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4th October 2021

Independent Examination Fermanagh & Omagh District Council Local Development Plan: Plan Strategy

Dear Ms McEvoy

I have been instructed by the presiding Commissioner to write to you and advise that the initial assessment of the draft Plan Strategy is well progressed.

As stated within Section 10(6) of the Planning Act (NI) 2011, at the plan strategy stage the purpose of an independent examination is to determine whether the development plan document satisfies the requirements of Sections 7 and 8 of the Act and whether it is sound. A number of issues have arisen from the initial assessment exercise which, individually and cumulatively, may have implications for the plan's soundness. In order to assist with the independent examination, further information is requested in relation to the following matters:

Legislative and Procedural Issues

Section 8(5) of the 2011 Planning Act (as amended) states that in preparing a plan strategy, the council must take account of

- the regional development strategy (RDS);
- the council's current community plan;
- any policy or advice contained in guidance issued by the Department;
- such other matters as the Department may prescribe or, in a particular case, direct, and may have regard to such other information and considerations as appear to the council to be relevant.

Paragraph 5.4.9 of Development Plan Practice Note (DPPN) 06: Soundness (May 2017) states that whilst the Strategic Planning Policy Statement (SPPS) consolidates existing subject planning policies, policy direction also provided by land-use planning policies within extant Planning Policy Statements (PPSs) and remaining provisions within the Planning Strategy for Rural Northern Ireland (PSRNI) continue to be in force until such times as they are replaced. It is added that a council will therefore be required to ensure that it has taken

account of the prevailing regional planning context in the preparation of its development plan.

The Council's Soundness Checklist (FODC 401) states that the Draft Plan Strategy has been prepared in line with regional policy, principally contained within the SPPS, and good practice guidance (DPPNs) and that throughout it reference is made to regional policy as appropriate in the context and justification sections. However within Document FODC 109 (page 127) a statement is made that whilst account has been taken of the SPPS there is no requirement to take account of the existing suite of PPSs. Given the statutory requirements of Section 8(5) of the 2011 Planning Act, how does the Council justify this statement?

Growth Strategy

Paragraph 1.2 of DPPN 07: The Plan Strategy (April 2015) states that the plan strategy should establish the strategic direction early in the plan process in order to provide a level of certainty on which to base key development decisions in the area as well as the necessary framework for the preparation of the local policies plan. Paragraph 1.3 goes on to state that the plan strategy should set out an ambitious but realistic vision for the council area as well as the objectives and strategic policies required to deliver that vision; it should aim to address the challenges that it faces.

The RDS produced as a guide Housing Growth Indicators (HGIs) which was an estimate of the new dwelling requirement for each of the Council areas. In light of the revision of the HGIs in September 2019 the Council has stated within Document FODC 110 that there is now a housing need balance within the plan area of 2,660 for the period from April 2019 to March 2030. The November 2019 Updated Housing Paper (FODC 309, page 31) however states that there are 4,511 'hard commitments' and 8,892 'soft commitments' within the council area's settlements with the December 2020 Annual Housing Monitor (FODC 310) indicating that the remaining housing potential in all the settlements is 15,800. These figures do not take account of the countryside where there is an average rural approval rate of 66 dwellings per year (Paragraphs 6.1 and 6.6, Updated Housing Paper, FODC 309). It would also appear that an allowance for windfall sites is to be applied at the local policies plan stage (Draft Plan Strategy Consultation Report, FODC 109, page 17) and the Updated Housing Paper states that this could provide 441 housing units (FODC 309, page 43).

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

The Draft Plan Strategy appears to propose to manage the housing supply over the plan period by having a two phased release of land with Phase 1 being identified to meet any remaining future housing need over the Plan period (i.e. before 2030) once committed housing sites with extant planning permissions or sites which are under development have been taken into account and identifying Phase 2 sites for allocation beyond the plan period (i.e. after 2030) or released earlier within the plan period where it is evident that these housing sites are required to meet housing need (FODC 109, page 26). Given your definitions of 'hard and soft commitments' within Document FODC 109 (page 24) clarification is sought as to whether Phase 1 and 2 sites relate to land which has 'soft commitments' once the land which has 'hard commitments' has been taken into account and if so the justification for this approach.

Draft Policy HOU 01 appears to introduce a mechanism for releasing unzoned greenfield land over and above those sites which have existing commitments as well that identified as

being Phase 1 and 2 land or Housing Policy Areas. Given the over-supply of land for housing, how does the Council consider this approach to be justified?

Infrastructure

DPPN 07 states that the plan strategy should make it clear how infrastructure which is needed to support it will be provided (Paragraph 5.5). It is stated that a council should aim to ensure that its plan strategy is both realistic and deliverable taking account of the resources available and any potential constraints which may arise during the plan period. In furthering sustainable development, the RDS and the SPPS emphasise the importance of the relationship between the location of housing, jobs, facilities, services and infrastructure. They also recognise the need to avoid, where possible, the selection of flood prone land for employment and housing growth urging the adoption of a precautionary approach to development in areas of flood risk and use of the latest flood risk information that is available in order to properly manage development. Paragraph 6.127 of the SPPS states that flood risk may influence decisions on the zoning of land for development or the designation of land for open space use and may also be a consideration in the definition of settlement limits.

The Sustainability Appraisal of the Draft Plan Strategy (October 2018, FODC 103) and the Public Utilities Paper (November 2020, FODC 233) state that the flood defences in Omagh, while providing a degree of protection from flooding, are no longer considered to provide the minimum level of protection required under Planning Policy Statement 15: Planning and Flood Risk (September 2014). The Public Utilities document (Paragraph 6.25, FODC 233) also states that the Enniskillen Drainage Area Plan (DAP) and Omagh DAP identified significant deficiencies within the existing sewerage network and that there are settlements which have no or little remaining capacity for 3% growth or beyond.

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

Your response to these matters should be submitted to the Commission by 12 noon on 20th October 2021. Please provide 3 hard copies as well as an electronic version. Your response will be published on the Commission's website.

Once your submission has been considered, the presiding Commissioner will decide whether it is necessary to convene an exploratory meeting with the Council and relevant parties.

Do not hesitate to contact me should you have any queries in relation to this correspondence.

Yours sincerely

Barry Fegan

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Programme Officer