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20th September 2019

Re: Antrim & Newtownabbey Borough Council Local Development Plan 2030, Draft Plan Strategy

Dear Sir, Madam,

DAERA welcome the opportunity to comment on the Antrim & Newtownabbey Borough Council Local Development Plan 2030, Draft Plan Strategy. DAERA is of the opinion that the Plan is in general conformity with Regional Policy SPPS in respect of Natural Heritage policies. However there are a small number of subtle changes to a few plan policies which DAERA would deem necessary for full conformity.

DAERA welcomes the individual focus given to Natural Heritage Policies DM 37 – 39 and Landscape and Coastal Protection Policies DM 40 & 41. In addition, Policy DM 4.4 on page 95 which addresses environmental effects in relation to ammonia production; 'Positive Planning Note' page 248 in respect of Swifts and DM 45.5, page 273 in respect of a Spatial Framework for Wind Energy Development are to be welcomed.

DAERA has considered the consultation document and our opinions are set out below. DAERA are content that the representation may be considered in written format.

Draft Policies DM 38, DM 39 and DM 45 do not take adequate account of policy laid out in SPPS and PPS2. In their present form, these policies weaken the protection given under SPPS and PPS2.

Section 11 Natural Heritage

Strategic Policy 8: Natural Heritage

DAERA supports in principle the aims of Strategic Policy 8: Natural Heritage and welcomes the offer to work in partnership with the Council to protect, conserve



and promote the enhancement and restoration of the diversity of the Borough's natural heritage and the intention to publish: Strategic Landscape Policy Areas, Local Landscape Policy Areas, Sites of Local Nature Conservation Interest and a Coastal Policy Area in the Local Policies Plan.

Draft Policy DM 37: Designated Sites of Nature Conservation Importance
DAERA supports Policy DM 37 sections DM 37.1 to DM 37.5 inclusive.

DAERA would however point out that Amplification paragraph 11.17 is possibly contradicted by the last sentence of paragraph 11.15. Paragraph 11.17 more accurately reflects the intent of PPS2 Policy NH1.

Policy DM 38: Protected Species

DAERA support Policy DM 38 in principle.

The requirement for 'evidence' of protected species to determine the need for the developer to carry out protected species surveys as suggested in the amplification 11.27 is not in the spirit of PPS2 or SPPS in that the potential for protected species should be enough to require protected species surveys to be carried out. The use of the word 'evidence' may suggest that the council should provide the 'evidence' before asking for surveys when in effect the surveys are the 'evidence'.

In the amplification, paragraph 11.27, DAERA has concerns regarding the inclusion of the word 'evidence', in that, a site which has the potential to hold protected species, but which remains un-surveyed, may be said not to have 'evidence', however, protected species may remain undetected due to lack of survey. As such DAERA strongly suggest that the word 'evidence' is changed to 'potential'. The paragraph could be read to mean that the onus to provide evidence is on someone other than the developer (the Council?) before a developer is asked to carry out a survey. Ultimately this could lead to a breach of legislation at development management level.

Policy DM 39: Habitats, Species and Features of Natural Heritage Importance
DAERA supports Policy 39 in principle.

The omission of the words "or damage" may have the effect of weakening the regional policy PPS 2 Policy NH 5 – "unacceptable adverse impact or damage" is a stronger test.

In DM 39.2, DAERA has concerns regarding the inclusion of the word 'evidence', in that, a priority habitat, species or natural heritage feature which may exist on a site, but which site remains un-surveyed, may be said not to have 'evidence', however, priority habitats, species or natural heritage features may remain undetected due to lack of survey. As such DAERA strongly suggest that the word 'evidence' is changed to 'potential'. Otherwise, as above in 11.27 the question remains about on whom the onus is to provide the evidence.



Landscape Protection Chapter 11 Natural Heritage:

Figure 12 following para 11.9: Although we appreciate that this map is indicative the dotted shading for SLPAs should clearly be shown along the landward edge of Lough Neagh (this seems to be clearer for Lough Beg).

