

Department for Infrastructure Planning Act (Northern Ireland) 2011, Modification of Mid Ulster District Council draft Plan Strategy, (s. 15) Direction 2026 - Explanatory Note

1.0 Context

- 1.1 As part of the two-tier planning system, which commenced in April 2015 along with the transfer of planning powers to Councils, the Department holds a dual role in the Local Development Plan (LDP) process. This dual role includes that of statutory consultee, as well as providing for oversight responsibilities.
- 1.2 At this point in the Council's LDP process, the Department is undertaking its oversight responsibility as required by legislation.
- 1.3 In exercising all duties, including its oversight responsibilities the Department is guided by:
 - Section 1 (s.1) of the Planning Act, the Department's legal duty to formulate and co-ordinate policy ensuring the orderly and consistent development of land and the planning of that development; and
 - the application of regional policy and objectives of the Regional Development Strategy 2035 (RDS 2035) and the Strategic Planning Policy Statement 2nd Edition (SPPS 2).
- 1.4 This Explanatory Note accompanies the Direction for Mid Ulster District Council to modify the draft Plan Strategy (draft PS) as required by s.15 of the Planning Act (Northern Ireland) 2011 (the Act). The intention of this Note is to set out reasoning of how the Department has reached certain conclusions.

2.0 Schedule 1

- 2.1 Schedule 1 of the Direction contains the modifications that the Department requires the Council to carry out to the Development Plan Document (DPD) to make the document satisfactory.

- 2.2 As detailed in Paragraph 5.1 of the Direction, Council should ensure all evidence papers have been revisited and updated accordingly. As an outcome of the updated evidence, there may be consequential changes that arise as a result of MOD 01-08. These consequential changes may be carried out as directed under MOD 09. Following consultation on the directed modifications, the Council may consider whether any further refinement is required through a Focussed Changes consultation in accordance with DPPN 10. However, any such Focussed Changes must remain within the scope and intent of the directed modification and be consistent with the Direction issued by the Department. Focussed Changes cannot be used to revisit, undermine or alter the substantive purpose of the directed modification, having regard to the Council's duty under s. 15(3) of the Planning Act (Northern Ireland) 2011 to comply with the Direction. The Council should update their public consultation document, as necessary, and representations to these parts of the modified draft PS, will be considered through the Independent Examination (IE) in which the plan is tested for soundness.
- 2.3 At the point of public consultation, the Council should clearly set out how it will deal with representations received to these modified parts of the draft PS as directed.

3.0 Other changes

- 3.1 The Department acknowledges the passage of time since the original evidence base was collated, prior to submission to the Department in 2021. Paragraph 5.2 of the Direction refers to further changes that may be identified by the Council as a result of the updated evidence. If such changes have been identified by Council, they must satisfy themselves that these changes are required to make the DPD satisfactory and ready to be tested for soundness, they should be carried out as directed by MOD 10 of Schedule 1. These changes should be listed separately from the s.15 modifications by the Council and will also be subject to the normal consultation process. MOD 11 of Schedule 1 directs the Council to carry out any other presentational or factual amendments, typographical and grammatical errors, within the draft PS, and

ensure all are updated as a result of all modifications and minor editing changes. These updates should not amend the nature and intent of the modifications as directed.

- 3.2 As detailed in the Direction paragraph 5.4, the Council will need to consider if they need to update evidence to take account of the new and updated Renewables and Low Carbon Energy policy within SPPS Edition 2, published 11 December 2025. The Council will be expected to consider the draft PS's renewable energy policy against the new and updated Regional Strategic Planning Policy.
- 3.3 As these changes detailed above in paragraphs 3.1 and 3.2 do not form part of the s.15, Schedule 1 modifications (1-8), the Council should consider any comments made in relation to these aspects of the draft PS and update their public consultation document accordingly, which includes any Focussed Changes addendum, if necessary.

