

Our ref: Submission to Mid & East Antrim LDP Draft Plan Strategy

Date: 11 December 2019

Local Development Plan Team
Planning Department
Mid & East Antrim Borough Council
County Hall
182 Galgorm Road

Dear Sirs,

Mid and East Antrim Borough Council LOP Draft Plan Strategy 2030

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

We have reviewed the documents in the context of the planning advice provided by the Department for Infrastructure and in particular the guidance provided by Development Plan Practice Note 6 - Soundness.

Background

NIE Networks is the electricity Distribution Network Operator (ONO) 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 their 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 with the objectives and responsibilities of NIE Networks.

In this context, NIE Networks is committed to a substantial investment programme focused on strengthening the electricity network, which involves 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 it achieves a sustainable balance of strengthening the grid whilst ensuring minimal impacts on amenity and the environment.

With respect to Mid & East Antrim BC, NIE Networks already has an extensive transmission and distribution infrastructure throughout the Council area, and the development of planning policy regulating these utilities,

Our ref: Letter to Council

the draft strategy for various land uses, and future land use zonings are of particular importance to us. We welcome and support the Councils overall strategic economic objectives:

- (f) *To facilitate the provision or upgrading of public utilities infrastructure (including water, wastewater, energy, and telecommunications) to meet economic and community needs; and*
- (g) *To support the generation of energy, particularly from renewable sources, in a balanced way that takes due account of environmental impacts and on sensitive or vulnerable landscapes.'*

(Page 45, Draft Strategy)

These strategic objectives recognise the importance of providing and upgrading energy infrastructure in a supportive and balanced manner, which seeks to address needs whilst minimising impact on visual amenity and the environment. While NIE Networks understand and support these overall objectives it is critical to ensure that the implementation and any subsequent policy wording is carefully considered to ensure it accurately reflects regional policy and is considered sound.

It is our view that several of the proposed policies do not meet the required tests for soundness as set out in DDPN 6 for the reasons set out below.

Policy TOC 1: Telecommunications Development and Overhead Cables

Unsound (by virtue of Consistency Tests C1 and CE1)

The RDS sets out a clear policy direction within RG5 regarding a reliable and secure energy supply, and highlights strengthening the grid as a key objective, by increasing interconnection capacity between transmission and distribution networks. The importance of facilitating the provision and upgrade of energy infrastructure is also appropriately transposed directly into the strategic economic objectives of the Draft Strategy. In this context, it is disappointing to note that there is no corresponding policy in relation to the provision and upgrade of energy infrastructure within the Draft Strategy.

NIE Networks constructs, owns, operates and maintains the electricity transmission and distribution networks throughout the Borough and across Northern Ireland. This comprises all poles, pylons, overhead lines, underground cables and substations, which together create the energy infrastructure providing electricity to thousands of customers.

However, the proposed approach under Policy TOC1 where overhead cables are included in a policy also addressing telecommunications development means that there is no specific policy provision in respect of other energy infrastructure. There are no specific policies pertaining to the provision of, or upgrade of other critical elements of energy infrastructure, such as new sub-stations or the upgrading of existing sub-stations. This appears to leave a policy vacuum in relation to some important energy infrastructure. The inclusion of the terminology *'together with any necessary enabling works'* within the introductory text is not sufficient to cover all other important energy infrastructure. Sub-stations are not considered *'enabling works'*, these are essential components in the delivery of electricity.

The RDS clearly sets out the importance of energy infrastructure in RG5, which identifies the specific key requirements for delivering a sustainable and secure energy supply. It is our considered view that the approach in merging of telecommunications with one element of energy infrastructure merely serves to dilute the importance of energy provision throughout the Borough. This is not consistent with the strategic economic objectives in the Draft Plan itself or indeed the intention of RG5 in the RDS.