Para 11.35: This para should be amended to include reference to landscape as a recreational asset (in addition to economic and cultural).

Para 11.37: We would recommend that the first line should be amended to "The aim of this policy is to ensure that the visual amenity, landscape character and distinctiveness afforded by our Borough's natural environmental resource are comprehensively considered in assessing development proposals."

Policy DM 40: Landscape Protection:

DM 40.1: (a) should be amended to " The degree to which development will affect the visual amenity and scenic qualities of the area; " The reason for this suggested amendment is that any confusion should be avoided between the terms 'visual amenity' and 'landscape character', the latter being mentioned separately in point (c).

DM 40.2: 1st line: Normally landscape analysis forms part of a Landscape and Visual Impact Assessment (LVIA) and you may consequently wish to amend the wording. LVIA is an acknowledged process accepted by professional disciplines and PAC etc. Best practice is set out in the publication 'Guidelines for Landscape and Visual Impact Assessment' 3rd edition: Landscape Institute and Institute of Environmental Management & Assessment: 2013.

DM 40.2 (a): Antrim Coast & Glens AONB within 1 km of the Council area. It is possible that a development within the Council area could impact on the AONB so this should be referenced. It is also possible that the boundary of the existing AONB could be redefined to include land within the Council area.

DM 40.2 (b) and(c): The prescriptive nature of stating which sizes of development will need a LVIA may lead to problems of confusion and requests for clarification. Perhaps it may be more useful to indicate that a proportionate LVIA may be required for all forms of development within a defined landscape setting. The term 'countryside' should be avoided as it is open to interpretation and challenge. For minor applications this may be a case of an applicant stating that "the landscape and visual implications were considered and such an assessment was deemed unnecessary" but at least this landscape and visual baseline has been covered.

DM 40.3: Whilst we would agree with points (a) to (e), the first one (a) seems to encapsulate the following ones to some or greater extent. These criteria should perhaps be looked at again to avoid duplication.



DM 40.5 and DM 40.6: We are unsure why only these two SLPAs have been singled out for policy detail.

DM 40.5: Whilst we would agree with point (c), we would advise against commercial forestry on Carrmoney Hill due to its inappropriate appearance and consequent impact on the landscape character.

DM 40.6: Similarly whilst we would agree with point (c), we would advise against commercial forestry within these areas due to its inappropriate appearance and consequent impact on the landscape character.

Policy DM 42: Trees and Development:

DM 42.1 An additional sentence should be added to this paragraph as follows:-
'Any such proposals should comply with BS5837: 2012 'Trees in relation to design, demolition and construction. Recommendations'.

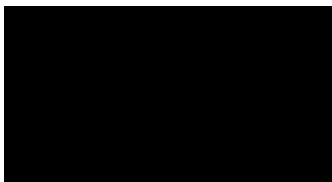
DM 42.4 The full title of the BS should be given i.e.:- BS5837: 2012 'Trees in relation to design, demolition and construction. Recommendations'.

Section 12 Natural Resources

DM 45: Renewable Energy

On page 71, assessment of DM 45: Renewable Energy, the Policy states that the Council will support proposals where they "avoid or address" any unacceptable adverse impacts. The words "or address" are contrary to SPPS 6.224 which states "Development that generates energy from renewable resources will be permitted where the proposal and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on the following planning considerations: Biodiversity, nature conservation or built heritage interests". DAERA suggest the removal of the word "or address".

Yours sincerely



Senior Scientific Officer
NIEA, DAERA



Appendix Additional Comments

Strategic Policy 10 – Policy DM 52 – Contaminated Land

Whilst it is encouraging to see a specific policy relating to Contaminated Land in the draft Development Plan it appears to relate more to human health risks from this issue and does not reflect potential risks to the environment / environmental receptors.

13.51- appears to just reference ground contamination and falls short of mentioning groundwater contamination which is a remit of DAERA / NIEA to management / regulate. A site could be contaminated on the basis of its groundwater alone hence reference should be both made to ground and groundwater contamination when referencing this topic.

