

Antrim and Newtownabbey Borough Council Draft Plan Strategy Independent Examination

Questions for weeks 1 & 2 – May 2022 (Version 2)

Notes:

- This agenda should be read in conjunction with the guidance notes for participants, that were published on the PAC website: <https://www.pacni.gov.uk/AN-examination-library>.
- 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.
- It will be noted that there are no questions listed under some headings. The headings have been retained where parties had indicated that an oral hearing is desired. Parties having done so will be permitted to speak on the issue to deal with the Council's comments on their representation, provided it does not result in repetition of written evidence already submitted.
- Participants should have regard to the policies in the submitted Plan together with the Council's Public Consultation Reports DPS-S-001 to DPS-S-004.

3rd May

Topic 1 Legal and Procedural Issues

Compliance with Local Development Plan Regulations

1. The Planning (Local Development Plan) Regulations (Northern Ireland) 2015, at Regulation 15, refers to the availability of a development plan document. Without getting into discussion of housing or other matters, which will be programmed for future sessions, how has the Council failed to meet the requirements of the LDP regulations? What supporting documents were not made available?

Timetabling/Plan Period

2. The Council updated its LDP Timetable in October 2020 (DOC T001). Is that the latest version?
3. Soundness test P1 requires the LDP to be prepared in accordance with the Council's timetable. The 2020 updated timetable indicates that the Soundness Based Independent Examination process will last from 3rd Quarter 2020/2021 – 4th Quarter 2021/2022. As we are now into the 1st quarter of year 2022-23, how does the Council intend to reconcile the published timetable with the current timeline where the public hearing sessions of the IE will only conclude in June or July 2022? What implications are there for the timetabled date for Plan adoption?
4. Various representations have submitted that that the plan period should be extended. Without getting into discussion of the merits of such an extension, which no doubt will be discussed in later sessions, what statutory powers exist to allow me to recommend same? If the latter do not exist, would there be legal impediments to any recommended extension of the plan at this stage of the DPS preparation process?
5. Does any Departmental policy and/or guidance constrain the Council in extending the plan period?
6. Does the fact that the Council's Community Plan is for the period up to 2030 place a constraint on the Development Plan's end date?

Sustainability Appraisal

7. Representation LA03/DPS/0032 from HED makes several comments in respect of the 'scoring' of policies in the SA, as does representation LA03/DPS/0102 from NIEA NED. Is the Council content that the comments and the Council's approach to dealing with them has no impact on the soundness of the DPS?
8. Without getting into discussion of housing allocations, which will be the subject of (a) later session(s), why has the SA not considered an option where the housing allocation would be in excess of 9750 dwellings over the plan period? Does this result in a soundness issue?

Setting the Context

9. On the foot of representation LA03/DPS/0008, the Council has suggested a change to paragraph 2.5 to refer to 'Lifetime Opportunities', the Government's Anti-Poverty and Social Inclusion Strategy. Is this change required to ensure soundness of the DPS?
10. On the foot of representation LA03/DPS/0102, the Council has suggested a change to the 'Setting the Context' section of the Plan "for the purposes of clarification to make the Council's legal responsibility under Section 8 of the Marine Act (NI) 2013 explicitly clear". The changes are listed in the Council's document DPS-S-001 at page 92 and are considerable. Is this change required to ensure soundness of the DPS?

Plan Vision

Positive Planning Notes

Strategic Objectives

11. The Council has suggested a punctuation change to Strategic Objective 11 in response to representations LA03/DPS/0036 & 57 for the purposes of clarification and to emphasise the importance of biodiversity in the plan. The

Council states that “the reference to biodiversity in Strategic Objective 11 is not intended to solely relate to open countryside”. The change would involve insertion of a comma after biodiversity to read ‘... biodiversity, and conserve ...’. Is this change needed to ensure the Plan’s soundness?

