 that: *“We consider that the Department should decide at a regional level what the future status and role of Sprucefield should be and devise clear and unambiguous policy to enable to fulfil that role. The introduction of regional policy in a development plan is unacceptable and cannot be supported”*.

15. Whether providing operational policy or not, in supporting the principle of development proposals within the area shown on Map 10 that comply with Policy SM03, is the dPS going beyond the remit of paragraph 3.41 of the RDS?
16. At page 77 of the dPS the Council set out its rationale for exclusion of the 141 ha site at the Maze from the Employment Land Review and any accompanying figures. This issue was discussed in topic 2. At this juncture, I want the Council's steer on how its decision to include operational policy for a Regional Shopping Centre within an LDP is consistent with its omission of the Maze lands?
17. In promoting Policy SMU03:
  - What account was taken of the provisions of SFG3 of the RDS and the first bullet point of paragraph 3.46 thereof whose provisions are repeated at paragraph 6.268 of the SPPS? and
  - Is Policy SMU03 in conflict with that operational policy?
18. As the SPPS makes no provision for regional shopping centres, is Policy SMU03 consistent with:
  - The first two bullet points of paragraph 6.271 of the SPPS?
  - Paragraph 6.273 of the SPPS?
  - Paragraph 6.275 of the SPPS?
19. At page 128 of its Public Consultation Report the Council engaged with concerns about conflict between Policy SMU03 at policy provisions for Belfast City Centre. Do any of the other parties wish to respond to this?
20. The Council addressed the concern that Sprucefield is omitted from the retail hierarchy at page 137 of its Public Consultation Report. Over and above points that have already been aired in respect of this issue, do representors wish to respond and advise whether they consider soundness tests CE1 and CE2 are satisfied in this respect?
21. Given that Policy SMU03 doesn't define Sprucefield's role, is it consistent with soundness test CE1?
22. In its Public Consultation Report the Council makes repeated reference to its Retail Hierarchy (Figure 5) reflecting paragraph 6.281 of the SPPS. As the SPPS makes no provision for Sprucefield or regional shopping centres, shouldn't proposals for its expansion be considered in accordance with its 4<sup>th</sup> bullet point as it applies to out of centre locations and subject to the provisions of paragraph 6.283 thereof?
23. DPS-061 set out why that representor considers that reference should be made to the context set SFG10 and 13 of the RDS; are these aspects of the RS that the Council took account of?
24. In addition to comments throughout the Council's Public Consultation Report (including pages 280 & 281) about the alleged tension between Policies SMU03 and TC1 Town Centres, Retailing & Other Uses, I am content that the preceding questions in this topic have given me the evidence I need to consider whether either or both those policies meet the soundness



tests set out in DPPN6. Therefore, I propose to park the issue and do not plan to revisit it in the next Topic. Are the parties content with this?

25. No comments were received by the Council on foot of the focussed changes consultation to the proposed “minor change” (MC5) whereby the first sentence on page 104 of Part 2 of the dPS would refer to 44,750 square metres of existing gross external retail floorspaces as opposed to 65,000 sq.m. On that basis, can I assume there is consensus that:
- The revised figure accurately reflects the existing situation? and
  - The correct baseline figure has been used in its Technical Supplement 5: Retail Capacity Study for the reasons set out in its Public Consultation Report at page 128?
26. At pages 128 and 129 of its Public Consultation Report the Council addressed concerns raised (DPS-041) about the impact of the proposed policy approach to Sprucefield and the evidence base for Policy SMU03. Do any of the other parties wish to address the points raised therein?
27. At page 129 of its Public Consultation Report the Council addressed concerns (DPS-041) that like for like comparisons with Sprucefield are too simplistic as benchmarks going forward. Do any of the other parties wish to address the points raised therein?
28. How does the Council respond to the contention that reference to regional shopping centres in GB in the J&A text to Policy SMU03 have no relevance or basis for comparison to N Ireland as the: critical mass and population; better transport links giving rise to longer journeys in GB; and our “*distinctive and unique settlement pattern*” are arguably distinguishing features in terms of catchment areas?
29. DPS-084 included concerns about the robustness of the associated evidence base (penultimate page) that were not addressed in considering the representation at pages 136 & 137 of the Council’s Public Consultation Report. Can it do so now please?
30. In its Public Consultation Report at pages 137-140 the Council responded to concerns that criteria proposed by operational policy for Sprucefield in dBMAP have not been carried over into the dPS. In the context of soundness test C4, do any of the parties want to comment on the Council’s stance on this issue?
31. At page 134 of the Council’s Public Consultation Report, it responded to the submission that: in the absence of associated regional policy; in keeping with the precautionary approach; and in order to satisfy soundness test CE1, that Policy SMU03 should restrict the type of goods to bulky durable goods only with a minimum unit size of 1000m<sup>2</sup> gross. Is there anything therein that the other parties wish to respond to?
32. At page 134 of the Council’s Public Consultation Report it addressed the contention that, in the absence of regional policy and guidance on the role of Sprucefield, the PS should not set floorspace allocations for it and should not designate the “*Area of Development Potential*” shown at Map 10. In the context of soundness test CE1, do any of the parties want to comment on the Council’s stance on this issue?