13.52- appears to just reference risks to human health receptors from contamination. Risks to environmental receptors should be reflected i.e. groundwater, rivers, lakes etc.

13.55- encourages developers to liaise early only with Environmental Health Sections. This only covers risks to human health receptors from contaminated land. Reference should be made to risks from contaminated land/groundwater to environmental receptors which is the remit of DAERA / Northern Ireland Environment Agency (NIEA). Developers should be encouraged to liaise early with both DAERA / NIEA and Environmental Health Sections in relation to contaminated land.

Policy DM52- A development on contaminated land may need a Remediation Strategy and associated Verification Report to be submitted and agreed before a site is suitable for use. The way this appears written is that a site investigation and risk assessment alone will allow a contaminated site to be confirmed as suitable for use. This is not the case and in most scenarios Remediation Strategies and Verification Reports are needed to suffice the Local Council and/or DAERA/NIEA. The wording in this policy should be reconsidered.

Flood Risk Section 134 & 135 Pages 283 & 284- it appears that no consideration has been given to risks from potential groundwater flooding and flooding issues appear to be more linked to surface waters or Belfast Lough.

Antrim & Newtownabbey is a key Council area for waste management in the future as it is the location of the sole remaining large non-hazardous landfill post ~ 2022 (Cottonmount landfill) and it is the proposed location of the arc21 Hightown incinerator.

DM53 Waste Management and Disposal Facilities

DM 53.1 states that proposed waste facilities need to demonstrate that there is a local need for the project. Some of the current and future waste facilities in this



area will potentially address regional (e.g. arc21 area) or national waste management requirements. It will be important that these are not hampered by focusing solely on local need.

DM 53.7 states that all waste processing must be within a building unless it is 'necessary' for the works to be out in the open. Current scrap yards and MRFs for inert waste conduct most waste processing operations out in the open. It is important that this policy does not restrict these type of operations.

DM54 Protection of Existing Waste Management Facilities

NIEA Waste Management welcomes this policy which should prevent other developments being located too close to existing waste facilities.

Marine Environment

In respect of the marine environment, DAERA acknowledges Antrim and Newtownabbey council area has limited coastline in comparison to other local councils. It is also linked to the marine area through a number of watercourses and outfalls from waste water treatment works. Some of these watercourses are also important for marine species, such as salmon.

The LPD Draft Plan Strategy has had some regard to marine policy documents and in view of this the Council may be content that sufficient regard has been given to the UK Marine Policy Statement and the draft Marine Plan for Northern Ireland to meet consistency test C4 for soundness.

However, there is limited explicit reference to marine policy documents and marine aspects within the Council's LPD Draft Plan Strategy and the accompanying documentation. As a result it is not clearly evident how the legal requirements of Section 8 under the Marine Act (Northern Ireland) 2013 (MANI) and Section 58 under Marine and Coastal Access Act (2009) (MCAA) have been applied.

Consequently, there is scope to make the LPD Draft Plan Strategy more sound and advice is attached at Annex A.

The Council is reminded that in making decisions on planning applications which affect or might affect the whole or any part of the marine area you are legislatively required (under Section 8 of the Marine Act (Northern Ireland) Act 2013 and Section 58 of the Marine and Coastal Access Act 2009) to make decisions in accordance with the appropriate marine policy documents; unless relevant consideration indicate otherwise.

At present the UK Marine Policy Statement (MPS) is the appropriate marine policy document (the draft Marine Plan having limited weight) and is a material consideration in making decisions on planning applications, as outlined above.



Sustainable Development is at the heart of the policy. Should decisions not be made in accordance with the UK MPS, the local council in making its decision must state its reasons for not doing so.

The UK MPS promotes the integration of the marine planning system with the terrestrial planning system. It sets out the framework and high level principles (paragraph 2.3.2) for decision making and includes the environmental, economic and social issues for consideration, by decision makers (such as the local council) when permitting development. The Statement can be viewed at <https://www.daera-ni.gov.uk/articles/marine-policy-%E2%80%93-uk-marine-policy-statement>.