12. In response to representation LA03/DPS/0063, the Council has suggested a change to Strategic Objective 3 “... for the purposes of clarification and in recognition of the acknowledged important role and regional gateway designation of Belfast International Airport (BIA)”. The change would involve adding the following wording at the end of the text: “... employment locations including the Regional Gateway at Belfast International Airport”. Is this change needed in the interests of soundness?
13. In response to representation LA03/DPS/0102, the Council has suggested a change to Strategic Objective 1 “... to clarify and acknowledge the importance of that part of the Borough with a coastline onto Belfast Lough and acknowledge explicitly that the Strategic Objective for Sustainable Development applies. It would also “... clarify and make clear the Council’s legal responsibility under Section 8 of the Marine Act (NI) 2013”. The change would involve reference to the coast as well as settlements and countryside. Is this change required to ensure soundness of the Plan?

Status of Belfast Metropolitan Plan (BMAP)

14. The Council has included zonings from BMAP in its consideration of housing land supply. The BMAP was declared to have been unlawfully adopted in 2017 and draft BMAP 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?
15. 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 A & N Plan Strategy policies when adopted?

4th May

Topic 2 A Place of Economic Opportunity

Employment – Strategic Employment Policy

1. The Council has suggested a minor change in respect of policy SP 2.12, namely the inclusion of an additional column in Table 4 of the DPS based on the information already set out in the published retail study. The reason for the suggested minor change is stated as being for the purposes of clarification in relation to the role and function of a centre at a strategic policy level. The change involves the introduction of an additional column in Table 4 on page 79 of the DPS, incorporating text from the published retail study as set out in Evidence Paper 4: Retail and Commercial Leisure. The suggested revised table is set out in Annex A of the Council's Local Development Plan 2030 Draft Plan Strategy Public Consultation Report March 2021. Does this suggested change deal with the DfI concerns as set out in representation LA03/DPS/0107? If not, why not, and what is the basis of the concern in terms of the soundness tests?
2. Is there a tension between Policies SP 2.8 and SP 2.12? If yes, how would this affect the soundness of the Plan – which test(s) would be failed?
3. Notwithstanding the title on page 101 of the SPPS, is there confusion vis-à-vis the heading of policy SP 2.12, 'Town Centres and Retailing', and Table 4, which refers to District Centres and Local Centres?
4. Would there be merit in identifying Dunadry as a Local Centre?
5. Has the DPS had sufficient regard to the potential impact on Belfast City Centre and Antrim town of identifying the Abbey Centre as a large town centre?
6. Given the role of Antrim as a main hub in the RDS, what justification would exist to 'demote' Antrim to a 'Tier 2' Town Centre? If this was to be considered would there be a C1 soundness issue?
7. Does the wording of SP 2.15(c) adequately take account of the Tourism section of the SPPS? Where did the expression 'exercising appropriate control' originate from?

8. SP 2.1 states that the Council will seek to facilitate the growth of up to 9000 new jobs by 2030 and that there will be a presumption in favour of employment related development, provided that it meets the other relevant requirements of the Plan. Various representors cite this 'target' as being too low. The Council has stated that the potential growth of up to 9000 new jobs in the Borough is derived from the Council's Economic Strategy, which is considered an appropriate evidence base. How is the Council's approach flawed and why would the figure quoted make the Plan unsound? Would it be appropriate to revise this figure upwards to 10000?
9. Has the DPS in policy SP 2.2 taken account of the SPPS in terms of ensuring an 'ample' supply of land for economic development needs (see SPPS para 6.92)?
10. Representation LA03/DPS/0023 seeks a change to policy to allow disused airfield hardstandings and buildings to be used for industrial/business uses. A change to policy DM 2.6 is sought to this end. Why does the Council consider that this would be inappropriate, given that the character of such areas is inherently different from the rest of the countryside?
11. The Council has stated that it did not consider any of the Counter representations to be legitimate. In respect of CR0137 and CR0139, can the Council explain its rationale?

