

Independent Examination
Fermanagh and Omagh District Council Local
Development Plan 2030
Draft Plan Strategy
Questions for weeks 4 and 5

TUESDAY 1ST AND WEDNESDAY 2ND MARCH 2022

Topic 14: Minerals Development

Issue: Minerals Development

Participants:

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- Mr Tom White
- Tracey Concrete
- B McCaffrey & Sons
- Historic Environment Division-Department for Communities
- Dalradian Gold
- Quinn Building Products
- Department for Infrastructure

Issues:

- **Restoration and Aftercare**
- **Mineral Safeguarding Areas**

Participants:

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- Tracey Concrete
- B McCaffrey & Sons
- Historic Environment Division-Department for Communities
- Dalradian Gold
- Quinn Building Products
- Department for Infrastructure

Issue: Unconventional Hydrocarbon Extraction**Participants:**

- Fermanagh and Omagh District Council
- Mr Tom White

Minerals Development

1. Does the inclusion of the word 'unacceptable' in the opening sentence of Draft Policy MIN 01 take account of Paragraph 6.152 of the SPPS?
2. Paragraph 6.155 of the SPPS states that where a designated site covers expansive tracts of land, the LDP should carefully consider the scope for some minerals development that avoids key sites and that would not unduly compromise the integrity of the area as a whole or threaten to undermine the rationale for the designation. The Council has indicated its intention to identify MSAs at the local policies plan stage. What would happen if the required information was still not available at that time in order to identify the full extent of the mineral reserves and would the plan take account of Paragraph 6.154 of the SPPS which states that the policy approach for minerals development must be to balance the need for minerals resources against the need to protect and conserve the environment?
3. Within Areas of Constraint on Mineral Development criterion (xi) of Draft Policy MIN 01 states that the development is to be for less than 15 years duration. Were alternatives considered?
4. Paragraph 4.80 of the policy clarification of Draft Policy MIN 01 states that if during the extraction phase a mineral resource is found to be more extensive than originally indicated the Council will consider a new planning application to extend the life of the quarry/mine. Does the Plan Strategy adequately address instances where the extent of the reserve is known at the time of the submission of the planning application?
5. Would it be appropriate for Draft Policy MIN 01 to state that the continued growth and sustainable expansion of existing minerals development sites within the ACMD will be supported?
6. Do precious metals and minerals fall within the definition of a mineral as contained within Section 250 of the Planning Act (NI) 2011?
7. Proposed change 60 within Document FODC 110 proposes a new paragraph relating to the consideration of a proposal for the extraction of valuable minerals where the site is within a designated area in the Local Development Plan. Should this paragraph also relate to other statutory designations designated outside the LDP such as scheduled monuments or Listed Buildings?

8. Proposed change 60 within Document FODC 110 also refers to the assessment of the cumulative effects of minerals development; is this appropriate?
9. Paragraph 6.157 of the SPPS states that there will not be a presumption against the exploitation of minerals in any area however proposed change 60 to Draft Policy MIN 01 (Document FODC 110) states that there will be a presumption against their exploitation in designated Special Countryside Areas. Is this proposed change supported by robust evidence?
10. Proposed change 62 within Document FODC 110 relates to additional policy clarification for valuable minerals presumably to take account of Paragraph 6.157 within the SPPS. The suggested wording refers to considering a proposal where the site is within a designated site. In light of Paragraph 6.158 of the SPPS, would it be appropriate for this also to apply to where the site is in close proximity to a designated site or site proposed for designation?
11. Document FODC 109 (Page 203) refers to DfE's Minerals Information Paper. Has this paper been included in the documents provided to the Commission? Has the Regional/NI Minerals Working Group been established yet?

Restoration and Aftercare

12. Is there a robust evidence base to justify that materials for the infill and restoration of sites should be sourced within the site? Does the plan take account of instances when it may not be possible to source all the materials from within the site?
13. It is suggested within Document FODC 109 (page 220) that for clarity it may be appropriate to insert the word 'normally' within Draft Policy MIN 02 in recognition that there may be occasions where the Council considers that the restoration proposals have such limited financial requirements as to make such a financial provision unnecessary. Would this be appropriate?
14. Should there be consideration of public liability insurance cover and a bond for the occurrence of accidents during the operation life of a minerals development?