33. Has consideration been given to the contention that Policy SMU03 should not prescribe a quantum of floorspace as it undermines and predetermines any future needs assessment or updated retail capacity study that would accompany future planning applications?
34. Does the Council's evidence base:
- support a representor's contention that Sprucefield plays a complementary role to Lisburn City Centre; and/or
  - suggest that there are linked trips between the two?
35. In its Public Consultation Report at pages 133 and 134 the Council responded to the contention that criteria a) and b) of Policy SMU03 should be deleted. Over and above what we have already discussed about Sprucefield's function, is there anything therein that the other parties wish to respond to?
36. At page 134 of the Council's Public Consultation Report it responded to the contention that, in the absence of regional policy and guidance on the role of Sprucefield, the PS should not set floorspace allocations for it and should not designate the "*Area of Development Potential*"
37. Looking at criterion b) is use of the word "*mainly*" consistent with soundness test CE3?
38. The contention was made that a planning application for almost 21,000 sq.m. of retail floorspace and 5,000 sq.m. of restaurant and hotel uses on lands beside Sainsbury's, being considered at the time that representations to the dPS were invited, would use up the majority of proposed additional retail floorspace set out in Policy SMU03. What was the outcome of this proposal?
39. At pages 126 and 127 of its Public Consultation Report the Council responds to concerns that criterion a), together with criterion d), of Policy SMU03 are too restrictive and that reference to maximum floorspace should be deleted. Do any of the other parties want to comment on this response?
40. In its consideration of the previous point, the Council implicitly dealt with the issues raised by the suggested revision of criteria a) and d) of Policy SMU03 (page 9, DPS-037 & 038) whereby the former would read: "*An adequate level of floorspace should be provided to reflect Sprucefield's regional shopping centre status. In the region of 50,000 sq.m. of external floorspace may be appropriate, however, this can be exceeded should a need be demonstrated. This level of floorspace can be used for retail and non-retail uses*"; and the consequent change to criterion d) would read: "*Car showrooms will be permitted as part of the overall floorspace highlighted in criterion a)*". Is there anything that the Council wants to add in respect of these specific suggested amendments?
41. At pages 127 of its Public Consultation Report the Council addresses the contention that, for the reasons set out on page 8 of DPS-038, criterion c) of Policy SMU03 could be deleted. Is there anything that the parties want to add in respect of its stance on this issue?
42. Over and above what has already been discussed and its comments at page 127 of its Public Consultation Report, is there anything that the Council wants to add in respect of the specific change to the "*Area of Development Potential*" whereby Map 10 of the dPS would be

amended to refer to an “*Area of Possible Further Development*” as defined on page 9 of DPS-037 & 038.

43. Concerns were raised about existing traffic congestion in the immediate area of Sprucefield. Has the carrying capacity of the local road network been assessed to consider whether the additional traffic generated by the potential addition of 50,000 sq. m of additional floorspace at Sprucefield without prejudice to public safety or convenience. It would be helpful if the Council could point me to where I can find this in its evidence base.
44. In its Public Consultation Report, page 136, the Council says that infrastructure provision will be further addressed through the emerging BMTP or the Local Transport Plan to be provided by DfI as part of the Local Policies Plan. What account was taken of the provisions of paragraphs 6.293, 6.296 and 6.299 of the SPPS in providing this response?
45. Concern was expressed about the level of engagement in the dPS with the potential of a new M1-A1 link road in the vicinity of Sprucefield and a potential change to the Park & Ride facilities. With soundness tests P2, C3, C4, DE1, CE2 and CE3 in mind, should the dPS include these considerations in planning for Sprucefield Regional Shopping Centre, especially in light of the final sentence of paragraph 3.5 of the SPPS?
46. In order to satisfy soundness test CE2, should a further key site requirement be added to Policy SMU03 requiring “*the provision of significant new infrastructure which, as a minimum, would incorporate signalisation of the Sprucefield junction*”.
47. With regard to the implications of Policy SMU03 for other Council areas, can the Council reassure me that soundness tests C4 and CE1 have been complied with in this respect?
48. Subject to the caveat that has preceded my previous questions on the Covid pandemic, what consideration did the Council give to its potential implications for the role and function of Sprucefield Regional Shopping Centre and its growth over the plan period?

#### **Any other issues**

## Topic 5 – Town Centres, Retailing & Other Uses

### Town Centres, Retailing & Other Uses

1. Notwithstanding that Policy TC4 District and Town Centres specifically applies to those offers, there is an alleged disconnect between their position within the defined retail hierarchy and the operation of Policy TC1 Town Centres, Retailing & Other uses whereby a sequential approach is advocated but excludes District and Town Centres. This is apparently at odds with the first bullet point of paragraph 6.277 of the SPPS. This contention has been addressed at the bottom of page 278 of its Public Consultation Report – do the other parties wish to respond to this?
2. Notwithstanding the reference to paragraph 1.5 of the SPPS at page 280 of its Public Consultation Report, by not including the provisions of the 2<sup>nd</sup> and 3<sup>rd</sup> sentences of paragraph 6.283 within the dPS, in the Plan-led system where determination must be made in accordance with the LDP unless material considerations indicate otherwise, is the Council not at risk of fettering its discretion in requiring a retail impact assessment in such instances?
3. CFC-007 comments on proposed “minor changes” MC26A and MC26B. How does the Council respond?
4. CFC-020(a) engages with MC26A. There appears to be no issue with the revised wording or suggestion that the policy would fail any of the soundness tests as a result of it. Is there anything that the Council wants to add in this regard?