Economic Development – Zoned Sites and Settlements

12. Policy DM1.1 proposes that the Nutts Corner SEL be treated differently from other SELs. One of the reasons given is that Nutts Corner is not a sustainable location for Class B1 office uses. Given its location at the junction of several major roads, why is the location not 'sustainable' and what justification is there for such restrictions at Nutts Corner?
13. The Council is proposing a minor change to the wording of policy DM 1.4(c) "for the purposes of clarification to highlight that the Council's approach to local employment sites includes that alternative uses should not have a detrimental impact on remaining businesses. This wording does not introduce any new policy concept to the DPS and simply seeks to clarify the meaning of the original text "would not create problems" in Policy DM 1.4". Does anyone present wish

to comment on the matter? Does this suggested minor change achieve what it seeks to address – is the term ‘in conflict or be incompatible with’ sufficiently precise to avoid doubt?

[Suggested minor change at DM 1.4(c), page 89, "(c) The alternative use proposed would not result in conflict or be incompatible with the remaining businesses at the site or be materially detrimental to the specific character and amenity of the immediate area."]

Economic Development in the Countryside

14. PPS4 policy PED 4 refers to proposals for the redevelopment of an established economic development use in the countryside. It relates only to proposals for industrial or business purposes or to sui generis employment uses. Representation LA03/DPS/0100 considers that policy DM 2.8 is more restrictive than PED 4. Has policy DM 2.8 taken account of PPS 4 and does it meet the soundness tests C3, CE2 and CE4?

Agricultural Development

15. Given the heading on page 54 of the SPPS, and the title of policy CTY 12 in PPS 21, why has the council decided not to include the word ‘Forestry’ in the heading of policy DM 4?
16. Is policy DM 4.3 sufficiently flexible to allow for unforeseen circumstances where a new building is sought on a farm holding, away from an existing group of buildings?

Farm Diversification

17. What is the Council’s justification for introducing the word ‘continuous’ in policy DM 5.1, when the word does not appear in the SPPS or in policies CTY 10 and CTY 11 of PPS 21?

5th May

Topic 2 continued

Development Within Centres

1. In response to (inter alia) representation LA03/DPS/0042, the Council has suggested changes to Policy DM 6.1 in order to provide clarity. The suggested change to the second sentence would result in it reading as follows [(a) to (c) having been deleted]: “All development proposals should contribute positively to the vitality and viability of the centre, and will be required to demonstrate that they will maintain or enhance the visual amenity of the area by providing an active and attractive frontage appropriate to the location”. The policy would no longer refer to daytime footfall. Are these ‘minor’ changes and are they required in the interests of the Plan’s soundness?
2. Is there a conflict of intent between policies DM 6.1 and DM 6.2 in that the former appears to encourage uses complementary to retail and the latter resists loss of retail units?
3. The Council is proposing to add a policy DM 6.5 in respect of the need for a retail impact assessment for development involving > 1000m² gross retail floorspace in District and Local centres. Can this be considered to be a ‘minor’ change? Is it needed in the interests of soundness?
4. Paragraph 5.42 of the DPS refers to protecting “existing” town centres. Given that the Abbey Centre is proposed to become a ‘tier 1’ town centre, is there a need for the Plan to address the relevance of the policy to new town centres?
5. Is policy DM 6.4 aimed solely at town centres? If not, does the wording need to be adjusted to provide clarification?

Development Outside Centres

6. The Council, in policy SP 2.12, has identified the Borough’s centres for the purposes of retail and other ‘main town centre uses’. Does the Council intend that the sequential test would apply in respect of all the centres identified in SP 2.12 or is it intended to apply only to the Large Town Centres of Abbey Centre

and Antrim and the Town Centres of Ballyclare, Crumlin, Glengormley and Randalstown? How does DM 7.1 relate to the District and Local Centres?