Minerals Safeguard Areas

15. Is the failure to detail the boundaries of the Mineral Safeguarding Areas (MSAs) at dPS stage consistent with the decision to identify the Areas of Constraint on Mineral Development (ACMD)?

Unconventional Hydrocarbon Extraction

16. The Council has suggested additional wording be added to the policy clarification (paragraph 4.89) of Draft Policy MIN 04 in order to define hydraulic fracturing or fracking (Proposed change 63). Is this appropriate?

TUESDAY 8TH MARCH 2022

Topic 15: Landscape

Issues

- **Development within the Sperrin Area of Outstanding Natural Beauty**
- **Special Countryside Areas**
- **Areas of High Scenic Value**

Participants:

Development within the Sperrin Area of Outstanding Natural Beauty

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- Dalradian Gold
- SSE Renewables
- Renewable Energy Systems
- Department for Infrastructure

Special Countryside Areas

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- SSE Renewables
- Renewable Energy Systems
- Department for Infrastructure

Areas of High Scenic Value

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- Department for Infrastructure

Development within the Sperrin Area of Outstanding Natural Beauty

1. Do the Council's proposed changes 99 and 100 contained within Document FODC 110 take account of policy and guidance issued by the Department?
2. In terms of the character of the AONB, has account been taken of the impact of development that has occurred since its designation?

Special Countryside Areas

3. Do the Council's proposed changes 101 and 102 contained within Document FODC 110 take account of policy and guidance issued by the Department? Are these required to make the plan sound?
4. The Council has made reference within Document FODC 109 (page 290) for the need to update omitted information from the Countryside Assessment-is this update contained within Document FODC 223 Addendum to Countryside Assessment?

Areas of High Scenic Value

5. Does the Council's proposed change 103 contained within Document FODC 110 take account of policy and guidance issued by the Department? Is it required to make the plan sound?
6. Should Draft Policy L03 also state within the policy headnote that a Landscape Visual Impact Assessment is required within Areas of High Scenic Value?
7. Is it appropriate for the policy clarification text of Draft Policy L03 (paragraph 5.56) to refer to large scale development proposals given the sensitivity of the landscape?

WEDNESDAY 9TH AND THURSDAY 10TH MARCH 2022

Topic 16: Renewable Energy

Issue: Renewable and Low Carbon Energy Generation

Participants:

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- Historic Environment Division-Department for Communities
- SSE Renewables
- Renewable Energy Systems
- Department for Infrastructure

1. Is there a conflict between Paragraph 2.10 of the Wind Energy Strategy (WES) and Figure 6.4 within the Landscape Wind Energy Capacity Study (LWECS) (January 2018) which shows areas of limited underlying capacity within the AONB?
2. The Wind Energy Strategy indicates that characteristics of some of the landscape contained within the AONB suggests suitability for large-scale windfarm development however the high value of the landscape resulting from the designation renders the landscape highly sensitive to this scale of development. Annex 2 to Appendix 7 identifies low capacity within the relevant Local Character Areas contained within the AONB with Paragraph 2.10 of the WES stating that some areas have effectively no capacity for reasons including landscape character, visual sensitivity and/or landscape value with these areas including the nationally designated Sperrin AONB. Does this approach take account of policy and guidance published by the Department including Paragraph 6.223 of the SPPS? Is any capacity within the AONB judged to be for turbines below 80m in height?
3. Should criterion (n) only refer to the separation distance being from an occupied property?
4. Would the siting criteria relating to the siting and location of turbines have implications for the future operation of existing wind energy development?
5. Ironside Farrar (IFL) (Appendix 1 FODC109 page 9) state that they agree generally that the methods of assessment of landscape and visual impacts should correspond with those of the Guidelines for Landscape and Visual Impact Assessment (GLVIA) (Third Edition). Should the first bullet point of Paragraph 4.3.4 within the Appendix 7: The Wind Energy Strategy refer to the

Landscape and Visual Impact Assessment identifying and describing the likely *significant* effects of the proposal as opposed to its likely effects?

