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## DECISION

### **On a reference to the Commission under Article 7 of the Planning-(Northern Ireland) Order 1991 in respect of objections to the Draft Cookstown Area Plan 2010.**

This matter was referred to the Commission by the Department of the Environment in a letter dated 9 March 2000. Commissioner G R B Farrington was appointed by the Chief Commissioner to conduct the Public Local Inquiry. The Inquiry commenced on 3 October 2000 and continued for 18 days, closing on 13 December 2000.

The Commission has considered Commissioner Farrington's report and accepts his reasoning and advice on the majority of objections. The Commission, therefore, refers below only to those objections where it does not accept Commissioner Farrington's advice or, while accepting his advice, departs from his reasoning or where it wishes to identify matters which, in its view, merit special emphasis. Paragraph and Section numbers refer to those in the report.

#### **General Objections**

**Objections alleging non-compliance with DRSF Rural Housing "targets" and inadequacy of the proposed release of housing land (Objections 016, 020, 036, 045, 046, 095, 096, 097, 098, 099, 103 and 107) (Section 3.01)**

**Objections to the phasing of housing applications and their distribution in the context of the religious geography of Cookstown (Objections 001, 004, 020, 032, 043, 046, 098, 099, 121, 125, 131, and 132) (Section 3.02)**

The Commission accepts Commissioner Farrington's advice at paragraphs 3.01.45 and 3.02.46 and recommends accordingly to the Department.

The Commission does not accept Commissioner Farrington's view that the Plan should only seek to reflect the framework document (Draft Regional Strategic Framework for Northern Ireland-DRSF) as much as is practicable. The Commission does not share his confidence that the review of the Plan in 2005, which is stated on page 75 of the Plan to relate solely to the release of Phase 2 housing

lands in Cookstown, will help convergence with the over-arching regional housing growth indicators. The reasons for the Commission's view on these matters, is as follows.

The Strategic Planning (NI) Order 1999 amends Article 3 of the Planning Order by inserting:

"1(A)The Department shall ensure that any such policy is consistent with the Regional Development Strategy".

This requirement applies to the general functions of the Department with respect to the development of land including making development plans and thereby imposes a statutory duty on the Department to ensure consistency. The Commission acknowledges that the DRSF states on page 4 that the contents of the final Regional Strategic Framework (RSF) will be taken into account in the preparation of development plans by the Department, but judges the statutory duty requiring consistency to be overriding and relevant to the preparation of development plans at present; albeit in the context of the emerging RSF.

The Preliminary Proposals for the Cookstown Area Plan (CAP) were published in November 1997, the DRSF in December 1998 and the Draft CAP in November 1999. Preparation of the Plan was therefore ongoing in tandem with the DRSF and the time-scales would have enabled consistency with the emerging DRSF. The CAP does not, in the Commission's view, fall into the category of plans subsequent to the RSF referred to in paragraph 30 of Planning Policy Statement 1 -General Principles. While the RSF is not yet finalised, the draft document has been subject to examination in public and the Department has responded (April 2000) to the report of the independent panel which was published in February 2000. The Commission therefore concludes that the information available facilitates consistency between the CAP and the emerging RSF.

The DRSF postulates growth of 2,250 units (including 1,000 in Cookstown urban area) in the Cookstown District Council area 1996-2010. The Department, in its response in April 2000, accepted the need for 160,000 additional units to meet regional housing need 1998-2015 though how this would be distributed to individual areas was not indicated. The Draft CAP allows for approximately 4,885 units, 2,225 units in the Cookstown urban area and 2,660 units in the villages. There will also be further development in the rural areas outside designated settlements. There is therefore a significant disparity between the extent of housing land proposed in the Plan and that proposed in the DRSF. This disparity would be maintained even if account is taken of the upward revision of the DRSF figures in the final RSF. The Plan allocations represent levels of over zoning grossly in excess of the Departmental indication in respect of the DRSF that overzoning will be limited and normally 10%. There was no Departmental evidence to the Inquiry identifying particular characteristics of the Cookstown District Council Area such as would justify housing allocations and overzoning significantly in excess of the proposals in the emerging RSF.

The Commission therefore judges that this is a matter-which must be addressed by the Department before adoption of the Plan. Given the extent of the disparity and the purpose of development plans to inform the public and developer of proposals to guide development decisions, the future amendment of the CAP to ensure consistency with the final RSF is unrealistic and will only lead to uncertainty. The Commission endorses Commissioner Farrington's comments on the overgenerous limit for the rural settlements and notes the absence of objection on this issue. While this is essentially a matter to be addressed by the Department, a measure of consistency or general conformity with the RSF could be achieved, at least in the Cookstown urban area, by the Department

indicating that Phase 2 housing lands will not be developed within the time-scale of the Plan.

## **Objections relating to Cookstown**

### **Housing Cookstown Urban Area**

#### **Objections 001 and 004/127 seeking the transfer from Phase 2 to Phase 1 of lands south of Orritor Road, Cookstown (Section 5.07)**

The Commission rejects Commissioner Farrington's advice that the objection lands be rezoned housing-Phase 1. The Commission concludes that adequate land has been zoned for the predicted housing needs of Cookstown on the 70 hectares of Phase 1 housing lands. The Commission is not therefore persuaded of the need to release these lands immediately or that the absence of a public transport link between Tullagh Road and Orritor Road should be accorded determining weight.