In addition, it is considered that the policy considerations and objectives for telecommunications and energy infrastructure can differ, particularly when considering the regional significance or essential nature of a proposal. As such, we respectfully suggest that separate policies are required for both energy infrastructure and telecommunications to ensure that the policy direction and the relevant policy considerations are clear, direct and succinct to allow decision makers and developers to clearly understand the requirements for each proposal. It is noted that other important utilities, such as wastewater have been afforded a separate and clear policy.

Our ref: Letter to Council

Furthermore, it is considered that the combining of the policy considerations for both telecommunications and overhead cables has resulted in an unclear and confused policy - the key considerations for various developments have been alternated in an inconsistent and unstructured manner, and as such there is no clear and logical flow. This can be corrected by providing a separate policy for energy infrastructure. This policy should also correctly cross-reference other policies instead of duplicating sections of wording from other policies, such as height restrictions - this can lead to ambiguities and misinterpretation of policy, when text is taken out of context.

On this basis, Policy TOC1 is considered inconsistent with Policy RG5 in the RDS, and it does not logically flow from the Strategic Economic Objectives set out elsewhere in the Draft Strategy.

Policy CS2 Special Countryside Areas:

Unsound (by virtue of Consistency Tests C3 and CE1)

Policy CS2 outlines the considerations in respect of four Special Countryside Areas (referred to hereafter as SCA's), as outlined in the District Proposals. NIE Networks recognise 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, which will consider a range of potential impacts. There are instances whereby potential adverse impacts may be acceptable or impacts which can be adequately mitigated, which will be considered in detail in the context of the assessment and will enable the Planning Authority to apply a reasoned and considered planning judgement in relation to SCA's.

As such, NIE Networks has concerns regarding the use of the term '*adverse impact*' throughout the policy wording. This term is not qualified by the use of '*unacceptable*' or '*significant*': in relation to adverse impacts, which is inconsistent with the approach taken in existing policy documents, including consideration of impacts on nature conservation sites and the landscape generally in PPS2 and the SPSS. It is also inconsistent with the terminology outlined in the legislative requirements of the Planning (EIA) Regulations

(NI) 2017 (and associated policy guidance); the Habitats Directive and Birds Directives (and associated policy guidance). The lack of appropriate terminology is considered to be inconsistent with existing policy and legislation, and as such this policy is considered unsound by virtue of Soundness Test C3.

In addition, the policy GP1 General Policy Criteria is consistent in its use of the correct term '*unacceptable adverse impact*': in its wording throughout the policy, which ensures that proposals can be correctly assessed and considered. More specifically, it is highlighted that proposals in the Countryside should not have a '*significant adverse impact on landscape character, the rural character of the locality or environmental quality*'. The difference in terminology within the General Policy and Policy CS2 in this regard, creates a tension and an inconsistency in the policy test, and as such is not considered a coherent strategy. It is therefore considered that Policy CS2 is unsound by virtue of Soundness Test CE1.

It is respectfully suggested that the following amendments are incorporated into the policy wording:

A proposal must fully demonstrate that it constitutes one of the exceptions listed below and that it will not result in unacceptable adverse impacts on the landscape quality, landscape character, unique amenity value, or the environmental assets of the SCA...!

'a) the proposed development is of such national or regional importance as to outweigh any potentially unacceptable adverse impacts on the SCA.'

Policy CS3 Areas of Constraint on High Structures:

Unsound (by virtue of Consistency Tests C1, C3, CE1, CE2)

Policy CS3 outlines the considerations in respect of Areas of Constraint on High Structures, as proposed in the District Proposals. NIE Networks welcome that the strategic/ regional importance of the energy network proposal can be given appropriate weight in the planning balance, which is in line with the approach taken in existing policy documents including consideration of impacts on nature conservation sites and the landscape

Our ref: Letter to Council

generally in PPS2. This is an important consideration when examining the soundness of the policy against the test of consistency.

With regards to proposals for new or upgrading of this existing energy infrastructure within the Council area, NIE Networks is legally obliged (under Schedule 9, Electricity Order (NI) Order 1992) to consider visual and environmental considerations during the formulation of proposals, before approaching 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. Therefore, NIE Networks will have carefully considered the environmental impact and included appropriate mitigation measures to minimise any potential significant environmental effects or any unacceptable adverse impacts, within the final design of the proposal in the planning application.