7. Policy DM 7.2(a) introduces the term 'commercial' centre. The Council has suggested changing the reference to 'commercial' centre and replacing it with 'identified' centre. Is this a minor change? Is it required in the interests of the Plan's soundness?
8. The Council has suggested a change to policy DM 7.5 in response to representation LA03/DPS/0107 in order to clarify that the policy applies to extensions. The policy would add a sentence as follows: "This includes applications for an extension(s) which would result in the overall development exceeding 1,000 m² gross external area". Is this a minor change? Is the policy unsound if the change is not included?
9. Representation LA03/DPS/0107 considers that it is unclear whether policy DM 7.6 would be applicable to all proposals involving an increase of more than 1,000 m², given that restrictive conditions often relate to retail warehouses that fall short of the 1,000 m² threshold. The Council has stated that the policy would apply solely to those proposals for variation and deletion of restrictive conditions where this would result in an increase of more than 1,000 m² (gross) of retail floor space. Is a change to the wording of policy DM 7.6 required to clarify the matter?
10. Given that Policy DM 7.7(a) identifies what is considered to be small scale (generally no greater than 200 m² gross floorspace), why does the Council consider it unnecessary to identify what is 'small scale' in relation to policies DM 7.8 and DM 7.9?
11. With regard to the term 'generate significant footfall' in Policies DM 7.1 and DM 7.2, the Council has suggested changes in order to recognise that not all town centre uses may generate significant footfall. The changes involve deletion of the mention of generation of significant footfall from both policies. Do these changes render the policies less effective?

Development at the Junction, Antrim

12. Representation LA03/DPS/0073 advocates the deletion of policies SP 2.12(e) and DM 8 from the Plan. Given that soundness test C3 requires the Plan to take

account of the SPPS (paragraph 6.273), where a town centre first approach is advocated, how could such a deletion of policy be justified?

13. Is the Council content that application of policy DM 7.5 would not require a Retail Assessment for development at the Junction involving less than 1000m² gross floorspace? (a) How would such a development be assessed under policy DM 8.2? (b) How would possible adverse impact on Antrim Town Centre be assessed if no Retail Assessment is required?

Tourism Development

14. Does Policy DM 9.2 need to be adjusted so that it is clear that a proposal need meet only one of the listed criteria (a) to (d)?
15. Has the plan taken account of regional policy in drafting policy DM 9.6, in particular Policy TSM 6 of PPS 16?
16. In response to representation LA03/DPS/0103, the Council is suggesting the addition of an additional criterion Policy DM 9.10(f). The purpose of the addition is stated as being to clarify that, in bringing forward proposals for new tourism development, access to tourism assets should be safeguarded or enhanced. The new criterion is: "(f) existing or planned public access to tourism assets, including landscape features and the coast, are safeguarded or enhanced". Is this a minor change? Is it required in the interests of soundness?
17. In response to representation LA03/DPS/0107 the Council has suggested an amendment to the wording of Policy DM 9.4 by deletion of the words 'Elsewhere in countryside locations a specific...' and their replacement with 'In other cases where a guesthouse or hotel accommodation is proposed in a countryside location a specific...'. Is this a minor change? Is it required to make the Plan sound? Does the policy as amended take account of paragraph 6.260 of the SPPS?
18. Does Policy DM 9.9 take account of paragraph 6.261 of the SPPS? Is the term 'exceptional benefit' analogous to the term 'in exceptional circumstances'?

6th May 2022

Topic 3 Transportation and Infrastructure

Strategic Transportation and Infrastructure Policy

1. Does the absence of a specific policy relating to Greenways create a lacuna, rendering the Plan unsound?
2. Paragraph 6.300 of the SPPS states that LDPs should identify active travel networks and provide a range of infrastructure improvements to increase more sustainable means of transport. Does the LDP adequately take account of the SPPS in respect of this matter?

Belfast International Airport – Operations

3. Representation LA03/DPS/0063 suggested a rewording of policy DM 13.2. The Council does not consider that any change is necessary. What, in the wording of the DPS policy DM 13.2, renders the Plan unsound?
4. The Council has stated that it did not consider any of the Counter representations to be legitimate. In respect of CR0131, CR0140 and CR0142, can the Council explain its rationale?

Public Utilities and Infrastructure

5. Representation LA03/DPS/0103 suggests that the word 'significant' should be deleted from Policy DM 14.1(c). The council has suggested a minor change to policy DM 14.1(c) to refer to an 'unacceptable' adverse impact, rather than a 'significant' adverse impact. Is this change necessary to ensure the Plan is sound? If yes, what soundness test(s) would policy DM 14.1, as contained in the draft DPS, fail?
6. Does the Plan seek to apply policy DM 14.2 in respect of electricity network operations/development?