The Commission recommends that the lands the subject of objections 001 and 004/127 remain as housing -Phase 2.

### **Industry/Mixed Business Use, Cookstown Urban Area**

The Commission accepts Commissioner Farrington's advice on **Objection 042** (Section 5.14) on **Objection 085** (Section 5.15) and on **Objection 021** (Section 5.17). The Commission's recommendations to the Department are in accordance with that advice. The Commission also accepts the advice on **Objection 010** (Section 5.16) and also endorses Commissioner Farrington's comments at paragraphs 5.16.10 to 5.16.13; Bland should only be included as Phase 2 housing. The 14 lands, extending to 4.9 hectares, adjoin the existing industrial complex at Unipork and would provide the opportunity for consolidation and for further industry/mixed business development.

The Commission rejects Commissioner Farrington's advice that the IS zoning be deleted (**Objections 047, 048 and 066**, Section 5.19). The Commission notes that these lands, extending to 6.12 hectares, adjoin existing industrial use and are topographically suitable for industry/mixed business use. The Commission is not persuaded by the evidence presented that development of 14 and IS lands, which adjoin an existing industrial use and together extend to 11.02 hectares, need be deferred pending implementation of Stage 2 of the EDR. In considering the objection to the IS zoning, the Commission does not therefore find the issue of visual amenity to be overriding. The Commission judges that development of both the 14 and IS lands for industry/mixed business uses would provide choice and flexibility on the eastern side of Cookstown.

The Commission therefore recommends that the industry/mixed business use zoning on IS be confined.

The Commission's recommendation on the objections to the IS lands is relevant to the conceding of objection 009 and 011 by the Department. The Commission therefore does not endorse Commissioner's Farrington's comments at paragraph 5.18.03 and makes no comment on this Departmental concession.

The Commission's recommendations on industry/mixed business zonings in Cookstown will result in a net loss of 11.25 hectares of zoned land resulting in an over-zoning figure of 25% approximately; though an increase on Commissioner Farrington's figure of 15%, this remains a substantial reduction in the 55% over-zoning figure postulated in the plan. Industrial mixed uses require relatively large sites and the Commission notes that zoned industrial lands to the east of Cookstown have remained undeveloped, notwithstanding their zoning since the East Tyrone Area Plan was adopted. The

Commission therefore shares Commissioner Farrington's concerns that the plan would not provide for a generous and continuous supply of land for employment uses as stated in Policy SPG 15 of the DRSF. The Commission

accordingly endorses Commissioner Farrington's advice that the Department review the plan and advises that this be carried out at an appropriate time to zone additional lands for industry/mixed business to address the shortfall.

### **Recreation/Open Space/LLP As, Cookstown Urban Area**

#### **Objection 083 to the inclusion of gardens at James Street within Local Landscape Policy Area 3 (Section 5.24)**

The Commission rejects the advice that LLPA 3 be confirmed. The Commission acknowledges the importance of existing vegetation within the rear areas of James Street, insofar as this is visible from public viewpoints but judges that a Tree Preservation Order would provide sufficient protection. Special protection for the listed building is available under Article 45 of the Order. The Commission is not persuaded that the imposition of a presumption against new development, an element of LLPA3, is justified.

The Commission recommends that LLPA 3 be deleted.

### **Objections relating to the Villages**

#### **Objection 057 to the failure to zone land for industrial or mixed business use beyond the proposed settlement limit for Ardboe (Section 6.13)**

The Commission rejects the advice that the extension of Ardboe Business Park to include the objection lands and land to the south west should be considered as part of a review of industrial land supply in the District. On the evidence presented the Commission is not persuaded of the necessity for a review of the extent of land zoned for industrial and mixed business use at Kinrush. Exceptionally within the Plan, land is identified for industrial and mixed business use at Kinrush within Ardboe village. The significant extension of this zoning, such as is suggested for consideration by Commissioner Farrington, would conflict with the planned strategy of promoting Cookstown as the key service centre.

The Commission recommends that the development limit at Kinrush, Ardboe be confirmed.

#### **Objection 097 to the exclusion of land at Ballinderry Bridge Road from the settlement limit of Ballinderry (Section 6.19)**

The Commission agrees that the objection lands north of Ballinderry Bridge Road should remain excluded from the settlement limits of Ballinderry but rejects the advice that lands to the south of Ballinderry Bridge Road should be included. Adequate land for development has been allocated within the settlement limit of Ballinderry. Inclusion of the lands as advised would represent ribbon development and would result in an unacceptable urban form for the settlement.

The Commission recommends that the development limit of Ballinderry at Ballinderry Bridge Road be confirmed.