The Department has also produced a draft Marine Plan for Northern Ireland. This can be viewed at <https://www.daera-ni.gov.uk/articles/marine-plan-northern-ireland>. The Plan builds upon the UK MPS and will come into effect when it is published in final form. In the meantime, decisions are determined in accordance with the UK MPS.

Standing advice for development that may have an effect on the water environment (including groundwater and fisheries)

<https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>.

Annex A: Marine Environment Antrim and Newtownabbey Local Development Plan Draft Plan Strategy

The following comments draw attention to weaknesses and provide advice on how your LPD Draft Plan Strategy could be made more sound by increasing the level of regard to marine planning documents and marine legislation. In taking on this advice the integration between the terrestrial and marine planning systems will be strengthened.

Evidence Papers

1. Policy and Legislative Context, including regard to marine policy documents

Several evidence papers that accompany the LPD Draft Plan Strategy do not include reference to marine policy documents and/or marine legislation within the policy and legal context. In many instances, the policy areas within the Draft Plan Strategy are common to those of the marine policy documents and/or there are clear linkages and pathways where policy areas could impact on the marine area. For example, it is advised:

- The Public Utilities paper, should include reference to the UK Marine Policy Statement and the draft Marine Plan for Northern Ireland (if appropriate), given the potential impact on marine, coastal and transitional waters, from the outfall from waste water treatment (from Whitehouse WWTW) into Belfast Lough.



This is important given the acknowledgement that this facility will be 'at or reaching capacity' with a 15% growth factor.

- In the Landscape Character paper, reference should be made to the appropriate marine policy documents and legislation in the context of this paper given the acknowledgement of the Seascape Character Assessment. In addition, it should be noted that seascape is a policy area within the UK Marine Policy Statement and draft Marine Plan.
- The Flooding paper, should also mention marine policy documents and legislation given both the UK Marine Policy Statement and draft Marine Plan contain policy on flooding and coastal flooding is recognised within the evidence paper.
- The Tourism paper should give appropriate reference to marine policy documents and legislation, as salmon (given salmon fishing is mentioned) rely on marine waters over their lifespan.
- In the Historic Heritage paper, reference should be made to marine policy documents and legislation given the acknowledgment of maritime wrecks. As there potentially other examples, you are strongly advised to review all of your evidence papers to ensure that full regard has been taken of the objectives of common policy areas, the framework for economic, social and environmental considerations, the pressures and impacts of key activities and the principles for decision making contained within the UK Marine Policy Statement, as required by the marine legislation mentioned above. Regard should also be given to the draft Marine Plan. This will enable you to include appropriate reference to the marine policy documents and marine legislation within the context of relevant evidence papers.

2. Scope of marine policy and marine legislation application

A number of evidence papers include the following text:

"The Marine Plan for Northern Ireland, once adopted, and the Marine Policy Statement are the key documents that planning authorities must consider for undertaking their responsibilities within the Intertidal Area in respect of:
The Local Development Plan;
Development Management; and
Enforcement."

This is not an accurate reflection of the Council's responsibilities under marine legislation. The Marine Plan for Northern Ireland, once adopted, and the UK Marine Policy Statement are key documents that planning authorities must consider for undertaking their responsibilities (LDP, Development Management and Enforcement) where decisions affect or might affect the marine area. This is not solely restricted to the Council's responsibilities within the Intertidal Area, as Council decisions outside the Intertidal Area can also impact on the marine area. As the planning authority when taking Development Management and Enforcement you are advised that the Council's decisions must be in accordance with these documents. If a decision is not taken in accordance with these documents, the Council as the planning authority must state its reasons.



It is important to fully understand the scope and application of the marine policy documents and marine legislation and reflect this within the LPD Draft Plan Strategy and its accompanying documentation.