4.0 Strategic Issues

MOD 1 - Spatial Growth & Housing Allocation and Distribution

- 4.1 The Department directs the Council to modify their spatial growth and housing allocation and distribution as follows and the rationale is set out at paragraphs 4.2 to 4.7 below:
- **Modify the housing growth figure to approximately 13600 and broadly allocate this figure in accordance with the following: Hubs (inc. windfall): 42%, Settlements (inc. windfall): 33% and Countryside: 25%. DfI also directs the removal or amendment of all consequential references to the previous housing growth figure and distribution, including within policy wording, supporting text, tables, figures.**
- 4.2 The Department considers that the current MUDC draft PS housing allocation fails to provide sufficient certainty in relation to the allocation of growth across the district, as a result of the Council's application of the Department's Housing

Growth Indicator (HGI) which is prepared to provide guidance to councils in preparing Local Development Plans (LDPs).

- 4.3 The RDS 2035 makes clear that the HGI (and any LDP housing requirement based upon it) applies to the whole of the district, including the countryside. SPF 2 of the draft PS states that growth will be focused within the three main towns/hubs of Cookstown, Dungannon and Magherafelt and strengthen their roles as the main administrative, trade, employment and residential centres within the district. However, in the draft PS the Council expressly states that the countryside is not subject to an allocation (allowance) within the district's HGI. This approach indicates that, for review purposes, if the number of houses being approved in the countryside exceeds 40% of the district's HGI then this will trigger a plan review. The Council justifies this threshold on the basis that 40% of the district's households are currently located within the countryside of the district.
- 4.4 The Department is of the view that this approach does not sufficiently take account of the RDS. Firstly, it increases the housing allocation by up to 40% overall. By not making any allowance within the Council's headline housing requirement and instead making a separate provision equivalent to up to 40% of the housing requirement, the effect is to implicitly permit much more housing growth than indicated in the objectives of the plan (11,000 homes). This approach would potentially allow up to an additional 4,400 homes to be approved in the countryside before a review would commence. A plan review to introduce remedial policy measures would take longer to be prepared and adopted, and in the interim period proposals would continue to be assessed and approved in accordance with the adopted plan.
- 4.5 The 'ceiling' threshold of 40% indicated by Council (before a review is initiated) is based upon its contention that it is appropriate to maintain the existing proportion of countryside households at 40% of the total number of households in the district.

- 4.6 In addition, the Council's proposed housing growth to Hub settlements within the 'Housing Local Indicators' (HLI) creates uncertainty in relation to the preferred allocation of growth within the main towns of Dungannon, Cookstown and Magherafelt. The HLI identifies a range of possible growth scenarios for each of the main towns of between 30 – 60% of the housing requirement of 11,000. The indicated housing growth is therefore approximately a third of the overall housing allocation. This creates a significant degree of uncertainty in relation to what distribution of housing growth the draft PS is seeking to achieve within these Hubs.
- 4.7 The Department also observes that in excluding development in the countryside from within the overall housing figure in the plan, it would be anticipated that the entirety of the housing requirement would be accounted for in the distribution to settlements. However, 7% of the housing growth is unallocated and unaccounted for within the HLI presented in Appendix 1 of the draft PS.
- 4.8 In light of the Department's consideration of the current draft PS, the Department accordingly directs modification in accordance with MOD 1.

MOD 02 – 04 - Economic Development in the Countryside Policies

- 4.9 The Department directs the Council to modify the Economic Development in the Countryside Policies including RIPAs, as follows and the rationale is set out below at paragraphs 4.10 and 4.11 below:
- **Modify Policy ECON 2 (c) by removing ECON 2 (c) in its entirety, and including any references to RIPAs in the associated Justification and Amplification and remove/modify any other corresponding parts of the Plan;**
 - **Modify Policy ECON 2 by replacing ECON 2 (e) and update corresponding parts of the DPS;**
 - **Create a new policy within Chapter 12 Economic Development**

Policies entitled, Policy ECON 5 – Desertcreat Green Innovation Park, and provide corresponding Justification and Amplification.