*Maire Campbell .*

**MAIRE CAMPBELL**

Deputy Chief Commissioner

14 September 2001



**THE PLANNING (NORTHERN IRELAND) ORDER 1991  
ARTICLE 7**

**PUBLIC LOCAL INQUIRY  
INTO OBJECTIONS TO THE DRAFT COOKSTOWN AREA PLAN 2010**

**REPORT  
BY  
COMMISSIONER G R B FARRINGTON**

**PART I - REPORT**

**Departmental Reference: 2002\02**

**Inquiry Dates: 3 October to 13 December 2000**

**Date of**

**Report: 29 June 2001**



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## **1.0 INTRODUCTION**

- 1.1 By letter dated 9 March 2000 the Department of the Environment for Northern Ireland (DOE) informed the Planning Appeals Commission (PAC) that it had decided to cause a public local inquiry into relevant objections to the Draft Cookstown Area Plan 2010. It requested the Commission to undertake the Inquiry and to report its findings to the Department. On 30 March 2000 the Chief Commissioner appointed me to conduct the Inquiry and to report to the Commission thereafter.
- 1.2 The Inquiry commenced on Tuesday 3 October and continued for 18 days closing on Wednesday 13 December 2000.
- 1.3 Having visited all the sites and considered the oral and written submissions I now present my report and advice. A schedule of all objections received cross-referenced to the relevant sections of the report is provided at Appendix 6.



## 2.0 DEPARTMENTAL OPENING STATEMENT

**The Opening Statement provides an overview of the draft plan and outlines the purposes of the public inquiry. It is summarised as follows.**

- 2.1 The Plan has been prepared under Part III of the Planning (Northern Ireland) Order 1991 as a statutory development plan for the Cookstown District Council Area. It will provide the broad land use-planning framework through to 2010. A range of policies and proposals has been defined to guide development throughout the District in association with regional policy. The settlement limits and the specific land use zonings are intended to meet the anticipated development needs of the District over the plan period.
- 2.2 The Department published its notice of intention to prepare the plan in September 1995. Consultations were carried out with Cookstown District Council, community groups, government departments and agencies, statutory undertakers and other appropriate bodies. The Preliminary Proposals (CAPPP) were published in November 1997 and the representations received were taken into account in preparing the draft plan. The Draft Cookstown Area Plan 2010 (DCAP 2010) was published in November 1999. Following receipt of 130 objections within the statutory period the Department requested the Planning Appeals Commission to hold a public local inquiry. The receipt of these objections, the arrangements for their inspection and the causing of the Public Inquiry were advertised in the press in April 2000. No counter objections have been received.
- 2.3 The regional planning context for the Cookstown Area Plan 2010 (CAP 2010) is provided by the Department's publication "A Planning Strategy for Rural Northern Ireland" (PSRNI), a series of planning policy statements (PPSs), the transport policy statement "Moving Forward" and the Draft Regional Strategic Framework (DRSF). These documents have been prepared in accordance with the Department's statutory functions in Part II of the Order. The policies therein do not form part of the CAP 2010 and are not open to objection at the Inquiry.
- 2.4 The DRSF was published in December 1998. Its main functions include providing an overarching strategic framework for development plans and guiding public and private investment decisions relating to land use. The DRSF is a material consideration in the preparation of the draft plan. Its publication between preliminary proposals and the draft plan has necessitated a review of certain plan proposals and policies. This is in order to ensure that the plan reflects the DRSF as much as can reasonably be expected, bearing in mind that plan preparation was underway before the publication of the DRSF and the Department does

not wish to delay completion of the plan. Nevertheless the Department is committed to amending the Plan as appropriate to reflect applicable changes in the finalised Regional Strategic Framework (RSF) (DCAP 2010 page 8).

- 2.5 The DCAP 2010 consists of a written statement and associated maps, which were published on 5 November 1999. A Technical Supplement, a Countryside Assessment Supplement, an Environmental Appraisal Supplement, Settlement Appraisals and a Transportation Study accompany the draft plan. These documents provide background and technical information that has informed the policies and proposals contained in the draft plan.
- 2.6 The overall aim of the Plan is to provide a planning framework which facilitates the future growth and development of Cookstown District whilst protecting and, where appropriate, enhancing the natural and man made environment and ensuring that development is both sustainable and of high-quality. An underlying strategic objective is for *" the maintenance of compact urban forms that respect the individual character and identity of settlements, avoid urban sprawl and unnecessary ribboning and reduce the need for expansion into the countryside"*. The Plan Objectives and Plan Strategy are as set out on pages 10-11 of the Written Statement.
- 2.7 The Plan Strategy includes promoting Cookstown as a key service centre within Northern Ireland and strengthening its role as the principal administrative, trade, employment and residential centre within the District. It also includes concentrating large-scale land use zonings within Cookstown, using a sequential and phased approach, particularly for housing that gives priority to development within the existing urban area. Another element in the strategy is to sustain a living and working countryside whilst protecting from inappropriate development those areas that are vulnerable to development pressure or that are visually or environmentally sensitive.
- 2.8 Settlement limits have been defined for Cookstown and 23 villages. 148.2 hectares of land have been zoned for housing within Cookstown to be released in two phases. Phase 1 sites will be available for immediate development. Phase 2 sites will be held in a land bank and safeguarded for possible future residential development. The need to release phase 2 land either in part or in full will be the subject of a housing review in 2005. Housing developments within all the settlements are required to contribute to a quality and sustainable housing environment in line with the Quality Initiative introduced in January 1996 and the recently published guidance in Creating Places.