Draft Plan Strategy

1. Context

The context of the LPD Draft Plan Strategy states that the draft Marine Plan has been taken into account in its preparation. However, the UK MPS is the key marine policy document at this time. You are advised to give regard and prominence to the UK MPS, given your legislative obligations under marine legislation and its equivalent standing to terrestrial planning policy documents, such as the Regional Development Strategy and Strategic Planning Policy Statement. Consequently, you are further advised to give marine policy documents the same consideration within your LDP Draft Plan Strategy. In addition, as the boundary with Belfast Lough and its role in the Council's setting is recognised, the local planning context should make reference to the adjoining marine area and other linkages to it (such as watercourses and outfalls from waste water treatment works and impacts on the water quality of marine, transitional and coastal waters).

2. Plan Vision and Objectives

Whilst there is reference to the coast and loughs within Strategic objective 11, this is solely in relation to biodiversity and natural habitats. It would be beneficial to include a strategic objective on the integration of sustainable growth and management of development with the marine area.

3. Sustainable Development

You are advised to reflect the requirements under marine legislation with regards to decision making on authorisation and enforcement decisions in this section. (<https://www.daera-ni.gov.uk/publications/marine-plan-decision-making>).

To assist in the delivering of sustainable development, it is noted that a number of Development Impact Assessments are listed, to ensure the proper consideration of the impacts of development. It would be helpful to highlight that impacts could be felt on the marine area and that impacts (including potential impacts) on the marine area will also be considered in decision making.

4. Policies

Impacts

The draft Plan Strategy includes broad policy criteria that often refers to:

- Impacts or adverse impacts/consequences on local amenity, environment, water quality
- adding to pollution problems, pollution of water
- unacceptable damage to visual amenity, landscape or harm to environmental sensitive features or location

It needs to be clear that these impacts, damage, harm and pollution problems etc. include those on the marine area and are not solely restricted to impacts on



land or the inter-tidal area. This will assist in ensuring the Council meets its legal requirements under marine legislation.

For example, impacts on water quality could including impacts on marine, transitional and coastal waters, not just groundwater and surface water, through linkages such as watercourses and outfalls from waste water treatment works. It is further advised that consideration should also be given to taking account of impacts and potential impacts on marine area in other policies of the draft Plan Strategy.

Seascape (landscape)

A number of policies, within Place Making and Good Design and Natural Heritage, refer to landscape, its protection and integration with landscape. It is suggested that explicit reference to seascape is made within relevant policies and the accompanying amplifications, especially where a coastal element is acknowledged. This will help ensure seascape will also be considered within the decision making process, as required under the UK MPS and marine legislation. Consideration of, and reference to, the Seascape Character Assessment in the Coastal Policy Area should also be made.

Assessment of proposals against marine policy documents

There is only one policy within the document (Belfast Lough Coastal Policy) that indicates that 'development proposals will be assessed against the provisions of the UK MPS and Marine Plan (once adopted)'. The Belfast Lough Coastal policy appears to only apply in the inter-tidal area, whereas the scope of marine legislation and its application (including the consideration of marine policy documents) is much wider than the inter-tidal area. It is advised that the statement "development proposals will be assessed against the provisions of the UK MPS and Marine Plan (once adopted)", should be considered for application across other policies, as many development proposals may have the potential to impact on the marine area through a number of pathways, most notably watercourses and outfalls from waste water treatment works. It is particularly important given the Council's legal obligations to ensure decisions on development proposals that effect or have the potential to effect the marine area should be made in accordance with marine policy documents, including the UK MPS and marine plan, once adopted. A statement to this effect should also be stated at the outset of the LPD Draft Plan Strategy, and drawn out in appropriate policies.

Spatial Growth Strategy

It is unclear whether the impacts on the marine area were considered as part of the spatial growth strategy. Furthermore, it is essential that spatial zoning at the local planning policies stage also considers any impact or potential for impact on the marine area.