NIE Networks would highlight that there is already existing energy infrastructure located within these important landscape areas, which forms part of the current landscape character and environmental character. As outlined earlier, RGS of the RDS focuses on strengthening the grid and linkages between transmission and distribution networks, which will likely include refurbishment and upgrade of existing overhead lines, pylons, poles and other energy infrastructure. Restrictions on the location of and heights of strengthening works to overhead lines and associated infrastructure required to support reinforcement of the network, could result in undue challenges in achieving the RGS objective. It could also result in an increase to the costs of such works through costly diversion of infrastructure or more expensive infrastructure solutions, which may inevitably increase pressure on customer bills.

NIE Networks respectfully suggests that any associated policy needs to build in an element of reasonable flexibility to allow the planning authority to exercise reasonable and appropriate planning judgement in weighing up proposals. It is recognised that 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. As such, NIE Networks considers that the current policy wording imposing height restrictions does not take sufficient account of Policy RGS of the RDS, and as such is considered unsound by virtue of Soundness Test C1.

Similar to concerns raised in relation to Policy CS2, NIE Networks would highlight the use of the term '*detrimental impact*' in relation to landscape character throughout the policy wording. This term is not consistent with the terminology in other policies within the Draft Strategy, including Policy GP1 General Criteria (which references '*unacceptable adverse impacts*' and '*significant adverse impacts*' on the landscape); It is inconsistent with the approach taken in existing policy documents, including consideration of impacts on nature conservation sites and the landscape generally in PPS2 and the SPSS; It is also inconsistent with the terminology outlined in the legislative requirements of the Planning (EIA) Regulations (NI) 2017 (and associated policy guidance); the Habitats Directive and Birds Directives (and associated policy guidance). The lack of appropriate terminology is considered to be inconsistent with existing policy and legislation, and as such this policy is considered unsound by virtue of Soundness Test C3. The difference in terminology within the General Policy and Policy CS2 in this regard, creates a tension and an inconsistency in the policy test, and as such is not considered a coherent strategy. It is therefore considered that Policy CS2 is unsound by virtue of Soundness Test CE1.

It is noted that a Landscape Character Assessment accompanies the Draft Strategy and has clearly informed draft Policy CS3 in terms of the thresholds for various developments. NIE Networks would welcome an up to date assessment of landscape character, quality, and type, and recognise its usefulness in assessing future proposals. It is noted that consideration of various wind energy developments in this assessment include references to the height of both commercial and domestic turbines, however there is no corresponding review and analysis of heights for existing energy infrastructure. The assessment does not make recommendations for the height restrictions in various landscapes; however, this policy appears to have derived tenuous height thresholds for all high structures on the basis of existing/ approved wind turbines.

NIE Networks consider that the height restrictions derived from wind turbines are inappropriate as a threshold for energy infrastructure, and do not logically flow from an analysis or evidence base of existing infrastructure or from the information contained in the Landscape Character Assessment. It is our

Our ref: Letter to Council

considered opinion that all proposals should be considered on their own merits, in the context of supporting landscape and environmental information which assesses the specific proposal within its specific context and landscape. 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. As such, NIE Networks considers that the current policy wording imposing height restrictions is unsound in the context of Soundness Test CE1 and CE2.

Policy CS5 Antrim Coast & Glens Area of Outstanding Natural Beauty (AONB):

Unsound (by virtue of Consistency Tests CE2 and CE1)

Policy CS5 states that development proposals within the Antrim Coast & Glens AONB or its setting will only be permitted if there is no adverse individual or cumulative impact on its landscape quality, character, heritage and wildlife which would prejudice its overall integrity.

NIE Networks recognise that delivery of electricity infrastructure may have potential visual and other environmental impacts, and it is appropriate to assess and balance any such impacts against the need for the project and any critical technical considerations.