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- 2.9 Within Cookstown and at Ardboe Industrial Park, existing industrial and mixed business use areas have been identified for protection from the introduction of inappropriate non-conforming uses. In addition, a further 58.8 hectares of land has been zoned for industrial/mixed business use at a number of locations in Cookstown. A 12.4ha site has been identified for an Agri-Food Park at Loughry College. A town centre boundary has been defined to protect the vitality and viability of Cookstown Town Centre as a major shopping location.
- 2.10 Protection lines have been identified for the Cookstown Eastern Distributor Road (EDR) and A29 Moneymore by-pass. Roads Service will implement these schemes over the plan period as resources permit.
- 2.11 Existing recreation and open space areas within the settlements will be protected from redevelopment for other uses. In addition, a further 39.5 hectares have been zoned for future open space/recreational use in Cookstown and at Loughry College. In line with "Creating Places" new residential development is to be assessed against the need to provide areas of public open space as an integral part of the development proposal. Developers will be required to make provision for the future management and maintenance of such areas.
- 2.12 The draft plan contains a range of designations and policies to ensure that the natural and man-made environment throughout the district is respected and, where necessary, protected while allowing, where appropriate, opportunities for sympathetic development.
- 2.13 The existing Cookstown Green Belt and a portion of the Dungannon Green Belt in the south of Cookstown District are retained subject to minor amendments. Countryside Policy Areas (CPAs) have been designated in the Sperrins and the Lough Neagh shore to protect the amenity of these areas. An area within the town lands of Broughderg and Davagh Upper has been designated as a Dispersed Rural Community (DRC).
- 2.14 The Department considers that the draft plan provides a balanced response to the need for development and environmental protection within the plan period. The Inquiry is important in providing a forum for debate, discussions and clarification of objectors' concerns. The Department looks forward to receiving the report and recommendations of the Planning Appeals Commission and these will be carefully considered before the Cookstown Area Plan 2010 is formally adopted with or without modifications.

### **3.0 GENERAL OBJECTIONS**

- 3.01 **Objections alleging non-compliance with DRSF rural housing "targets" and inadequacy of the proposed release of housing land (Objections 016, 020, 036, 045, 046, 095, 096, 097, 098, 099, 103, and 107).**

#### **Department's case**

##### **Revised sewerage assessment**

- 3.01.01 In November 1999 based on the advice of Water Service the Settlement Appraisal stated that Cookstown Sewage Treatment Works (STW) was overloaded and an increase in the discharges was likely to affect water quality in the Ballinderry River. Pending the completion of the new sewage works it would be necessary for development opportunities to be restricted to existing commitments or limited by phasing. The Settlement Appraisal reported that in the villages the majority of STWs were overloaded or that capacity was non-existent or limited.
- 3.01.02 Water Service has reassessed the capacity of sewerage services to cope with development in the District. In Cookstown capital works funding for the new STW is available. When completed in 2003, not 2005 as might be inferred from the Plan (page 33), the improved sewerage system will be able to cope with both the Phase 1 and 2 releases of housing land. Pending completion of the STW Water Service is satisfied that the existing sewerage system has sufficient capacity in relation to overall demand (including non-residential development) for the equivalent of an additional 1500 dwelling units.
- 3.01.03 Having reassessed sewerage capacities on a performance-related basis Water Service is satisfied in general terms that the sewerage infrastructure will be able to cope with development in the villages over the plan period. In some instances developer contributions may be required. A new works has been completed in Ardboe and whilst it has only additional capacity for the equivalent of 230 population, the size of the works can be increased if necessary. Improvements to the works in Coagh, Moneymore, Stewartstown and The Rock are programmed to start during 2000/2001. Sandholes WWTW however remains massively overloaded. In the villages and rural areas there are no constraints on proposals to service individual dwellings using septic tanks.

##### **The RSF "targets"**

- 3.01.04 PPS 1 (paragraph 30) states that the RSF will provide the strategic context for the formulation of subsequent development plans. Pending

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final approval of the RSF the DRSF is a material consideration to be taken into account in the preparation of the CAP 2010 (PPS 1 (paragraph 50)). Given that plan preparation was well advanced prior to publication of the draft plan it was concluded that it would not be possible or desirable to adhere rigidly to the DRSF. However, it was decided that the plan should reflect the framework document as much as it could reasonably be expected to do so. This approach is endorsed in Briefing Paper 13 prepared by the RSF team to provide background information to the Examination in Public.

