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Our ref: Submission to Antrim & Newtownabbey LDP Draft Plan Strategy

Forward Planning Team
Planning Department
Antrim & Newtownabbey Borough Council
Mossley Mill,
Carnmoney Road North
Newtownabbey
BT36 5QA

20th September 2019

Dear Sirs,

Antrim & Newtownabbey Borough Council LDP Draft Plan Strategy 2030

Please find enclosed a representation in response to the public consultation to the LDP Draft Plan Strategy on behalf of NIE Networks. This representation outlines our observations and highlights several concerns regarding the soundness of the draft policies.

Background

NIE Networks is the electricity Distribution Network Operator (DNO) and Transmission Network Owner in Northern Ireland (NI). We are responsible for the safe, secure and reliable transmission and distribution of electricity throughout NI, and have an obligation to develop and maintain an efficient, coordinated and economical system of electricity distribution and transmission infrastructure. This critical infrastructure supports and facilitates sustainable economic and social growth in communities and businesses across the region. As such, the Development Plan process is an essential element in helping NIE Networks meet its obligations, and we welcome the opportunity to make observations on the draft Plan Strategy.

Regional Development Strategy 2035 (RDS)

The RDS sets out the long term policy direction for the sustainable development of the economy, and provides guidance on developing a modern and sustainable economic infrastructure to facilitate economic growth and promote connectivity. RG5 strives to deliver a sustainable, reliable and secure energy supply, and highlights strengthening the grid as a key objective. It recognises that this will involve *'increasing electricity interconnection capacity to strengthen the linkages between transmission and distribution networks'* (RG5), which closely aligns (or embodies) with the objectives and responsibilities of NIE Networks.

In this context, NIE Networks is committed to a substantial investment programme focused on ensuring the integrity of our network, through replacement, maintenance and upgrade of ageing assets, as well as the development of safe and efficient connections, to facilitate the delivery of a reliable electricity supply. We recognise and acknowledge that this needs to be carefully planned and assessed to ensure this programme achieves a sustainable balance of strengthening the grid whilst ensuring minimal impacts on amenity and the environment.

It is important to note that Schedule 9 of the Electricity (NI) Order 1992 places an obligation on NIE Networks to preserve amenity and protect the environment, and mitigate where reasonably possible, in the formulation of its proposals. More specifically, NIE Networks:

- (a) *shall have regard to the need to conserve the natural beauty and amenity of the countryside and the need to protect (so far as reasonably practicable) flora, fauna and geological and physiographical features of the countryside and the need to protect sites, buildings and objects*

of architectural, historic or archaeological interest from any harmful effects which might result from such proposals; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside.

Policy DM 14: Public Utilities & Infrastructure

NIE Networks has an extensive transmission and distribution infrastructure throughout the Council area, and the development of planning policy regulating these utilities, the draft strategy for various land uses, and future land use zonings are of particular importance to us. We welcome and support the Councils aim for Public Utilities and Infrastructure to achieve a sustainable balance between prosperity and protection of our environment.

Policy DM 14.2: Unsound (by virtue of Consistency Test C3, and C4)

NIE Networks recognises that delivery of electricity infrastructure may have potential visual and other environmental impacts. It is accepted that applicants should provide sufficient supporting information outlining consideration of the technical and environmental issues with a specific proposal, to enable the Planning Authority to apply a reasoned and considered planning judgement. However, NIE Networks has concerns with the section underlined below:

'DM 14.2: The Council will require the submission of sufficient information to enable consideration of these matters and ensure that any adverse impacts can be properly mitigated'.

NIE Networks considers this aspect of the policy to be unsound by virtue of Consistency Tests C3 and C4, in that it is not consistent with legislative requirements of the Planning (EIA) Regulations (NI) 2017 (and associated policy guidance); the Habitats Directive and Birds Directives (and associated policy guidance)¹; the Strategic Planning Policy Statement (SPSS); or the Electricity (NI) Order 1992.

As noted above, NIE Networks is legally obliged (under Schedule 9) to consider visual and environmental considerations during the formulation of proposals, before they come before the Council as a planning application, and do so in accordance with the Holford Rules. The final design and proposal brought forward for submission to the planning authority will therefore be the output from a carefully considered balance of technical, environmental, visual and landowner considerations. The environmental impact will therefore have already been assessed and appropriate mitigation measures included to minimise any potential significant environmental effects or any unacceptable adverse impacts, within the final design of the proposal in the planning application.