7. In terms of policy DM 14.2, is the Plan sound in respect of compliance with legislative requirements of the Planning (EIA) Regulations (NI) 2017 (and associated policy guidance); the Habitats Directive and Birds Directives (and associated policy guidance); the Strategic Planning Policy Statement (SPSS); and the Electricity (NI) Order 1992?

8. Should the word 'unacceptable' be inserted before the term 'adverse impacts' in policy DM 14.2? Is the plan unsound without this change and if yes, why?

9. Is the use of the term 'avoid' in policy DM14.3(a) reasonably flexible, or does it effectively place an embargo on overhead lines in designated or identified areas of landscape importance? Would the wording suggested in representation LA03/DPS/0106 allow for some instances where an 'acceptable' level of visual impact existed?

Week 2

9th May (AM)

Topic 4 Placemaking and Good Design

Strategic Placemaking and Design Policy

1. Should a Design and Access Statement be required for all residential development? What evidence base exists to indicate that the appropriate threshold for residential development should be 10 dwellings or more?

Urban Design

2. The Council has suggested a minor change to policy SP 6 in response to representation LA03/DPS/0103 (where it refers to policy DM 25) in recognition of the important role of placemaking and good design in promoting biodiversity. The Council refers to the Wildlife and Natural Environment Act (NI) 2011, the Conservation (Natural Habitats, etc.) Regulations (NI) 1995, and regional policy such as the RDS 2035 and the SPPS. The change adds the term 'promotion of biodiversity' to the text. Is this change required in the interests of soundness?

Rural Design and Character

3. The Council has suggested a minor change to the text of paragraph 9.20 by referring to promotion of biodiversity and another minor change to policy DM 27.5, to indicate that all proposals for development in the countryside will be expected to address biodiversity impact. Is the Plan unsound without these changes?

Advertisements

4. Does the wording of policy DM 29.2 adequately reflect the statutory requirements in respect of listed buildings and conservation areas and take account of the SPPS, where it refers both to these and to areas of townscape character?

9th May (PM)

Topic 5 Environmental Resilience and Protection

The Control of Development on Flood Plains

1. The Council has proposed a change to the wording of paragraph 13.21, where additional text is provided to clarify the requirements of an FRA. The Council has pointed out that the SPPS sets out FRA policy in paragraph 6.111. DfI Rivers had suggested a change to policy DM 46, however the Council is suggesting change to the amplification text. Is this change required to make the Plan sound? Does it address the concerns of DfI Rivers?

Surface Water Drainage and Sustainable Drainage Systems

2. The Council has suggested changes to the wording of policy DM 47.5 in response to representation LA03/DPS/0062, to acknowledge that Sustainable Drainage Systems can incorporate hard engineered options as well as 'soft' engineered solutions. Can the Council clarify exactly the change proposed as it is unclear from the Council's spreadsheet what is intended?
3. The Council also proposes a minor change to the wording of paragraph 13.30 to include reference to 'oversized storm pipes'. Is this, or the change to Policy DM 47.5, necessary in order to make the Plan sound?

Reservoir Flood Risk

4. The Council is suggesting the deletion of Para 13.35 as a consequence of ongoing change to the list of Controlled Reservoirs in the Borough since the publication of the DPS. The Council considers it reasonable to refer instead to DfI Reservoir Flood Maps for the most up to date list. Is this a minor change and would retention of paragraph 13.35 render the Plan unsound?

Pollution

5. Should the Plan contain criteria as to when Policy DM 50 would be 'triggered'?

6. DfI (Strategic Planning) has suggested that the Plan cross reference Policy DM 50 with Policy DM 28, in the interests of clarity and has pointed to the need for consistency with the wording of DM 28 'Amenity Impact' which refers to unacceptable adverse impact in amenity. The Council has suggested that the word 'significant' in DM 50 be replaced with the word 'unacceptable'. Is this clarification a minor change and is it required in the interests of the Plan's soundness?

Waste Management and Disposal Facilities

7. The Council has suggested a minor change to policy DM 50 to align with Policy DM 28 (see question 6 above). I note that the SPPS in paragraph 6.313 refers to 'unacceptable adverse impact'. Why is a similar change deemed unnecessary in respect of policy DM 53.2?