- 3.01.05 The Department for Regional Development (DRD) has accepted the estimate of the Report of the Independent Panel (RIP) that 160,000 additional dwellings will be required between the end of 1998 and 2015 to meet the regional housing need. It has also accepted the recommendation that as regards the distribution of this revised figure 82,000 dwellings should be allocated outside the Belfast Travel to Work Area and that allocation to each District Council area should be guided by evaluation of the Family of Settlement Reports. On these figures an additional 57,882 units would be required by 2010, the end date for the Cookstown Area Plan. Nobody yet knows how much of the 57,882 will be allocated to Cookstown. The overall housing allocation for Cookstown District is likely to be increased following consideration of the DRSF by the Northern Ireland Assembly. However, it is not possible to make changes to the area plan until a final figure is issued. There is a commitment in the draft CAP 2010 to amend the plan to reflect any revised figure (DCAP page 8). Any changes will be carried out as soon as practicable via the statutory development plan amendment procedures.
- 3.01.06 The Department has accepted the RIP recommendation that the distribution of growth between district towns and their hinterlands should be determined by Area Plans. The DRSF allocated 45% to Cookstown and 55% to the remainder of the District. This distribution could be used for any revised allocation.
- 3.01.07 The DRSF sets a housing "target" up to 2010 for Cookstown District of 2250 dwelling units, of which 1250 are to be located outside Cookstown. It is not accepted that any increase in the RSF "target" should result in a proportionate adjustment to settlement limits and the granting of more dwellings in the open countryside.
- 3.01.08 The proposed settlement limit for Cookstown is likely to accommodate any revised RSF "target" within the Phase 1 and Phase 2 zonings. In total some 148 hectares (2225 units) is available and the revised "target" can be accommodated by re-zoning all or part of the current Phase 2 land as Phase 1. The Plan allocates plenty of land compared

to the identified need and the building rate. If one were to assume a finalised RSF figure of 1400 dwellings and an average density of 15dpha the combined yield from the Phases 1 and 2 zonings still would represent 63% over zoning. Whereas DRD accepts the view of the Panel that limited over-zoning in settlements would not significantly threaten the objectives of the Strategy, it defines "limited over-zoning" as normally to be taken as 10% (RRIP 1.54).

- 3.01.09 The DRSF does not allocate "targets" for individual settlements in the countryside. Some 266 hectares of land have been identified within the 23 designated villages, sufficient for some 2660 units (at 10dph). Table 1 in **Appendix 3 DoE 1** shows the distribution of the undeveloped land. This table is based on the "Updated Village Undeveloped Land Areas" survey (UVULA) completed in September 2000. It does not include all the lands conceded at the Inquiry.
- 3.01.10 In addition some 65 units are approved annually in the open countryside. In total excluding Cookstown the potential district output over the RSF 15-year period is 3635 units [2660 + (65 x 15)], almost three times the current DRSF rural "target" of 1250 units.
- 3.01.11 In the villages the surplus of undeveloped land is likely to exceed any RSF rural allocation. In the open countryside, current rural regional planning policies will continue to apply. Whilst Green Belt and CPA policies are restrictive, they do not ban development. Given the opportunities in settlements, it is not anticipated that there will be any significant reduction in development potential across the District.
- 3.01.12 If the Department is required to amend the plan to take account of the finalised RSF "target" there are two mechanisms, (1) modification of the draft plan prior to its adoption and (2) alteration of the plan after adoption. Both would require consultation with agencies and the public and possibly a public inquiry depending on the level of objection. It is in no one's interest to put the plan on ice. In the meantime the phasing mechanism is not putting anything in jeopardy. Phase 1 of the Cookstown housing release will provide 1000 units. Since the average building rate is only 65/75 dwellings a year the phasing constraint will not stifle house building. Even with a 50% increase in the building rate Phase 1 still represents a 10-year supply.
- 3.01.13 Once the finalised RSF figure is known, the Department will take the first available opportunity to amend the Plan. There is no certainty that a revised figure will be delivered in the New Year. The process of adoption and subsequent adjustment could be the best option. In the meantime there will be annual monitoring of house building. The commitment to look at the Plan in the light of the final RSF figure is in addition to the proposed review in 2005. The Departmental view is that a revision of the Plan to accommodate a final RSF figure would

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require a statutory modification or alteration, rather than being addressed within the "four walls" of the current inquiry.

- 3.01.14 The Settlement Appraisal (3.4.5 & Map 25) has guided the distribution of housing in Cookstown. The estimated housing yield in the town is based on a figure of 15dpha. Map 13 indicates that existing densities can range from 9 to 47 houses per hectare, an average of 19dpha. Public housing densities are on average much higher than private housing schemes where densities range between 10 and 18 dwellings per ha. This would suggest that 15 houses per hectare, which is normal standard practice across the Province, is a reasonable basis on which to estimate housing land requirements in Cookstown (Settlement Appraisal paragraph. 3.9 on page 13).
- 3.01.15 The figure of 15dpha accommodates the requirements of Creating Places and allows for all the constraints identified by the objectors (see 3.02.33 below) including allowance for public open space and local shopping within housing, for steep slopes, separation from trees, soil conditions, etc. All the zoned land has been tested for feasibility of access, sewerage and flooding. Archaeological constraints will not affect overall density significantly.
- 3.01.16 There was no slope analysis of the proposed housing sites – just visual assessment. However, Planning Circular PC04/98 "Residential Development on Sloping Sites" indicates that up to 15dpha may be permissible on gradients up to 1 in 5. Hence, even if every site were of 1 in 5 gradient the yield would still approximate to 15dpha.
- 3.01.17 Based on an annual house building rate of 65-70 dwellings per year only 700 dwellings would be required by 2010 compared with the capacity of Phases 1 and 2 for 2200. If there were evidence that the required density is not being achieved this would be picked up at the 2005 review.
- 3.01.18 The Table 1 figure for undeveloped land in the villages (**Appendix 3**) does not take into account current availability of individual parcels of land. There has been no systematic assessment of building capacity of individual sites. It is accepted that due to contours, trees and sight lines some sites will be more difficult than others. However, this must be placed in the context that the limits are generous. If the rate of house building in the open countryside were to continue, only 250 dwellings would be required in the villages in order to satisfy the current RSF "target". Roads and Water Services have assessed all the land within the village limits. River Agency has assessed liability to flooding. The figure of 65 dwellings per year in the open countryside is based on an annual housing monitor during the period 1991-1995.