- 4.10 The RDS aims to facilitate a spread of economic development opportunities across the Region and identifies hubs, corridors and gateways as the focus for economic activity and development opportunities. These locations benefit from existing infrastructure and the clustering of people, businesses and services at these locations create economic synergies and added value. While the Department believes in facilitating appropriate economic development and diversification opportunities in the countryside, taking account of the RDS, there is nevertheless an overarching focus on this strategic network as the most appropriate location for this to maximise the benefits of new economic development. Where development is proposed in the countryside, this should benefit economic activity but, importantly, also protecting and enhancing the environment. In practice this has meant that the focus of regional policy has been to restrict, in the interests of rural amenity and sustainability, the level of new building for economic development proposed outside settlements. Opportunities for economic development in the countryside have historically been limited to the expansion/redevelopment of an established economic development use, major industrial development which requires a countryside location and makes a significant contribution to the regional policy, and small rural community projects.
- 4.11 The Department has concerns that the creation of a new class of RIPA does not align sufficiently with the overall approach set out in the RDS, and that the evidence presented by the Council is not sufficient to justify departing from the regional policy approach in the manner proposed.
- 4.12 In light of the Department's consideration of the current draft PS, the Department accordingly directs modification of the Economic Development in the Countryside Policies in accordance with MOD 02-04.

MOD 05-08 - Housing in the Countryside – Rural Policies

4.13 As detailed in the Department's rationale below at paragraphs 4.14-4.31, DfI directs the Council to modify Housing in the Countryside - Rural Policies as follows:

- **Modify draft Policy CT2 (b) Dwelling Infilling a small Gap Site, to remove 'exception' test**
- **Remove draft Policy CT2 (f) Dwelling in a Farm Cluster**
- **Remove draft Policy CT2 (h) Dwelling for Carer or someone Availing of Care**
- **Remove draft Policy CT2 (j) Dwelling for Holder of Commercial Fishing Licence**

4.14 **Draft Policy CT2 (b) 'Dwelling Infilling a small Gap Site'** permits a small gap site capable of accommodating up to two dwellings. The gap must be located between three or more buildings, each fronting onto a road or laneway. The policy also permits a single dwelling on a smaller gap site, located between two dwellings, each with their own defined curtilage, fronting onto a road or laneway. The Department considers that the exception to the policy proposes a new lower policy test that will give rise to a significant additional development pressure within the countryside of the district.

4.15 Two dwellings separated by a gap does not constitute an otherwise continuously built-up frontage that could justify an infill opportunity on the basis that an additional dwelling will not impact rural character, due to that character already impacted by the presence of an urban/suburban form of development. This policy opportunity will in fact result in a row of 3 dwellings fronting on to a roadway and therefore adds to the creation of a continuous built-up frontage as defined by CTY8 of PPS21 (a line of 3 or more buildings along a road frontage without accompanying development to the rear).

- 4.16 **Draft Policy CT2 (f) ('Dwelling in a farm cluster')** put forward by the Council states that, exceptionally, on farms that are **not active and/or established** (or where permission has been obtained in the past 10 years) a dwelling may be accommodated within a farm cluster comprising 3 or more substantial buildings on the farm unit.
- 4.17 Regional policy provisions in the SPPS 2 already permit dwellings on farms to accommodate those engaged in farming and other rural dwellers - subject to the farm being active and established a minimum of 6 years. The Council's Policy CT2 (f), however, does not take account of regional policy by adding to or amplifying the SPPS 2. Instead, by providing an alternative opportunity, not subject to the safeguarding limitations for the 'farm' to be active and established, it introduces a direct conflict with regional policy. Existing regional policy appropriately balances the objective of a vibrant rural community and the need to conserve the landscape and natural resources of the rural area to protect it from excessive, inappropriate and obtrusive development, and the actual or potential effects of pollution. Without the safeguards contained in the SPPS 2, this policy will give rise to significant additional development pressure for housing in the countryside. In combination with the existing opportunities, this will result in excessive development that will adversely impact the landscape character and natural resources of the rural area.
- 4.18 The Department considers that the lack of clarity and coherence in the policy wording risks a very wide interpretation of what constitutes a farm or agriculture unit for the purposes of the policy. This policy could permit dwellings on land that would never historically be regarded as constituting a farm or agricultural unit. Furthermore, with no requirement for the farm to be active or established there is a risk that this may incentivise the artificial subdivision of farm units for the purpose of obtaining an additional dwelling approval.
- 4.19 **Draft policy CT2 (h) (Dwelling for Carer or someone Availing of Care)** provides an opportunity for a dwelling for a carer or someone availing of care (provided the care is delivered by or received from an immediate family