Not all proposals for electricity infrastructure will require mitigation measures, and not all receiving environments will be sensitive. Traditionally, only those proposals likely to result in significant adverse effects (from an EIA perspective) or likely significant effects on the environment (from Habitats Directive perspective) will require mitigation measures. For example, smaller scale proposals for maintenance works to existing overhead lines or existing substations for the purposes of improving safety or connectivity will have been designed to minimise visual and environmental impacts by virtue of Schedule 9 and the Holford Rules. Such proposals are also unlikely to be of a scale which could generate significant effects on the environment, requiring mitigation measures.

¹ Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the Conservation of Wild Birds (or similar legislation transposed & enacted post-Bexit)

- **Alternative Wording:**

Our respectful suggestion for an alternative wording is:

'DM 14.2: The Council will require the submission of sufficient information to enable consideration of these matters and ensure that any unacceptable adverse effects are adequately mitigated'.

NIE Networks considers that this policy amendment better reflects the objectives of the LDP and ensures that the policy in relation to electricity infrastructure is consistent with relevant current policy and legislative obligations, in respect of the protection of the natural and built environment.

Policy DM 14.3: Unsound (by virtue of Consistency Tests P4 C1, C4, CE1 and CE2)

As outlined above, NIE Networks recognises that delivery of overhead lines may have potential visual and other environmental impacts. However, NIE Networks has concerns regarding the following policy:

'DM14.3 Overhead Electricity lines: Proposals for overhead electricity lines will be acceptable where it has been demonstrated all the following criteria are met:

(a) They avoid areas identified for their landscape importance'.

It is our considered opinion that Policy DM 14.3 (a) is unsound by virtue of Consistency Tests C1, C4, and CE1 in that it does not take account of the objectives of the RDS, does not have regard to other legislative obligations relating to the district, does not represent a coherent strategy for the Council area, and is not based on a realistic, appropriate or robust evidence base.

1. Unsound by virtue of Consistency Test CE1 & CE2

It is our view that bullet (a) does not provide a coherent strategy and a logical policy direction for assessing overhead electricity lines proposals. As such it is considered such is unsound on the basis of Consistency Test CE1.

This policy is unclear and ambiguous, in that it does not provide a clear definition of 'an area of landscape importance', by referencing other draft plan strategy policies and designations, and leaves the reader to draw their own conclusions.

The draft Strategy outlines various landscape areas which could be construed as being of 'landscape importance', however it is not clear whether all of these or just some of these constitute 'areas of landscape importance' in the context of this draft policy. For example, there are Strategic Landscape Policy Areas, Local Landscape Policy Areas, Sites of Local Nature and Conservation Interest, Coastal Policy Areas. The amplification text provided in the draft Strategy also does not provide a clear definition of 'landscape importance'.

Similarly, Paper 16 Landscape Character Assessment (LCA) provides different descriptions for various landscapes by virtue of their physical characteristics, features and attributes, as well as the overall sensitivity of the landscape (low, medium and high). The assessment refers to elements of various landscapes being 'important' however the LCA is unclear in terms of a definition of 'landscape importance'. As such, it is not clear how this policy has evolved from the LCA, and therefore cannot be considered to be a logical conclusion from the evidence gathered during Plan formulation.

This draft policy does not provide a clear, defined and logical direction to base operational policy considerations and decisions. It does not logically flow and conclude from the evidence base in the supporting Landscape Character Assessment (robust evidence) nor does it relate and cross-reference with the landscape policies outlined elsewhere in the Plan.

2. Unsound by virtue of Consistency Test C1

Local Development Plans are required to take proper account of the Regional Development Strategy (RDS) and other relevant policy and guidance. In general terms, the RDS provides the framework for the Programme for Government (PfG) and the Investment Strategy for Northern Ireland (ISNI) and the LDP should be consistent with these policy documents. It is our view that bullet (a) is not consistent with the RDS aims and objectives, and as such is unsound.

The RDS identifies the following strategic objectives:

- To support strong, sustainable growth for the benefit of all parts of Northern Ireland
- Support our towns, villages and rural communities to maximise their potential
- Promote development which improves the health and well-being of communities
- Improve connectivity to enhance the movement of people, goods, energy and information between places

To achieve these objectives, electricity infrastructure is required to connect development to the electricity network, to support residents, communities, and businesses and to enable them to sustainably grow, achieve their potential, improve their health, well-being, and connectivity. The infrastructure required to facilitate this connection i.e. to transmit and distribute the electricity between the electricity generators and customer premises, will more than likely require planning consent.