## **Objectors' arguments**

### **Revised sewerage assessment**

3.01.19 The Council welcomes Water Service's reassessment. However, the contrast with the unequivocal statements less than a year ago in the Draft Plan suggests a Damascus Road revelation. The assurances are light on detail. They should have been made in writing and should have been underpinned with specific evidence on each settlement.

### **The RSF "targets"**

- 3.01.20 In 1995 the District population was distributed as follows, 33% in Cookstown, and 66% in the villages and the open countryside. The new RSF working figure is 3200 (1400 in Cookstown and 1800 in the rural community. The important point here is that 44% of new housing in the district will be in Cookstown, with 56% located within the rural community.
- 3.01.21 The District Council is unconvinced that the stated capacity for development is available within a significant number of settlements. The figures quoted do not appear to be reflected in the settlement maps, especially when constraints are taken into account. The figures do not appear to be based upon realistic field survey. The plan provides for residential developments of varying maximum sizes - 5, 10 and 20 dwellings- but no rationale for these thresholds is offered.
- 3.01.22 The plan should identify how much of the RSF rural community housing "target" will be located in villages and the single dispersed rural community. It should then demonstrate on a village by village basis that sufficient serviced land capacity exists within the settlements to accommodate this development "target".
- 3.01.23 Sinn Fein considers that the Plan does not adequately deal with the reality of rural society. It does not provide a cohesive and structured plan for future housing, industry or social needs in the rural community. Even based on a figure of 1250 the land allocated for development around small villages and hamlets is limited. In many cases the development potential of settlements is dependent upon statutory undertakers providing sewerage, drainage, transport and other essential infrastructure. Restricting the allocation of development land will kill off the vibrancy of rural areas before it has a chance to prosper.
- 3.01.24 If the Loughshore CPA is confirmed it will force people from the Loughshore community to seek housing in Cookstown. Research in the distribution of population shows that regional towns are growing at a much faster rate than Belfast and that there has been a much slower



rate in the development of single dwellings in the countryside in recent years. It is accepted if the rate of 65 dwellings being approved annually in the open countryside were to continue the current RSF "target" would require only 275 dwellings to be built in the villages.

3.01.25 In the particular circumstances of Cookstown, where many ETAP housing sites have been carried through to the DCAP and where there is expert evidence that attempts to purchase housing land zoned in the ETAP have continually failed, land availability should be taken into account in determining the settlement limit. Examination of the zoned housing sites demonstrates that non-availability and access difficulties will dramatically reduce the land available. No road expert was involved in the access assessment.

3.01.26 Factors affecting the yield of housing generally throughout the town are as follows.

- Many sites contain physical constraints such as slopes, watercourses, raths etc. restricting density.
- Some zonings are dependant upon infrastructure such as the EDR that may not occur during the plan period.
- The requirement of 10% public open space within housing will reduce housing yield. There should be further additional open space to compensate for the loss of the ETAP amenity recreation zonings. The mixed amenity/sports development proposed at Loughry is outside the settlement limit.
- The requirement for a concept plan for the entire zoning requiring the agreement of all landowners may prevent the implementation of the zoning if the landowners cannot reach agreement or a landowner does not want to release his land for development. In these circumstances there could be difficulties resolving conflicts over the provision of open space.
- Alternative acceptable uses such as health and community facilities, light industry and local shopping will reduce the amount of housing land.
- Various sites have mature trees along their boundaries. The need to safeguard these trees and take account of the falling distance could sterilise significant areas of zoned housing land.
- In the interests of sustainability industry should be provided in the north west sector of the town. Some of the housing zoning should be reallocated for industry.

All these factors throw into question whether sufficient land has been zoned for housing over the plan period.

3.01.27 The Department must bear in mind the DRSF. This is not being challenged. The yield in dwellings combining the phases (2200) is more than twice the 1000 envisaged in the DRSF. However, the over

provision is cut dramatically if the requirement is revised to 1400 dwellings. It is acknowledged that the context of "a minimum of 40%" in paragraph 1.60 of the DRD response to the RIP is the Regional "target" for accommodating housing within existing urban areas. It is not a basis for anticipating a finalised RSF housing "target" for Cookstown. The Council's planning experts accept that assessed on the basis of the DRD 10% overzoning figure the allocations in the Plan are more than sufficient to meet any likely RSF requirement.