10th May

Topic 6 – Natural Resources

Strategic Natural Resources Policy

1. The Council has suggested a ‘minor change’ to policy SP 9.1 in response to representation LA03/DPS/0009 in order to clarify that the assessment of impacts that may arise in association with development proposals to use natural resources, such as minerals or renewable energy proposals, requires consideration of whether these are deemed acceptable or not having regard to the overall degree of impact arising and any mitigation measures proposed. It is suggested that the word ‘unacceptable’ be inserted before the term ‘adverse impact’ in the policy. Is this a minor change or does it change the focus of the policy? Is the change related to the soundness of the Plan? Does it reflect and take account of the SPPS, which refers in paragraph 6.150 to “significant adverse impacts”?
2. Given fears over global climate change, the current government position on the need to reduce use of fossil fuels and the DfE position on the granting of MPLs for lignite exploration (see appendix 4 of evidence paper 12), is it realistic and necessary to restrict uses under Policy DM 44 in respect of the lignite reserves near Crumlin (see SP 9.3)?

Minerals Development

3. Should the headnote (as opposed to the amplification text) of Policy DM 43.6 make specific reference to a requirement for 'any opportunities for enhancing biodiversity, community recreation and access to be considered, or is paragraph 12.17 sufficient for purposes of implementing the policy? Would insertion of new text in the policy be considered a minor change? Would it be necessary to make the Plan sound?
4. The evidence paper 12 on the topic of Minerals does not appear to me to refer to the cumulative impact of minerals development on settlements yet policy DM 43(f) relates to the matter. What is the evidence base from which this aspect of policy has been developed?

Mineral Reserve Policy Areas

5. Representation LA03/DPS/0061 refers specifically to Ballyginniff Quay and considers Policy DM 44 unsound as it seeks only to safeguard mineral reserves rather than reserves and mineral processing sites. The Council has responded that Policy DM 44 is intended solely to address Mineral Reserves Policy Areas. The Council considers that the concern raised is adequately addressed through the provisions of Policy DM 3, which introduces a presumption against development near to an existing economic development use that would be incompatible with or prejudice its future use. The Council considers that proposals for expansion of the existing Northstone facility can be adequately addressed through the provisions of Policies DM 2.7 and DM 40.6 . Given the Council's response, and with reference to the tests of soundness, how is policy DM 44 unsound?

Renewable Energy Development

6. Does inclusion of the words 'or address' in Policy DM 45.1 take account of paragraph 6.224 of the SPPS? Is the Plan sound if these words are retained?
7. Does policy DM 45 take account of the SPPS, in particular paragraph 6.226? Should all renewable energy development be resisted in areas of active peatland?
8. With regard to policy DM 45.2, is there a policy lacuna as submitted in representation LA03/DPS/0103?
9. Should policy DM 45.2 (e) be amended to reflect the wording of paragraph 6.224 of the SPPS?
10. Should International sites of nature conservation importance be included in Group 1 of policy DM 45.5?
11. The Council is proposing to make changes to paragraph 12.28 of the Plan, which refers to both repowering and decommissioning in the same sentence, by deleting the reference to repowering. In addition a new sentence is proposed to state "where proposals come forward for the re-use, refurbishment, repair or repowering of existing renewable energy development in order to prolong their

life span these will be considered on their individual merits in light of the then prevailing policy. The provisions of The Conservation (Natural Habitats, etc.) Regulations (NI) 1995 as amended will also apply to all such proposals". Does this deal with the concern expressed in representation LA03/DPS/0103 that the provisions that PPS 18 para. 4.17 have not been taken account of? Would the Plan be unsound without this change?

12. Should policy DM 45.5 be cross referenced with Policy DM 37 in order to clarify the Plan's position in respect of sites of international nature conservation importance?
13. Should policy DM 45.1 refer to human health in order to take account of paragraph 6.224 of the SPPS? Does the absence of such a reference raise a soundness issue?