6. Should the sixth bullet of Paragraph 4.3.4 within Appendix 7: The Wind Energy Strategy refer to the assessment of the impacts on residential properties?
7. Should 4.3.6 within Appendix 7 refer to the use of a matrix and the classification of significant of the impacts?
8. Is it appropriate for Paragraph 6.28 of the Plan Strategy to state that the Council's Wind Energy Strategy is the principal material consideration for all wind energy proposals?
9. The Council has stated on page 320 of Document FODC 109 that DfI Roads suggested wording is identical to that in the Best Practice Guidance to PPS 18: Renewable Energy and that it 'could consider including the suggestion under Section 4.0 Guidance on preparing wind energy proposals of Appendix 7'. This change was not however included within Document FODC 110. Can it now be considered?
10. Would the policies contained within the dPS impact on the delivery of the targets set out in the emerging DfE Energy Strategy?

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TUESDAY 22ND MARCH 2022

Topic 17: Historic Environment

Issues

- **Archaeology**
- **Listed Buildings and their settings**

Participants:

Archaeology

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- Dalradian Gold
- Department of Communities-Historic Environment Division
- Department for Infrastructure-Planning

Listed Buildings and their settings

- Fermanagh and Omagh District Council
- Department of Communities-Historic Environment Division
- Department for Infrastructure-Planning

Archaeology

1. Under proposed changes 65, 66, 67 and 137 the Council is proposing to delete Draft Policy HE 01, its policy clarification and Appendix 5. Are these focused or minor changes? Are they required to make the plan sound?
2. Proposed change 68 seeks to confirm within Paragraph 5.8 of the Draft Plan Strategy that scheduled monuments and ASAs are statutorily protected. However, Historic Environment Division (HED) advise that ASAs are not statutory designations but rather are designated through the plan process. It has been suggested that the first sentence of criterion (a) of Draft Policy HE 02 should state that these sites (or constituent parts of them) benefit from statutory protection. Would such a change take account of Paragraph 6.8 of the SPPS?
3. Concern has been raised in relation to Paragraph 5.12 of the policy clarification of Draft Policy HE 02 in that it is considered to be permissive of development

proposals which would affect archaeological remains of regional importance or the integrity of their setting. Does Paragraph 5.12 take account of Paragraph 6.8 of the SPPS?

4. Does proposed change 73's inclusion as clarification text reduce its weight when dealing with archaeological remains and does it provide sufficient clarity around archaeological evaluation and mitigation in order to meet international obligations? Has the Council adopted a consistent approach in terms of when wording is moved from clarification into policy to take account of the SPPS?

Listed Buildings and their settings

5. Are proposed changes 74 and 75 focused on minor changes and are they required to make the plan sound?
6. Should the title of criterion (a) of Draft Policy HE 03 include a reference to 'change of use' given that it is addressed in the third bullet point of the criterion? Should this bullet point also refer to securing its ongoing viability and upkeep in order to take account of Paragraph 6.13 of the SPPS?
7. Criterion (b) of Draft Policy HE 03 states that 'appropriate arrangements *must* (my emphasis) be in place for recording the building prior to demolition and for the timely redevelopment of the site' whereas proposed change 77 states 'this should *normally* (my emphasis) be conditional on prior agreement...' Is there clarity as to what is required?

Topic 18: Historic Environment

Issues:

- Conservation Areas
- Enabling Development

Topic 19: Development and Design

Issue: Advertisements and the Historic Environment

Participants:

- Fermanagh and Omagh District Council
- Department of Communities-Historic Environment Division
- Department for Infrastructure-Planning

Conservation Areas

8. In managing development within a designated Conservation Area Paragraph 6.18 of the SPPS states that the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity

to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. Is it therefore appropriate for the first sentence of criterion (b) of Draft Policy HE 04 to also state that ‘...and where it is demonstrated that the new building enhances the character or appearance of the area’?

Enabling Development

9. Draft Policy HE 08 refers to securing the ‘future conservation of a Heritage Asset’. Does this take account of Paragraph 6.25 of the SPPS which refers to securing its ‘long term future’?
10. The text within the Paragraph 5.28 of the policy clarification of Draft Policy HE 08 appears to take account of Policy ED 1 of PPS 23: Enabling Development for the Conservation of Significant Places. Should this text be included within the policy section of Draft Policy HE 08?