- 3.01.28 One objector contends that contrary to its strategic key settlement status housing supply for Cookstown is being unduly constrained in relation to the rest of the District. Adding the estimate of housing in the open countryside to the estimated yield of 2660 houses in villages over the plan period inflates the global figure outside Cookstown to 3600. The total for the town is 2200. The potential figure for the plan period is thus 5800 broken down 38% Cookstown and 62% the rest. In the Settlement Appraisal the Department estimates (7.1.1) that 52% of the population increase in the District will be in Cookstown itself. An allocation of 52% of the total dwellings to Cookstown would give a total requirement of 1900 houses requiring almost the full uptake of the Phase 1 and 2 lands. Insufficient housing land combined with the slow take-up of ETAP land and the constraints of phasing could lead to a leakage of population to the villages.
- 3.01.29 It is misleading for the Department to rely on the house building rate when in preparing its Technical Supplement it used population projections, household size, etc. The non-availability of land will have suppressed the rate of building. In order to exhaust a land supply of 148h (2200 dwellings) by 2010 there would have to be a phenomenal increase in the rate of house building but the argument remains that a lot of the proposed allocation is in the wrong location.

### **Consideration**

#### **Revised sewerage assessments**

- 3.01.30 In Cookstown the Water Service reassessment is that the existing STW now has sufficient spare capacity to cater for a further 1000 dwellings and the equivalent of an additional 500 dwellings in other serviced developments. This evidence coupled with the rate of building in recent years has convinced the Department that there is ample capacity within the unimproved sewerage system to cope with ongoing residential development in the town pending the completion of the new STW in 2003. The evidence of Water Service is that once operational the improved sewerage system will have the capacity to cope with the entire yield of Phases 1 and 2 of the allocated housing land. Water Service is now satisfied also (with the specifically identified exception of Sandholes) that generally the sewerage infrastructure in the villages

will be able to cope with development in the villages over the plan period.

- 3.01.31 The District Council has greeted the revised assessments with a somewhat sceptical welcome. Given the unambiguous terms of the original assessments I share the Council's concern that the reassurances now offered are light on detail. Nevertheless in the context of the unchallenged evidence provided by Water Service at the inquiry I conclude that these assurances should be accepted at face value.

### **The RSF "targets"**

- 3.01.32 Whilst the term "Housing Target" was generally adhered to by both the Department and the Objectors, it is worth pointing out that the DRD has accepted the recommendation of the Panel that the term "Housing Growth Indicator" (HGI) should be used instead in the Strategy.

### The procedural implications of the Regional Strategy Framework for the Cookstown Area Plan

- 3.01.33 According to PPS 1 (paragraph 30) the RSF will provide the strategic context for the *formulation of subsequent* development plans. Given that preparation of the Cookstown Area Plan has run in parallel with the emergence of the DRSF it is sensible that the plan should only seek to reflect the framework document as much as is practicable, rather than adhere rigidly to the DRSF. The commitment to amend the plan using the statutory procedures should help convergence with the overarching regional HGIs. In this context DRD's statement (RRIP 1.47) that the final Strategy will indicate a commitment to review housing projections and to adjust the HGIs at 5-year intervals is significant and is to be welcomed. Hopefully, the review of the Plan in 2005 would be undertaken in the knowledge of the adjusted 5-year HGI. Similarly, there would be advantage if adjustment in the HGI could be made with hindsight of the actual performance of house building in the District during the intervening post-adoption period. The review would also have the benefit of more up-to-date demographic data from the 2001 Census.
- 3.01.34 At this time (June 2001) the Assembly has not yet approved the finalised RSF. If the RSF is approved prior to the adoption of the Plan, the Department may propose modifications to the Plan under Article 8 of the Planning (NI) Order 1991. If objections are received to the proposed modifications it could decide to cause a further public local inquiry. In the event that the RSF is not finalised until after the adoption of the Plan the Department could seek to process the proposed changes to the plan through a statutory alteration under Articles 4-8 of the Planning Order.

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Adequacy and distribution of housing land during the plan period

- 3.01.35 In December 1998 the DRSF set a housing "target" up to 2010 for Cookstown District of 2250 dwellings, of which 1000 were to be located in Cookstown. All the parties are agreed that the finalised HGI for Cookstown District will be significantly increased compared with the "housing targets" indicated in the DRSF. However, as emphasised by the Department nobody yet knows exactly how much of the additional housing will be allocated to Cookstown District in the finalised RSF. Various suppositions were made at the Inquiry. The District Council postulated figures for the finalised allocation of 1400 for Cookstown and 1800 for the remainder of the District, a 40% and 44% increase respectively on the DRSF figures. The Council's expert witness accepted that the 40 % figure on which these extrapolations are broadly based was erroneously derived from the EIP debate on the proportion of new housing in existing urban areas. It is worthy of note, however, that during the public examination the Department itself used a figure of 40% in revising the district housing allocations in the light of increased population projections (RIP 7.40). Moreover, the DRSF "target" + 40% is a much closer match to the supporting data in the Technical Supplement upon which the Plan proposals are based. All in all, this bears out the sense of the Department's approach in avoiding slavish adherence to the DRSF.
- 3.01.36 Rather than being "imposed" as a regional HGI, the calculation in the Technical Supplement of the additional housing stock required in Cookstown District was based on an assessment of household population, trends in mean household size, vacancy, replacement of unfit dwellings and involuntary sharing. Taking into account these factors and housing already in the pipeline it was concluded that over the 15-year period 1996-2010 in Cookstown 1610 new dwellings would be needed, 520 in the main villages and 1530 in the "rural remainder". (See Technical Supplement 4.32-4.37 reproduced in Appendix 4) Should the finalised strategic HGI fall well short of the housing need estimated in the Technical Supplement there is likely to be considerable tension between the regional strategy and local housing needs. I will return to this matter shortly (see 3.01.44 below).
- 3.01.37 The District Council has contrasted the proportion of new housing envisaged in Cookstown with that in the rest of the District and compares this distribution with the distribution of the population in 1995. Sinn Fein argues that the rural settlement limits are too tight and will stifle rural vibrancy. Initial concerns regarding the adequacy of rural sewerage services have been addressed by the assurances provided by Water Service. Even if the reality of the sewerage situation is less than has been assured it was accepted that if the rate of dwellings being approved annually in the countryside continues the