### Town Centres

5. In response to the proposed “minor change” (MC27) to Policy TC3 whereby it is proposed to delete a chunk of text from the final paragraph of policy, CFC-009 (page 4) considers that the amendment appears to dilute the original policy intent to protect town centres. CFC-020(a) goes further in saying that: this is a significant change to the policy that does not constitute a minor change; would likely alter the direction of the policy in terms of its implementation at odds with paragraph 6.280 the SPPS; and questions if it is founded on a robust evidence base. How does the Council respond to these concerns?

### District and Local Centres

6. The Council proposed a “minor change” (MC28) to the J&A text of Policy TC4 whereby a new first sentence would be inserted to read: *“The role and function of a District Centre is to perform a complementary role for retailing and services to existing city and town centres; the role and function of a Local Centre is to provide a local level of retailing and services to cater for a local population”*. When this was advertised, there was a single response in respect of the proposed change [CFC-020(a)] which:
  - Said that whilst the proposed wording identifies District Centres’ complementary role for retailing and services to existing city and town centres, this is not applied to local centres in accordance with paragraph 6.276 of the SPPS; and

- Questioned the consistency of MC28 with regard to FC2 and MC1, which proposed changes to Strategic Policy Town Centres, Retailing and Other Uses and Plan Objective C: A vibrant Place respectively.

The Council's response to these concerns would be welcome.

7. Given that District Centres occupy a higher tier on the Retail Hierarchy set out in Figure 5 of Part 1 of the dPS would it, as has been suggested, provide a clear mechanism for implementation and monitoring of Policy TC4 if it was disaggregated to deal with District and Local Centres separately?
8. Associated concerns were raised that the Retail Capacity Study, that is the evidence base for this policy, is inadequate in that the scenarios appear contrived for the treatment of Forestside in that they appear to be limited in nature to the Council's own administrative area without adequately addressing the catchments. Note is taken of the Council's commentary on this concern at page 288 of its Public Consultation Report and of the discussion pertaining to Forestside in consideration of the Retail Hierarchy – that does not need to be revisited. However, but if there is anything that it wishes to add that would assist me in applying soundness test CE2 in respect of Policy TC4, that would be welcome.
9. At page 285 of its Public Consultation report, the Council addressed the submission that Policy TC4 should be amended to allow proposals that meet a "*defined retail need*" as opposed to "*local need*" on the basis that it would reflect the findings of the Retail Capacity Study. Subject to the same caveat that I issued in respect of the last question, is there anything that the other parties want to respond to over and above evidence that I have already heard in the public hearing sessions?
10. Leaving aside the issue of whether the proposed "minor change" MC28 provides the clarification and differentiation that it sought to yield, the Council's response at page 287 of its Public Consultation Report does not fully engage with the very specific concerns about the robustness of the evidence base for criterion a) of Policy TC4. Is there anything it wants to add to specifically rebut this detailed evidence?
11. The Council's Public Consultation Report addresses concerns raised in DPS-084 at pages 287 & 288. In not making reference to non-bulky or comparison goods retailing and proposing to deal with proposals for such on a case by case basis, what account has been taken of paragraph 6.276 of the SPPS?
12. With regard to concerns raised about criterion d) of Policy TC4, apart from issues about the status of the dBMAP and the weight that can be given to it that we discussed on day 1 of the public hearing sessions, is reliance to a policy provision in a Plan that was published in November 2004 and predicated on evidence that could now be 20 years old consistent with both limbs of soundness test CE2?
13. Looking at page 31 of Technical Supplement 4: Office Capacity Study, it seems just to take the dBMAP "*current*" provision for the size of office space at Forestside (of up to 400m<sup>2</sup>) as a given in deeming it to be "*appropriate*". There is little persuasive evidence that the allocation is realistic and appropriate having considered the relevant alternatives and founded on a robust evidence base. How does the Council respond to this concern?

14. At page 287 of its Public Consultation Report, the Council addresses but does not fully engage with the concerns expressed about the consistency of criterion d) with the evidence base. The representor is not raising a purely site-specific matter that is properly addressed at the next stage of the plan process. They say that the 400 sq.m. threshold for office development is inconsistent with the evidence base including the Castlereagh Urban Integrated Development Framework 2014. Two questions arise:

- As soundness test C4 does not qualify that a non-statutory plan, policy or strategy is not a material consideration, why should the cited document be set aside, surely it is a matter of the weight to be attached to it in applying the test? and
- Is there anything that the Council wants to add about the appropriateness of the 400 sq.m. threshold in principle in light of misgivings about the robustness of the evidence base vis-a-vis Forestside?

15. At page 287 of its Public Consultation Report the Council said that the revised wording for Policy TC4 that the representor has put forward is a matter for the LPP. Given that it is seeking to remedy perceived unsoundness in Policy TC4, it appears to be very much a matter for consideration at this stage. It would be helpful if the Council would take me through each of the 5 suggested bullet points and give me its specific response on each save for where the matter might already have been addressed in our earlier discussion.

16. The issue was raised (DPS-066, pages 8 & 9) about the Supplementary Planning Guidance to the dPS (pages 26 & 27) as it relates restaurants, cafes and fast food outlets in District & Local Centres, suggesting that it should be made explicit in policy how it assists with proposals for changes of use from comparison shopping. Does the Council have anything to add in this respect?