NIE Networks is governed by the Utility Regulator for Northern Ireland (UREGNI), and agrees an allowance for each price control period in advance, which is funded by the NI customer through the Use of System (UoS) tariffs. NIE Networks generally pays for all the infrastructural alterations required to facilitate new developments. This cost is passed on to NI customers through the UoS tariffs. The cost for new connections is paid for in full by the customer. Within that context, NIE Networks has a legal obligation (under the Electricity (NI) Order 1992) to offer the NI customer the '*least cost, technically acceptable*' solution for a new connection or alteration to the electricity network to facilitate development. In the majority of rural and suburban areas, this will be an overhead line connection.

In a scenario where a planning application for an overhead line connection would be refused by the Planning Authority on the basis of its location within an area of landscape importance, NIE Networks must re-quote the customer for a more expensive solution, for example, longer lines to avoid identified areas of landscape importance or underground cabling (if technically feasible / environmentally acceptable).

These alternative solutions can also present challenges – for example, cabling is much more expensive than the overhead equivalent; cable routes are generally longer to follow roads / field boundaries; there are restrictions on maximum cable length due to technical constraints; and it is much more difficult to obtain legal agreements as the land take is greater and there are more constraints on the land-take corridor. Cabling can also result in serious logistical and environmental challenges particularly in respect of water crossings or bridge/culvert crossings.

This will inevitably result in delays to the delivery of development and in some cases, the customer may consider the increased cost of a connection to be prohibitive, meaning that developments and projects will not proceed. This may deter or inhibit development in rural communities, or new / expanding commercial growth. Delays in connections, increasing connection costs and increasing costs of infrastructural alterations place additional pressures on customers' bills. In this context, this policy is unsound, in that it potentially limits the ability to meeting the objectives of the RDS.

As mentioned previously, RG5 strives to deliver a sustainable, reliable and secure energy supply, and highlights strengthening the grid as a key objective. NIE Networks has an extensive transmission and distribution infrastructure throughout the Council area. This infrastructure is currently located throughout the majority of those locations, which could be construed as being of landscape importance within the draft Plan Strategy. The works involved in achieving the RDS objective of strengthening the grid will

likely include refurbishment and upgrade of existing overhead lines, as well as possible new overhead lines. A restriction on the locations where strengthening works to overhead lines can be undertaken and new overhead lines can be considered to support reinforcement of the network, will inevitably increase the costs of such works, which may increase pressure on customer bills. It may also create undue challenges in achieving the RDS objective.

The RDS also seeks to:

- Increase the contribution that renewable energy can make to the overall energy mix which will require a significant increase in all types of renewable electricity installations.
- Strengthen the grid to meet the demand from an increasing number of renewable electricity installations.
- Develop “Smart Grid” Initiatives which will improve the responsiveness of the electricity grid to facilitate new forms of renewable generation, to improve reliability, productivity, and energy efficiency and empower customers to make a more informed choice in relation to their energy usage

Any small scale renewable energy generator such as wind turbines, which may be located within or adjacent to areas construed as having landscape importance, will also require a connection to the electricity network. This will more than likely require electricity infrastructure to be constructed as part of a separate planning consent.

As indicated previously, NIE Networks has a legal obligation to offer the ‘*least cost, technically acceptable*’ connection, which in suburban and rural areas will be an overhead line solution. A blanket restriction on the provision of overhead lines over large areas may result in increased / prohibitive connection costs, and deter growth and development of renewable projects. Similarly, this may deter or inhibit development in rural communities, or new / expanding economic growth. This will place challenges and obstacles on the ability to achieve the RDS objectives in relation to renewable energy, and as such the policy is considered unsound by virtue of its disregard to the RDS.

3. Unsound by virtue of Consistency Test C4

The Department of Economy is currently reviewing the Strategic Energy Framework for the period 2020-2030, and in particular the Government targets for renewable generation. In the scenario where Government targets for renewable generation increase from 40 to 60% or 70% (similar to the Republic of Ireland) new electricity infrastructure would be required to achieve these targets and achieve decarbonisation of the economy. Any proposals which would limit the ability to build or upgrade existing infrastructure would impact the ability to achieve Government targets.

As such, NIE Networks considers that this policy is overly restrictive and places limitations on the ability to achieve other Government targets. As such, the policy is unsound by virtue of its lack of regard to other plans and policies for the Council district.