Advertisements and the Historic Environment

11. Given Paragraphs 6.14, 6.20, 6.23 and 6.58 of the SPPS, should Draft Policy DE 08 state the policy approach for each tier of the historic environment-Listed Buildings, Conservation Areas as well as Areas of Townscape Character?
12. In relation to Appendix 1: Guidance for different categories of outdoor advertisements, it is noted that the Council is proposing a minor change to the Draft Plan Strategy (proposed change 136) with the addition of text within this appendix to deal with LED signage. Is it appropriate for this appendix to emphasise a presumption against LED lighting/digital displays on or within the setting of a Listed Building, Scheduled Monument, State Care site, Conservation Area or Area of Townscape Character in order to take account of Paragraphs 6.14, 6.20, 6.23 and 6.59 of the SPPS?

Topic 20: Natural Environment

Issues:

- **Nature Conservation**
- **Protected Species and their Habitats**
- **Biodiversity**

Participants:

Nature Conservation

- Fermanagh and Omagh District Council
- Mr Emmet McAleer
- Mr Patrick Haughey
- Department for Infrastructure-Planning

Protected Species and their Habitats; Biodiversity

- Fermanagh and Omagh District Council
- Department for Infrastructure-Planning

Nature Conservation

1. Is proposed change 95 a minor or focused change? Is it required to make the plan sound? Does Draft Policy NE 01 take account of the precautionary principle contained within Paragraph 6.174 of the SPPS?

Protected Species and their Habitats

2. Is proposed change 96 a minor or focused change? Is it required to make the plan sound?
3. Paragraph 6.180 of the SPPS states that planning permission will only be granted for a development proposal that is not likely to harm a European protected species and in exceptional circumstances a development proposal that is likely to harm these species may only be permitted where they meet four criteria. Does Draft Policy NE 02 and proposed change 96 take account of this?

Biodiversity

4. Are proposed changes 97 and 98 minor or focused changes? Are they required to make the plan sound?

Topic 21: Delivery**Issue: Monitoring and review****Topic 22: Errors and suggested changes****Topic 23: Close****Participants:****Monitoring and review**

- Fermanagh and Omagh District Council
- Mr Tom White
- Mr Emmet McAleer
- Mr Patrick Haughey
- Historic Environment Division-Department for Communities
- Department for Infrastructure

Errors and suggested changes

- Fermanagh and Omagh District Council
- Department for Infrastructure

Close

- Fermanagh and Omagh District Council

Monitoring and review

5. Proposed change 134 proposes to delete several of the monitoring indicators contained within Table 7 of the Plan Strategy and the Indicative Monitoring Framework contained within Appendix 3 of Document FODC 110 reviews the remaining indicators. Is it intended that the Indicative Monitoring Framework will replace Tables 7 and 8 within the Plan Strategy? Are these focused or minor changes? Are they required to make the plan sound?
6. Page 41 of the Sustainability Appraisal (October 2018) (Document FODC 103) states that the Monitoring Framework cross-refers to the relevant SA objectives. Why does the Indicative Monitoring Framework no longer include references to the relevant SA Objectives?
7. Why are there no longer monitoring indicators for traveller schemes completions and need (ID 9) and for new dwellings approved across the settlement hierarchy and in the countryside and by land type (ID 4)?
8. In limiting to Heritage at Risk, does proposed indicator 16 comprehensively capture the full extent of Listed Building demolitions? Should the proposed target and trigger be reduced from 10% to 5% in order to prompt closer monitoring?
9. Does proposed indicator 19 require more detailed monitoring of development within the Areas of Significant Archaeological Interest?

Errors and suggested changes

10. Documents FODC 401 and FODC 410 state that the Council has considered all representations and counter-representations it received in relation to the Draft Plan Strategy (dPS). However, it is stated within Document FODC 109 that counter-representations are only to be on a site specific policy as per Regulation 18 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 and that Paragraph 8.0 of the Development Plan Practice Note (DPPN) 9 states that the counter-representations should not propose any change to the dPS document itself. What consideration can be given to the submitted counter-representations as part of the IE process?

11. DPPN 10 provides a process to bring forward focused changes and in some cases minor changes which would then be subject to public consultation prior to submission and IE. Within Appendix 1 of the Schedule of Proposed Changes document (Document FODC 110) the Council has also identified a number of changes which they consider to represent logical and rational amendments to a policy or policy clarification in response to representations received during the consultation period; the Council however advise that these changes are neither minor nor are they a response to address soundness issues. Minor editing changes are also proposed. Some of the proposed changes have been discussed within the hearing sessions. Are there any of the proposed changes that were not discussed that the Council would classify as focused changed? Can the Council's changes be considered as part of the IE and what is their cumulative effect?