### **Lisburn City Centre Primary Retail Core (PRC) and Retail Frontage (PRF)**

17. Looking at page 282 of the Council's Public Consultation report and its response to Dfl Planning's representation, can it clarify/explain:

- Second sentence – where it refers to the existing PRF, on the basis of what it says at page 19 of Part 1 of the dPS, is this Policy R 2 Primary Retail Frontages set out in the post-examination form of the draft Belfast Metropolitan Plan at page 81 of Volume 1?
- Where can I find evidence that the policy complies with soundness test CE2?
- How does the first sentence of its response to Dfl Planning's representation assist me in applying that test; and
- How the requirements of strategic policy can be revisited during preparation of the Local Policies Plan; surely its role would be limited to spatial definition/designation of the PRF?

### **Petrol Filling Stations and Roadside Service Facilities**

18. The Dfl Guidance on the Preparation of LDP Policies for Transport was not included with the Dfl representation and I could not find it on the Departmental website. Therefore, I have not seen the document. Nevertheless, the Council's consideration of the associated representations at page 292 of its Public Consultation Report reads that one of the reasons

that the suggested amendment to Policy TC6 is not being pursued is that “*Dfi has referred to guidance, and not policy, within its own document*”. Notwithstanding that it is guidance rather than policy, soundness test C3 does not distinguish between the two. In that context, what weight should I give to that guidance?

19. At the same row in its Public Consultation Report the Council notes that the SPPS is silent on the issue of the distancing of roadside service facilities. However, Policy IC15 Roadside Service Facilities of “*A Planning Strategy for Rural Northern Ireland*” (page 76) is still extant policy under the transitional provisions set out in the SPPS. Therefore, pending adoption of the PS, Policy IC15 remains a material consideration. In that context, what account did the Council take of it in respect of the policy presumption against new roadside service facilities within 12 miles of existing services?
20. Mindful of soundness test CE2, save for associated comments in its Public Consultation Report that succeeded publication of the dPS, where is the robust evidence base that underpins criteria a) and c) of Policy TC6?
21. In the absence of a robust evidence base for the aforementioned criteria, given that Policy IC15 of the PSRNI is still operational policy, does retention of criteria a) and c) make Policy TC6 unsound given that soundness test C3 requires the Council to take account of Departmental policy?
22. On pages 291 and 292 of its Public Consultation Report, the Council has addressed the suggested amendment to Policy TC6 in relation to the assessment of the impact of a retail unit associated with a petrol filling station. Does the other party wish to respond to this?

#### **Retail outlets outside settlements (independent of petrol filling stations and roadside service facilities)**

23. Note has been taken of the proposed “minor change” MC29 to Policy COU1 Development in the Countryside that will be considered in subsequent public hearing sessions in May. That suggested amendment would apply to proposals made in accordance with Policy COU11 Farm Diversification, Policy COU14 The Conversion and Reuse of Buildings for Non-Residential Use and Policy TC6 that we have just discussed. However, paragraph 6.279 of the SPPS applies to a wider range of uses. Albeit that the SPPS will remain a material consideration, in the absence of a policy in the dPS that deals with rural shops/retail outlets outside settlements, other than those to which those 3 policies might apply, is the dPS consistent with soundness test CE3 in this respect?

#### **Any other issues**

## Topic 6 – Tourism

1. Paragraph 6.257 of the SPPS says that in preparing LDPs councils shall bring forward, amongst other things, a tourism strategy. I appreciate that reference is made to it at page 111 of Part 1 of the Plan but where in the Council's evidence base is there confirmation that: its corporate Tourism Strategy underpinned the DPS policies for tourism; and that regard was given to its provisions?
2. The Council proposes a "minor change" (MC30) to Policy TOU1 Tourism Development in Settlements so that the penultimate paragraph of the J&A text would include reference to Scheduled Monuments, Listed Buildings and Historic Parks, Gardens and Demenses. Other than it was suggested by a representor, why is it considered necessary in the interests of soundness given:
  - The use of the words "*such as*" in the dPS text indicates that the ensuing designations are not exhaustive;
  - The provisions of Policies HE1, HE5, HE6 and HE9 of the dPS subject to the direction in the Preamble to Part Two of the dPS that reads: "*For the purposes of ensuring sustainable development these operational policies must not be read in isolation from one another. Proposals must comply with all policy requirements contained in the operational policies, where relevant to the development*"; and
  - Statutory protection for some of those heritage assets.
3. The Council's proposed "minor change" (MC31A) to Policy TOU2 Proposals for Tourism Amenity in the Countryside is noted. However, within the Supplementary Planning Guidance (SPG) volume of the Plan, where is there a clear direction on:
  - What a sustainable benefit statement should entail? and
  - What evidence/information it is expected to provide over and above that required by the Tourism Benefit Statement whose scope is the subject of extensive guidance on pages 33 & 34 of the SPG?
4. In light of the foregoing concerns, would the SPG associated with Policy TOU2 and the Council's suggested "minor change" provide clear mechanisms for implementation of the policy?
5. The rationale given for suggested "minor change" (MC31B), which would see "*only*" deleted from paragraph 4 of Policy TOU2, is in response to DfI representation. However, as it's the Council's proposed change can it explain why the amendment is considered necessary in the interests of soundness?
6. The Council proposes a "minor change" (MC32A) to Policy TOU3 Proposals for Tourist Accommodation in the Countryside that a representor sought in order to make the policy "more sound". Why is the proposed amendment considered necessary given:
  - The statutory duty imposed on me by virtue of Section 10 (6) (b) of the Planning Act; and
  - The aforementioned direction in the dPS whereby Policy TOU3 must be read in conjunction with all policy requirements including those of Policies HE13, COU4 and COU14?