- **Alternative Wording:**

Our respectful suggestion for an alternative wording is:

‘DM14.3 Overhead Electricity lines: Proposals for overhead electricity lines will be acceptable where it has been demonstrated all the following criteria are met:

(a) They have no unacceptable impact on [strategic landscape policy areas]²

² Areas of landscape importance of be defined by Council

NIE Networks considers that this policy amendment better reflects the objectives of the RDS ensures that the consistent with relevant current planning policy and legislative obligations, in respect of the protection of the natural and built environment. We strongly believe that planning policy should include an element of reasonable flexibility to allow the planning authority to exercise reasonable and appropriate planning judgement in weighing up proposals. As noted above, NIE Networks is legislatively obliged (Schedule 9) to consider visual and environmental considerations during the formulation of proposals, before they come before the Council as a planning application. Policy makers cannot anticipate all situations or proposals, and as such, it must allow for every case to be considered separately and on its own merits

Policy DM 42 Trees and Development: Unsound (by virtue of Consistency Tests CE2)

NIE Networks has concerns regarding the following policy requirement:

'DM 42.3 If it is demonstrated to the satisfaction of the Council, this it is not possible to retain existing trees/or hedgerows then an appropriate replacement planting scheme will, where appropriate, be required to be agreed by the Council. Any such replacement planting scheme should normally be located within the site and introduce a net gain in tree numbers.'

We consider this policy to be unsound, as it does not meet Consistency Test CE2. This is an unrealistic and impractical requirement in the context of NIE Networks' legal obligations and current working practices. As a general objective, NIE Networks will seek to retain existing trees, hedgerows and mature vegetation and replace where possible, as part of the design proposals, and in accordance with our Schedule 9 responsibilities. However, there are circumstances whereby replacement trees and hedgerows cannot be provided as part of the proposals.

In seeking to facilitate an overhead or underground connection, NIE Networks does not purchase land – we manage the delivery of a connection through easements or wayleave agreements with landowners, and are legally obligated to secure land solely for the delivery of that connection.

To facilitate the placement of an overhead line on private lands, NIE Networks is legally obliged to agree an easement or wayleave for a land-take corridor with the landowner, which is based on a line specification. Felling of trees and vegetation to facilitate the placement of an overhead line is permitted by virtue of the Electricity (Northern Ireland) Order, 1992 (the Order) and the Electricity, Safety, Quality and Continuity Regulations, 2012 (ESQCR), both of which require the creation, monitoring and maintenance of defined safety and operational clearances between overhead electrical networks and trees, hedgerows and mature vegetation along the land take corridor. These obligations dictate that the clearance and maintenance of this corridor to facilitate an overhead line, cannot be compromised by replanting in the same area, once the overhead line has been constructed.

In the instance of underground cables, NIE Networks typically requires a similar land corridor, controlled by an easement/wayleave, to be maintained at ground level, to ensure access for future maintenance of the underground cable. The easement/way leave agreement will restrict subsequent development which may limit maintenance access to and potentially conflict with the underground cables. Replacement planting of trees/hedgerows within such corridors may not be safe or practical, due to the excavation required and the potential interference of the root network with the cables.

Outside the agreed necessary easements or wayleaves, NIE Networks is not empowered to acquire additional lands to facilitate and deliver any off-site replacement planting scheme. On this basis, the policy does not include sufficient flexibility for the Planning Authority to exercise reasonable and appropriate judgement in relation to a range of proposals and situations, to allow each case to be considered separately and on its own merits. On this basis, the policy is considered unsound, in the context of Consistency Test CE2.

- **Alternative Wording:**

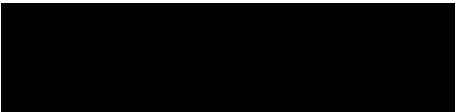
Our respectful suggestion for an alternative wording is:

'DM 42.3 If it is demonstrated to the satisfaction of the Council, that it is not possible to retain existing trees/or hedgerows then an appropriate replacement planting scheme may, where appropriate, be required. Any such replacement planting scheme should normally be located within the site and introduce a net gain in tree numbers.'

Finally, NIE Networks would point out a minor inaccuracy in the information detailed at Section 12.29 – reference is made to 'National Grid'. This is incorrect, and should be replaced with 'electricity network'.

I trust this is of assistance and would confirm that NIE Networks is happy to meet with you and the relevant members of your team, should you wish to discuss these matters further.

Yours sincerely,
for NIE Networks



ROHAN MCKEOWN
Head of Asset Management