In the first instance, the additional policy hurdle imposed by the inclusion of an undefined 'setting' of the AONB in this prohibitive policy renders it imprecise and unsound in that it effectively expands the boundary of the AONB in an arbitrary manner that increases uncertainty and subjectivity in how the policy might be applied. It is considered that this draft Policy is unsound by virtue of Soundness Test CE2.

NIE Networks has concerns regarding the application of a policy approach that prohibits development that might result in **any** (emphasis added) adverse individual or cumulative impact as outlined in this proposed policy. This prohibition is not qualified by the use of '*unacceptable*' or '*significant*' in relation to adverse impacts, which is inconsistent with the approach taken in existing policy documents, including consideration of impacts on nature conservation sites and the landscape generally in PPS2 and the SPSS. It is also inconsistent with the terminology outlined in the legislative requirements of the Planning (EIA) Regulations (NI) 2017 (and associated policy guidance); the Habitats Directive and Birds Directives (and associated policy guidance). It fails to allow any potential adverse impact to be weighed against the strategic importance or benefits of any project. The lack of appropriate terminology and weighting of the impact against other considerations is inconsistent with existing policy and legislation, and as such this policy is considered unsound by virtue of Soundness Test C3.

In addition, the policy GP1 General Policy Criteria is consistent in its use of the correct term '*unacceptable adverse impact*' in its wording throughout the policy, which ensures that proposals can be correctly assessed and considered. More specifically, it is highlighted that proposals in the Countryside should not have a '*significant adverse impact on landscape character, the rural character of the locality or environmental quality*'. The difference in terminology within the General Policy and Policy CS5 in this regard, creates a tension and an inconsistency in the policy test, and as such is not considered a coherent strategy. It is therefore considered that Policy CS5 is unsound by virtue of Soundness Test CE1.

Policy RE1 Renewable Energy Development; Policy TOC1 Telecommunications and Overhead Cables; CS2 Special Countryside Areas; CSJ Areas of Constraint on High Structures; CS5 AONB.

Unsound (by virtue of Consistency Tests C4 and CE4)

The Council will be aware that the N Executive's target for achieving 40% of its electricity consumption from renewable sources by 2020, as set out in the 'Strategic Energy Framework for Northern Ireland', has been met ahead of schedule. The DfE is currently reviewing the Strategic Energy Framework for the 2020-2030 period, and the current draft envisage considerable % increases going forward. This mirrors the approach elsewhere in Great Britain, where England, Wales and Scotland have all pledged to considerably increase targets for energy from renewable sources, to align with overall EU requirement. It is disappointing to note that the Draft Strategy makes only two minor references to this within Section 9.3 Renewable Energy.

Policies such as CS2, CS3, and CS5 which restrict development in certain designated areas and their setting are at odds with emerging Government policy in relation to decarbonisation and the drive to secure more energy from renewable sources. If the Government targets within Northern Ireland increase considerably,

Our ref: Letter to Council

similar to elsewhere in GB, new electricity infrastructure would be required to meet this target and facilitate growth. Policies which limit the ability to build new and upgrade existing infrastructure, would impact the ability to achieve these Government targets, and could also increase connection costs for individuals and businesses. This Draft Strategy Plan provides an important opportunity to take account of this emerging policy, and to future proof policy and incorporate greater flexibility in accommodating more renewable development and the necessary infrastructure to support it.

As such, it is considered that the Policies CS2, CS3 and CSS are unsound by virtue of Soundness Test C4 in that it fails to take account of emerging Government Policy in relation to energy. Along with policies TOC1 and RE1, these policies are considered unsound by virtue of Soundness Test CE4 in that they do not incorporate adequate flexibility to enable them to adapt to the changing policy context with regards to energy sources.

I can confirm that NIE Networks wish to appear at the Independent Examination, in respect of the issues raised in this submission.

I trust this is of assistance and would confirm that NIE Networks are 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 /



Network Development Manager, NIE Networks