7. The Council's proposed "minor change" MC32D aims to provide clarity by amending the sub-section of Policy TOU4 that relates to Tourist Accommodation on the Periphery of a Settlement so that its criterion b) omits the words "*in the locality*". Notwithstanding:
  - Is the suggested amended version consistent with soundness test CE3 in that what is the spatial extent of the area where it must be demonstrated that there are no suitable opportunities by way of either conversion or replacement?
  - Is it the settlement or nearby settlement as stipulated in criterion a)?
8. Policy TOU6 Proposals for Major Tourism Development in the Countryside refers in criterion a to "*exceptional benefit*". As the 1<sup>st</sup> and 4<sup>th</sup> bullet points within the accompanying J&A text seem relevant to criterion c) only, is there a clear mechanism for implementation of criterion a)?

**Any other issues**

## Topic 7 – Minerals Development

1. At page 261 of its Public Consultation Report, the Council said that Policies MD1 Environmental protection and MD3 Areas of Mineral Constraint: “do not directly relate to each other except that their aim is the foremost protection of the environment”. I appreciate the direction in the Preamble to Part 2 of the dPS whereby, in effect, the Plan must be read in the round. However, Policy MD1 Environmental Protection sets a qualified presumption in favour of minerals development whereas Policy MD3 contains a general presumption against such development save for two exceptions. Without some reference in Policy MD1 or its J&A text to the exception to the presumption set by Policy MD3, are there clear mechanisms for implementation of both?
2. Looking at the Council’s Focussed Change FC8B to Policy MD1. Albeit that I appreciate that the latter is concerned with deletion of the bracketed text from Policy MD1, should “*scientific*” be followed by a comma as is the case in FC8A rather than “*of*” as appears in FC8B?
3. DfE commented on Focussed Change FC8B to Policy MD1 (CFC-011) [SUBDOC-019] and made the points that: the proposed removal of the bracketed text would create tension between it and Policy MD4 Valuable Minerals: and run contrary to the provisions of paragraph 6.157 of the SPPS. Does the proposed Focussed Change create inconsistency and run contrary to the requirements of soundness test CE3?
4. The Council’s proposed “minor change” MC24B to the final paragraph of the J&A text of Policy MD1 cites legislative provisions that would be taken into account when weighing the needs of minerals development with environmental protection. As they would be material considerations regardless of being mentioned in the J&A text and the aforementioned balancing exercise is set out in the first sentence of the policy, is the proposed change necessary in the interests of soundness?
5. A representor contended that the Council’s proposed “*minor change*” MC24C whereby moving the second paragraph of the J&A text of Policy MD1 to become a second paragraph of the policy itself, is not consistent with climate change concerns and sets out its reasons for saying so (CFC-019) [SUBDOC-019]. In this context, does the policy satisfy soundness test C4?
6. The contention was made [CFC-020 (a)] that the aforementioned “*minor change*” MC24C is more than a minor change as envisaged by DPPN10. How does the Council respond to this procedural point?
7. The Council’s proposed “minor change” MC63 to Policy MD1 would entail addition of a sentence at the end of paragraph 1 of the J&A to flag up Natura 2000 sites in the plan area and cross-reference the need to comply with DPS Policy NH1 – European and Ramsar Sites – International. Given that: any development would have to comply with the requirements of the Conservation (Natural Habitats etc) Regulations (NI) 1995 (as amended); and the direction in the third paragraph of the Preamble to Part 2 of the Plan to the effect that it must be read in the round and the context of all relevant operational policy, is this change necessary in the interests of soundness?
8. Given that, in response to a representation, the Council had to seek clarification from the Department for the Economy whether or not lignite is recognised as a valuable mineral, in the

absence of definition within the dPS as to what constitutes a “Valuable Mineral”, does Policy MD4 Valuable Minerals satisfy soundness test CE3?

9. A “minor change” (MC25) is proposed to Policy MD4 that would add to the second paragraph of the J&A text by cross-referencing to the J&A text of Policy MD1. Why is the proposed amendment considered to be necessary given:

- The statutory duty imposed on me by virtue of Section 10 (6) (b) of the Planning Act; and
- The direction in the Preamble to Part Two of the dPS that reads: *“For the purposes of ensuring sustainable development these operational policies must not be read in isolation from one another. Proposals must comply with all policy requirements contained in the operational policies, where relevant to the development”*.

10. The Council proposes a second “minor change” (MC64) to Policy MD4 to stipulate that all proposals that may affect a European or Ramsar site must meet the requirements of NH1. Why is the proposed amendment considered necessary given:

- The statutory duty imposed on me by virtue of Section 10 (6) (b) of the Planning Act; and
- The Council’s reference in its Public Consultation Report to the aforementioned provisions of the Preamble?

#### **Any other issues**

## Topic 8 – Renewable Energy

1. Paragraph 6.221 of the SPPS says that the Council should set out policies and proposals in their LDP that support the integration of micro-generation and passive solar design. Criterion a of Strategic Policy 21 Renewable Energy refers to facilitating the delivery of renewable energy generating facilities. However:
  - Has it taken account of the arguably more pro-active approach of the SPPS in respect of building design? and
  - Does the policy need to be more robustly worded in order to take account of policies and plans aimed at responding to climate change and promoting environmental resilience?
2. The proposed “minor change” MC52C cites cumulative impact as a material consideration consistent with paragraph 6.229 of the SPPS. Criterion (ii) of Policy RE1 Renewable Energy Development of Planning Policy Statement 18 “Renewable Energy” defines the extent of cumulative impact to be assessed. Given the transitional arrangements for the PPS, as set out in the SPPS, does the amended J&A meet the requirements of soundness tests CE3 in not defining what is meant by “*cumulative impact*”?