member). The approved dwelling must also form an extension to an existing dwelling to provide a separate but attached residential unit. The policy also permits the change of use of an existing building within the curtilage to form a separate residential unit.

- 4.20 The Council has not presented evidence to justify why the provision of a permanent new dwelling (and not an extension or annex) is the appropriate policy response to the caring needs identified within the district (those of the care giver or the person receiving care). Also, there is substantial uncertainty in relation to the level of care giving that an applicant must demonstrate to qualify for a dwelling under this policy. MUDC refer to NISRA evidence dating from 2013 that just over 10% of the population of MUDC rely on a degree of care in relation to the elderly or children. The level of need/care to be demonstrated will be less than the high threshold of the personal domestic circumstances policy that exists in regional policy and repeated as criteria (which would include such instances as a young adult who requires a high level of care).
- 4.21 The opportunity is limited to care provided by immediate family members strongly indicates the support envisaged is not specialist care and may amount only to what is ordinarily provided within an immediate family circle. The reference within the plan at paragraph 8.53 to “social benefits to facilitating extended families living next door to one another” appears to confirm the objective of the policy.
- 4.22 The preceding paragraphs indicate that CT2 (h) is in reality a kinship-based policy aimed at permitting extended families to live together in the countryside. The Department accepts there are social benefits to this living arrangement, however these benefits can be secured just as equally through existing planning policy for an extension or so-called ‘granny annex’. These solutions can provide all the advantages of multi-generational living without the need for an additional permanent dwelling in the countryside.

- 4.23 The introduction of a policy opportunity for a separate and self-contained dwelling because of a kinship connection would be an entirely new approach. It would also conflict with advice from an Independent Working Group (IWG) on Non-farming Rural Dwellers which was chaired by Jim MacKinnion, then Chief Planner for the Scottish Government and involved experts from the field of planning, the environment, rural development and the legal profession. The IWG published its conclusions in 2009 and they remain valid. They concluded that *“the considerable spatial diversity of Northern Ireland requires a differentiated policy response to the challenges and opportunities of meeting the housing needs and aspiration of rural communities”*. They further concluded that *“Planning policy should not create a special category for the non-farming rural dweller. **Planning decisions for single houses should not be determined on the basis of kinship, connection or occupation**”*.
- 4.24 The Department considers that dwellings granted under PPS21 CTY6 cannot be used as a reliable yardstick from which to judge the potential number of approvals from this proposed policy opportunity. This is because policy CT2(h) is materially different from PPS21 policy CTY6 (and criteria (g) of this draft plan strategy), for example, by introducing a lower test in relation to care and by providing opportunities for people requiring care as well as care givers.
- 4.25 **Draft Policy CT2 (j) (Dwelling for Holder of Commercial Fishing Licence)** that would permit the holder of a valid commercial fishing licence (a boat owners' licence to fish for either eels or scale fish) to obtain permission for a single dwelling within an identified area close to Lough Neagh. The holder must have been living and conducting fishing operations from Mid Ulster for a period of 6 years and must not have obtained permission for a dwelling within the last 10 years.
- 4.26 Although a relatively small number of eligible licence holders may benefit, the concern relates to the lack of robust justification for why such a policy is a necessary response to the issues encountered by the eel/fishery industry based around Lough Neagh.