11th May

Topic 7 Natural Heritage

Strategic Natural Heritage Policy

1. Several Representors expressed an opinion that the Six Mile Water Valley should be designated a Strategic Landscape Policy Area and added to the list of such areas in policy SP 8.6 of the Plan. Why did the council decide not to include this area?
2. The Council has suggested minor changes in response to representation LA03/DPS/0102 in order to clarify that the references to landscape character and coast in Policy SP 8.4, DM 41.1(b) [including paragraph 11.43 of the amplification text] is intended to include consideration of seascape character. The Council points to paragraph 3.3 of the SPPS which refers to landscape and seascape character. Is the council content that this is a minor change? Are the changes required to ensure the Plan's soundness?
3. Do the provisions of the DPS reflect the findings of the Lawton Review in terms of enhancement and restoration of ecology and biodiversity?
4. In response to representation LA03/DPS/0103, the Council has suggested a change to Policy SP 8.2(b) by adding the words "including consideration of potential cumulative effects". It is pointed out that consideration of cumulative impact is a material consideration and is included in the SPPS at paras 6.188 and 6.198. Can this be classified as a minor change or is it required to make the Plan sound in respect of test C3?
5. I am aware of the 'Transitional Arrangements that the DPS contains. What protections exist in respect of the proposed landscape designations prior to the adoption of the LPP?

Protected Species

6. The Council has suggested a change to the text of paragraph 11.27 in response to the NIEA representation and in order to clarify the nature of the information required to establish the presence of protected species in association with a

development proposal. The change involves amending the wording of the first sentence as follows: "... to undertake an ecological appraisal, including where necessary surveys for protected species, where there is potential, or evidence to suggest, that they are present on site or...". Is this sufficient to deal with the issue raised or should the text of policy be amended to reflect the requirement for an ecological appraisal?

7. Does the wording of policy DM 38.1 adequately take account of legislation and policy in referring to 'adverse effect' rather than 'harm'? What justification exists for deviating from the wording contained in policy NH 2 of PPS 2, and paragraph 6.180 of the SPPS? [I note the word 'harm' appears in policy DM 38.2]
8. What is the Council's rationale for 'widening' the exceptions, permitting development that could affect European Protected Species as contained in policy DM 38.1(b)? Does this take account of SPPS paragraph 6.180?

Habitats, Species and Features of Natural Heritage Importance

9. The Council has suggested a change to the wording of Policy DM 39.2 to include the term "where there is potential, or evidence to suggest, that a habitat ..." in the first sentence. Is this a minor change? Is it necessary in the interests of the Plan's soundness?
10. The first sentence of paragraph 6.192 of the SPPS refers to "... unacceptable adverse impact on, or damage to ...". The word damage is not carried forward into policy DM 39.1. Has the DPS taken account of the SPPS?

Landscape Protection

11. Is policy DM 40.6(b) sufficiently clear? Was it drafted with the intention of applying to low intensity recreational uses or (low intensity) tourism proposals?

Trees and Development

12. Does the change suggested by the Council to policy DM 42.1(a), on the foot of representation LA03/DPS/0008, represent a minor change or is it more significant? Is the change required to make the Plan sound?

12th May

Topic 8 – Historic Environment

Historic Parks, Gardens and Demesnes

1. Policy DM 31.1 refers in the first sentence to development that would ‘affect’ an Historic Park, Garden or Demesne. DM 31.1(b) refers to ‘any such adverse effects’. Does the word ‘such’ need to be removed for the policy to be sound?
2. Does policy DM 31.1(b) take account of SPPS paragraph 6.16? What is the evidential basis for the policy?

Listed Buildings

3. In the interests of clarity, and soundness test C3, should policy DM 32.4 refer to a ‘Statement of Significance’, if this is the term to be used in formal HED guidance?

Conservation Areas

4. Does the text of policy DM 33.3(a) fully reflect the content of policy/Guiding Principle DM 33.2?
5. Is there any difference, in practical or policy terms between ‘preserving’ views and ‘maintaining’ views?

Enabling Development

Vernacular and Locally Important Buildings

6. Does policy DM 36.1 take account of paragraph 6.24 of the SPPS? Should the policy refer to ‘renovation’ – if not, why not?