### Any other issues

## Topic 9 – Telecommunications & other Utilities

1. A “minor change” (MC61) is proposed whereby criterion b of Strategic Policy 22 Telecommunications and Other Utilities would be amended by addition of “*and natural and historic environment*”. Bearing in mind:
  - The provisions of the Plan’s Strategic Policy 18 Protecting and Enhancing the Historic Environment and Archaeological Remains and Strategic Policy 19 Protecting and Enhancing Natural Heritage read in the context of the second paragraph of Chapter 4 of Part 1 of the dPS (page 42);
  - Operational policy in Chapter 9 of part 2 of the dPS considered in light of the third paragraph of the Preamble to Part Two of the dPS; and
  - The statutory duty imposed on me by virtue of Section 10 (6) (b) of the Planning Act

Is the suggested change necessary in the interests of soundness?

2. The Council’s proposed focussed changes FC14A and FC14B would see the first paragraph of Policy UT1 Utilities read: “*To ensure that the visual and environmental impact of utility development is kept to a minimum, the provision of utility services such as water, wastewater, electricity and gas to new development proposals should be laid underground where considered feasible and viable*”.
  - Where can I find the evidence base to support the presumption in favour of undergrounding utilities?
  - Did this evidence include a cost-benefit analysis or a review of the technical constraints involved in undergrounding?
  - Whilst it is appreciated that NIE Networks representation succeeded preparation of the evidence base for the dPS, were the issues raised on page 3 of its submission taken into account in drafting and revising Policy UT1?
  - Who would be the arbiter as to whether undergrounding would be feasible or viable – the Council, developer, Utility Regulator, third parties?
  - Is there sufficient clarity as to what evidence would be required to satisfy the policy requirements of feasibility and viability?
  - Would the policy, as revised, satisfy soundness test CE3 in this respect?
3. In terms of the implications that Policy UT1 might have for regional transmission network pylons and overhead lines, what account was taken of:
  - RG5 of the RDS specifically bullet points 1, 2 and 4?
  - Plans and policies aimed at decarbonisation of the electricity supply, increasing the contribution of renewable sources it and associated implications for the energy distribution network?
4. Focussed change FC14B proposes that criterion b of Policy UT1 is amended by addition of the words “*where possible*”. This amendment arguably makes the policy less clear.
  - Is the Council satisfied that it complies with soundness test CE3?
  - What guidance is there for a developer or decision-maker in exercising this discretion?

- CFC-019 [SUBDOC-019] contends that as FC14B relates to criterion b) of Policy UT1 i.e. addition of the words “*where possible*”, that it is at odds with the provisions of the second sentence of paragraph 6.250 of the SPPS?
5. The wording in strikethrough text in FC14B is different to that in paragraph 2 of Policy UT1.
    - Is it the Council’s intention to delete paragraph 2 of Policy UT1 in its entirety; and
    - If so, how does this reconcile with what was said on page 361 of the December 2020 Public Consultation Report in its second complete paragraph that starts: “Policy UT1 does state exceptions....”?
  6. How does the Council respond to the assertion that Policy UT1 does not allow for sufficient flexibility in the exercise of planning judgement and balancing competing material considerations including financial and technical concerns?
  7. Criterion b) of Policy UT1 applies only to overhead electricity lines and associated infrastructure, what consideration has been given to law and policy seeking to protect natural and historic heritage interests in drawing up the policy’s first paragraph?
  8. A “minor change” (MC66) is proposed whereby a new paragraph would be inserted between the current penultimate and final paragraphs on page 104. Bearing in mind:
    - The statutory protection given to the Natura 2000 sites independent of the LDP;
    - The provisions of the Plan’s Policy NH1 European and Ramsar Sites – International and possibly NH2 Species Protected by Law and NH5 Habitats, Species or Features of Natural Heritage Importance, if applicable, read in the context of the third paragraph of the Preamble to Part Two of the dPS; and
    - The statutory duty imposed on me by virtue of Section 10 (6) (b) of the Planning Act

In the interests of soundness, is the suggested change necessary?