Reference to UK MPS (and draft Marine Plan)

To improve integration, a key component of the UK Marine Policy Statement, between the planning systems and to ensure marine legislative requirements are met in the LPD Draft Plan Strategy you are strongly advised to include appropriate reference to the UK MPS (and draft Marine Plan) where the RDS and SPPS are mentioned. This is important as these marine policy documents set out common considerations for the protection of the historic environment, natural heritage, flood risk and many other environmental, social and economic considerations. For example, reference should also be made to the UK MPS within paragraph 11.4 which sets out considerations for the protection of seascape, biodiversity and natural heritage.

Guidance

The Planning Advisory Service has produced a 'Soundness Self-Assessment Checklist' that was updated in March 2014 to include marine planning. The checklist can be viewed at: <https://www.local.gov.uk/pas/pas-topics/local-plans/local-plan-checklist>. This document sets out the interactions between terrestrial and marine planning, including the requirements of the UK MPS for English based planning authorities. You are advised to use this checklist as a basis for ensuring soundness for your LPD Draft Plan Strategy with respect to the Northern Ireland marine area.

In addition, the Celtic Seas partnership produced guidelines to assist planning authorities to improve integration with the marine planning system by promoting 'Good Environmental Status' of the sea. This can be viewed at: <http://www.celticseaspartnership.eu/Celtic-seas-partnership/guidelines-planning-authorities/>. The terrestrial planning system can play a key role in delivering on international obligations related to the marine environment.

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Comments in relation to: Evidence Paper 16: Landscape Character Assessment: June 2019

We would support the LCA and consider that it will be a valuable tool when considering the merits or otherwise of development pressure within the Borough.

Similarly we consider that the methodology is sound.

We do have a number of questions or observations however and these are as follows (some are just typos):-

Page 5: para 1.5: Stage 2 should include mention of the perceptual and aesthetic elements as key characteristics in line with the Landscape Wheel;

1.7: "This LCA update will enabled the identification..." should read "This LCA update will enable the identification..."

1.9 "It is recommended a landscape approach focusing..." should be amended to "an approach which focusses on the protection of our most valued landscapes" or similar may be better.

Page 6: 1.9: 3rd bullet point: "...coastal setting and sympathetic to the built form." Should be amended to "coastal setting and being sympathetic to the built form."

4th bullet point: "Development should be in keeping with the character etc..." should be amended to "Development should be in-keeping with the landscape character of the area regardless of scale, density, massing, height and layout. In addition all landscape proposals should be appropriate to their setting i.e.:- native or non-native species depending on existing vegetation, design principles, boundary treatment and surrounding landscape character.

"Future quarry proposals be restricted..." should read "Future quarry proposals should be restricted..."

5th bullet point: "... integrating new rural dwellings into local landscape dynamics etc..." should be amended to "...integrating new rural dwellings into the local landscape through appropriate siting, design, scale, massing, retention of existing vegetation and planting."

Page 7: 2.5: First line should be amended from "...and vital resource from its social, economic, environmental, scenic and historic qualities" to "...and vital resource from its social, economic, environmental, scenic, cultural and historic qualities"

Last line: "landscape" should read "landscapes".

Page 23: 9.1 All NILCA 26 council area booklets were published in 1999. There was an overall analysis booklet published in 2000. You may wish to clarify this.

Page 24: 9.7: The NIRLCA wasn't an update on the 1999 NILCA. It brought NI into line with the other UK agencies who already had their regional scale LCAs carried out. The 2015 draft mentioned was published in February 2016.

Page 25: 9.13: We can't see any reference to the analysis of the study that led to the conclusion that it "showed that boundaries of the NILCA 2000 are still adequate and fit for purpose to cover the landscape of the Borough." Was this a separate piece of work?

Page 31: 10.2: We would recommend that the term 'landscape approach' is avoided as it's open to interpretation. Another definition such as "an approach



which focusses on the protection of our most valued landscapes” or similar may be better.

Page 35: The page numbering column needs amendment to bring it in line with the page numbers in the document.