- 4.27 The Council does not address or provide compelling evidence why licence holders who are already resident in MUDC may require an additional dwelling in the countryside adjacent to the Lough. There is no compelling evidence presented by the Council that the holders of commercial licences are experiencing hardship through their inability to access housing near where they work. The Council has also not provided evidence that there is an operational/functional need for license holders to live in the vicinity of the Lough. Evidence presented on operational/functional need does not amount to an essential functional need relating to a specific fishing activity or task that requires the readily available presence of a worker near the Lough.
- 4.28 The Department's direction to delete draft policy CT2 (j) reflects the absence of a robust evidential or policy basis within the LDP and supporting papers for its inclusion, that the Council approach is also not consistent with the wider strategic response to environmental pressures affecting Lough Neagh, including agricultural and waste water treatment works and domestic waste water systems highlighted by DAERA in the 'Lough Neagh Report and Action Plan'.
- 4.29 In this context, emerging policies, including land use policies for controlling development, should contribute to reducing nutrient inputs and improving water quality outcomes. An additional policy which facilitates additional dwellings reliant on non-mains sewerage within the Lough's catchment does not support this objective and does not address the underlying challenges facing the sector.
- 4.30 Taking all of the above into account, there is no robust justification for the continued inclusion of this policy which risks undermining both environmental objectives and a consistent regional approach to rural development.
- 4.31 In addition, the approach of MUDC, if accepted, potentially establishes a model for other councils to bring forward similarly styled policies for those involved, for example, in fishing inland water bodies or even coastal communities in their district. This would be particularly concerning given the

sensitivity of our coastline and the predicted effects of climate change for our coastline. The potential cumulative impacts of policies of this nature are a legitimate area of interest for the Department in exercising its regional oversight role.

- 4.32 In light of the Department's consideration of the current draft PS, the Department therefore directs modification of the Housing in the Countryside - Rural Policies in accordance with MOD 05-08.

MOD 09, 10 & 11– Other changes

- 4.33 The Department, for the reasons set out above in paragraphs 2.2-3.1, introduces three additional modifications (MOD 09, 10 & 11) to direct the Council to carry out consequential changes, other changes and presentational changes that may arise as a result of updating evidence papers and should be carried in accordance with the modifications as directed.

5.0 Process

- 5.1 In accordance with paragraph 7.3 of the Direction, the Council should follow the procedure set out in s. 8 and s. 10 of the Act and Regulations 15 to 20 of Part 5 of the 2015 Regulations, which will include availability of documents including any representations received and submission to the Department for an Independent Examination (IE) as well as consider necessary updates to the SCI in accordance with the SCI Regulations. In light of the directed modifications that have formed part of an iterative process to date, the Council must satisfy themselves that the interpretation and application of legislation and process are met. The Council should consider how the statutory requirements apply to the directed modifications, and whether any further procedural steps are necessary, including whether a return to the Preferred Options Paper stage is required, having regard to the nature and scope of the modified plan. The Council may wish to set out their justification, where necessary.

- 5.2 The Council should indicate at the time of submission, that they have subsumed all the s.15 Direction modifications, any other further changes as a result of the updated evidence and update on renewables and low carbon energy, into a consolidated DPD which supersedes the DPD already submitted to the Department. The Council should also ensure that any other supporting documents are clearly identified.
- 5.3 Further to the requirements of paragraph 5.2 above, the Council's submission to the Department should also include a schedule of new documents, addendums and any previously submitted documents which have been superseded. The schedule should also indicate those documents that are still applicable. Once all the documents are submitted to the Department to cause an IE under s. 10 of the Act, those parts of the previous iteration of the Plan will be superseded, where applicable, and will remain part of the record for audit and reference purposes.

This Explanatory Note should be read in conjunction with DfI Direction Department for Infrastructure Planning Act (Northern Ireland) 2011 Modification of Mid Ulster District Council Plan Strategy (s. 15) Direction 2026.