**Any other issues**

## Topic 10 – Waste Management

1. The Council's response, at page 160, of its Public Consultation Report December 2020 is noted in respect of the second paragraph of the J&A text for Strategic Policy 23 Waste Management. Bearing in mind that it is DfI who will determine whether or not this Plan is sound, is the Council content that its response is consistent with Section 1 (1) of the Planning Act?
2. The Council's Public Consultation Report December 2020 (page 364 ) did not address the first two of three points made by DfI Planning, at page 16 of its representation, in respect of Policy WM1 Waste Management Facilities. Other than proposed "minor change" MC53 and TY29 are any other associated amendments required in order for the policy to meet the tests for soundness?
3. "*Additional need*" is cited in the opening paragraph of Policy WM1 but there is no reference or guidance as to the mechanism for determining need. How would this requirement be implemented?
4. The Council's Public Consultation Report December 2020 did not engage with DPS-016 in respect of:
  - The proposed deletion of criterion b) from Policy WM1; and
  - If it is to be retained, how does it sit with soundness test CE2 in terms of what relevant alternatives were considered and the robust evidence base for its inclusion.
5. The representor contended that inclusion of the first bullet point of Policy WM1 under the heading "*In addition proposals will be subject to the following criteria:*" is unsound and set out their reasons for saying so. Is the wording of this element of policy realistic and appropriate?
6. Does the different terminology used in the aforementioned bullet point in terms of "*demonstrable harm*" and "*any detrimental impact*" under the heading "Health Considerations" fail soundness test CE3 in that they could be construed as setting different standards in the consideration of the issue of human health?
7. Following on from the proposed change to Policy WM1, the same representor raised related concerns with regard to Policy WM3 Waste Disposal and its criterion b that cross-references to Policy WM1. They consider Policy WM3 to fall foul of soundness test CE2 on the basis that retention of criterion b) within Policy WM1 is of itself unsound. Without engaging with any site-specific points raised in that representation, how does the Council respond that assertion?
8. The Council's response, at page 164 of its Public Consultation Report December 2020 is noted in respect of storm drainage.
  - Am I to understand from its response that this is matter for NI Water to regulate and permit on a piecemeal basis, planning application by planning application?
  - Given implications for flooding of the cumulative impact of such piecemeal discharges and bearing in mind that it is DfI who will determine whether or not this Plan is sound, is the Council's position is consistent with Section 1 (1) of the Planning Act?

- Adding to or creating an additional flood risk has been addressed by MC54B in respect of the second paragraph of Policy WM2, why is it not of equal concern in respect of stormwater discharge to the mains sewerage network or river network?
9. NI Water commented on the absence of a Sustainable Urban Drainage System (SuDS) policy despite references to it throughout the dPS. In particular, note has been taken of criterion j of Policy HOU4 Design in New Residential Development and the J&A text to that policy under the heading “Sustainable Drainage”. In that context, NIEA said that it would have preferred a dedicated policy in respect of the use of SuDS. Taking account of the provisions of RG9 of the RDS (paragraph 3.27, bullet point 3) and paragraph 3.13 of the SPPS (final bullet point), is a separate policy needed within the dPS to require the inclusion of SuDS, where appropriate, in all new built development and addressing the issues raised by NI Water?

**Any other issues**



## Topic 11 – Flooding

1. Dfl WDPD provided the wording for a suggested reference to the Living With Water Programme. Did this document supersede publication of the dPS? Is specific cross-reference to it necessary in order to make the Plan sound?
2. On foot of Dfl Rivers comment and in the interests of soundness test CE3, is it necessary to amend Policy FLD1 Development in Fluvial (River) Flood Plains, 1<sup>st</sup> paragraph under the heading “*Exceptions in Defended Areas*” so that it finishes: “*...a minimum standard of 1 in 100 year (AEP of 1%) fluvial flood protection*” or is the Council satisfied that suggested MC56B to the previous paragraph would provide a clear mechanism for implementation?
3. In its Public Consultation Report December 2020, at page 368, the Council responds to Dfl Rivers’ suggestion that the last sentence of the first paragraph on page 113 of Part 2 of the plan, under the heading “Flood Management and Mitigation Measures” would be better located within Policy FLD1 rather than the J&A text. It is noted that this sentence mirrors the final one of paragraph 6.111 of the SPPS. Given the provisions of the 4<sup>th</sup> bullet point of paragraph 6.104 of the SPPS, is the Council correct in saying that the suggested amendment does not accord with the strategic objectives of the SPPS?
4. With regard to Focussed Change FC15 in respect of Policy FLD5 Development in Proximity to Reservoirs, is the advice issued in June 2019 by Dfl Rivers included in the Council’s evidence base?
5. Dfl Rivers commented on Focussed Change FC15 [CFC-020(d)] (SUBDOC-019) suggesting: updating references to Strategic Flood Maps to Flood Maps NI; and further amendments subsequent to issue of an updated document after its original representation on the dPS. How does the Council respond to these comments?

## Any other issues

## **Topic 12 – Open Space, Sport & Outdoor Recreation**

1. The Council's Open Space Strategy 2020 – 2005, published in November 2020, forms part of its submission documents and in its on-line Submission Documents Library it is referred to as a draft (SUBDOC-072). In contrast, looking at the first two paragraphs of its Foreword, suggests that it has been adopted. What is its current status?
2. Paragraph 6.204 of the SPPS says that the LDP should be informed by a survey/assessment of existing open space provision and future needs. Chapter 4 of the Strategy establishes the current situation but where are future needs identified in the Council's evidence base?
3. At Page 3, point 8 of DfI's WDPD representation, suggestions are made as to how the second paragraph of the J&A text could be expanded. Are there other operational policies that would address these concerns? Is the suggested amendment needed in the interests of soundness?
4. The Council's comments at the bottom of pages 305 and 306 of its Public Consultation Report December 2020 are noted and the wording of soundness test C3 as set out in DPPN6. Notwithstanding, how would reliance on paragraph 6.205 of the SPPS presume against the potential loss of open space through piecemeal, successive development proposals that could cumulatively add up to the loss of more than 10% of the facility?

### **Any other issues**

### **Topic 13 – Historic Environment & Archaeology**

1. A “minor change” (MC40) is proposed to Policy HE11 The Control of Advertisements in a Conservation Area or Area of Townscape Character/Area of Village Character that would amend the second half of the second paragraph of the policy to cross-reference the need for all such proposals to comply with Policy AD1 Amenity and Public Safety. Why is any reference, however worded, to operational policy within the dPS required the direction in the Preamble to Part Two of the dPS that reads: *“For the purposes of ensuring sustainable development these operational policies must not be read in isolation from one another. Proposals must comply with all policy requirements contained in the operational policies, where relevant to the development”*?
2. At pages 166 and 167 of its Public Consultation Report the Council acknowledges concerns raised about provisions for monitoring in Appendix E of Part 1 of the dPS at page 179 thereof. However, it doesn’t engage with the specific suggestions made at pages 4 and 5 of DPS-030 – Part A. Therefore, it would assist me in applying soundness test CE3 if it would take me through the specific amendments suggested therein and comment on them in turn.

### **Any other issues**

## Topic 14 – Protecting & Enhancing Natural Heritage

### Protecting & Enhancing Natural Heritage

1. By including the words “*where possible*” in criterion a) of Strategic Policy SP19 Protecting and Enhancing Natural Heritage:
  - Is this element of policy being watered down when compared to the first 3 bullet points of paragraph 6.172 of the SPPS?
  - Does it take account of the third sentence of paragraph 6.160 thereof? and
  - Does it take account of its Community Plan at Theme 4, Sample Indicator a. on page 5 thereof (SUB-DOC065)?
2. In lieu of a policy concerning trees and development, the Council considers that there is sufficient protection afforded for trees under the existing legislative and policy provisions. The final bullet point of paragraph 6.192 & paragraphs 6.193 and 6.194 of the SPPS suggest that protection is needed for trees and woodland that are not subject of Tree Preservation Orders or some other protective designation. Has account been taken of this; and what policy provisions is the Council referring to in the second and fifth rows of page 149 of its Public Consultation report?
3. With regard to the contested need for a specific policy relating to trees:
  - Taking account of RG11 of the RDS and both Section 3 and paragraph 6.196 of the SPPS, did the Council consider the need for a policy that proactively promotes tree planting as part of any development?
  - Without such a policy, how does the Council propose to protect existing trees from new development, particularly those that are of visual, biodiversity or amenity quality and significance?
  - Plan Objective E seeks to not only protect but also enhance the natural environment. As such, should there not be an associated policy aimed at: securing a net gain in tree numbers as a result of built development in the interests of natural heritage, amenity, environmental quality and resilience that is appropriate to the nature, scale and location of the development; and, where the loss of trees is unavoidable, provision be made for replacement planting and/or other mitigation works?
  - Rather than rely on the imposition of conditions to secure landscaping on a case by case basis wouldn't a clear policy statement to this effect better achieve those strategic objectives and be consistent with the J&A text to Policy SP19 in respect of the first paragraph under the heading “Trees and Woodland”?
4. Has the Council's approach to planning for trees and woodland had regard to other relevant plans, policies and strategies e.g. the Programme for Government and its own Local Biodiversity Action Plan (SUB-DOC078)?
5. In considering whether this plan is sound, the Department is required to formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning

of that development. Has account been taken of that statutory duty and the provisions of paragraph 6.189 of the SPPS where the Council responds, at page 149 of its Public Consultation Report, to the suggestion that operational policy is needed within the PS for the designation and protection of Local Nature Reserves and Wildlife Refuges albeit that designation of such sites is a matter for the Local Policies Plan?

6. The Council proposes two “minor changes” (MC7A & MC7B) and to amend a typographical error (TY10) to Strategic Policy 19. Why is the second sentence of MC7A considered necessary in light of the italicised text on page 42 of Part 1 of the Plan that says that strategic policies must be read together with operational policy at Part 2, which would include Policy NH1?
7. Does the Council want to address the consultation response relating to MC7A [CFC-020(a)] that suggests inclusion of the text in Strategic Policy 19 itself rather than in the J&A text?
8. The strategic issue of the Transitional Arrangements set out on page 16 of Part 1 of the Plan was the subject of discussion on day 1 of these public hearing sessions and I do not propose to revisit that cross-cutting issue. Without delving into site-specific considerations, which will be the bailiwick of the Local Policies Plan, does anyone want to respond to the Council’s response to the issue of Landscape Wedges, shown on Map 4 (page 48) of Part 1 of the dPS, as set out in the third row of page 149 of its Public Consultation Report?

#### **European and Ramsar Sites – International**

9. Amongst other things, the Council’s proposed “minor change” (MC43) to Policy NH1 European and Ramsar Sites – International would see the insertion of “and” between the third instance of criteria a) and b). Two associated representations (CFC-011 & 012) say this would be inconsistent with both legislation and Policy NH1 - European and Ramsar Sites – International of Planning Policy Statement 2 and that the word “or” should be used. What is the Council’s stance on this?

#### **Monitoring & Review of Plan Objective E: Protecting and Enhancing the Historic and Natural Environment**

10. At pages 170-173 of its Public Consultation Report the Council acknowledges concerns raised about provisions for monitoring in Appendix E of Part 1 of the dPS at page 179 thereof. However, it doesn’t engage with the specific suggestions made at pages 27-29 inclusive of DPS-093A. Therefore, it would assist me in applying soundness test CE3 if it would take me through the specific amendments suggested therein and comment on each in turn.

#### **Any other issues**

**Commissioner Julie de-Courcey**  
**22 February 2022**