current HGI would require less than 300 dwellings to be built in the villages. Based on the 2050 dwellings envisaged by the Technical Supplement in the "main villages and the rural remainder" the requirement within the rural settlement limits increases to a total of 1075. This figure is still well below half of the DoE's estimate of the capacity of the 266ha of undeveloped land in the 23 villages (2660 @ 10dpha).

- 3.01.38 The actual capacity in the villages may be less than this broad brush estimate. Also the rate of approval of dwellings in the open countryside may have slowed since 1991-1995 as a consequence of the more stringent requirements for integration contained in the 1993 Rural Strategy. Even so I discern little evidence that the rural settlement limits are drawn too tightly. Rather it seems to me that the reverse is the case. In the context of such generous limits I am not persuaded of the necessity for a systematic assessment of the capacity of specific settlements to accommodate either the current HGI or the more onerous requirement indicated in the Technical Supplement.
- 3.01.39 Some objectors on the other hand argue that insufficient land has been earmarked for housing in Cookstown and that the ratio of urban to rural housing development is weighed too much in favour of the rural area. The estimated yield from the 148.2ha zoned in Phases 1 and 2 (2225 dwellings) represents a 122% over-zoning relative to the land requirements of the current HGI (1000) and a 38% over-zoning above the yield identified as required by the Technical Supplement (1610). Clearly, either level of over-zoning is well above the 10% favoured in current strategic thinking in the emerging RSF. The acceptance by the Council's planning expert that applying the DRD's 10% over-zoning yardstick the allocations in the Plan are more than sufficient to meet any likely RSF requirement is clearly worthy of note.
- 3.01.40 I do not accept the validity of the figure of 1900 dwellings derived from apportioning the need for new dwellings simply according to the split in the increase in population over the plan period between Cookstown and the rest of the District. The method for estimating the additional housing stock required during the plan period followed in the Technical Supplement (4.10-4.28) is far more logical than seeking to correlate the need for dwellings directly and solely with population increase. The latter approach fails to take into account the additional housing needs arising from the existing population due to the decline in mean household size. Since more than half of the existing population live in the villages and rural remainder the majority of additional housing required due to new household formation will occur outside Cookstown.
- 3.01.41 The 44:56 ratio for housing growth is common to both the DRSF "target" and the draft Plan. I am satisfied that the identified housing need distributed in the ratio 44:56 between Cookstown and the rest of

the district is soundly based on well established methodology and sits more than comfortably within the planned allocation of development opportunities for housing in Cookstown and its rural hinterland

3.01.42 All in all, therefore, I have not been persuaded by arguments that the distribution of the identified need for housing between Cookstown and the rural area unduly favours the rural area. Conversely, I discern no grounds for accepting that the reverse is the case.

3.01.43 Even allowing for the possibility that the average density in Cookstown may be less than estimated and that constraints on land availability may have suppressed the land supply artificially, I am not persuaded that insufficient land has been zoned for housing. Given the generosity of the over-zoning it seems to me that, there is more than adequate allocated land to cope with any likely contingency. In any case annual monitoring coupled with the commitment to review the plan in the light of the final RSF figure should ensure an adequate supply of housing land in the town during the plan period.

3.01.44 Finally I must return to the discrepancy between the DRSF and the estimated housing requirement derived from detailed local analysis in the Technical Supplement. In my opinion little credibility will be gained at a regional strategic level through the arbitrary "imposition" of housing growth indicators that bear no relation to the actual dynamics of housing need in the specific settlements on the ground. Despite its provenance in parallel with the emerging RSF, this particular Plan is sufficiently flexible to cope with a range of housing growth. Therefore it is most unlikely that it will be a source of artificial constraint in meeting genuine local housing need.

### ***Advice***

3.01.45 I advise the Commission to recommend to the Department as follows

- (1) The objections alleging that insufficient land has been allocated to meet the needs of the District during the plan period have not been substantiated.
- (2) The objections criticising the distribution of housing land between Cookstown and the rest of the District have not been sustained.

### **3.02 Objections to the phasing of housing allocations and their distribution in the context of the religious geography of Cookstown (Objections 001, 004, 032, 043, 020, 046, 098, 099, 121, 125, 131 and 132)**

#### **Department's case**

- 3.02.01 The settlement limit and proposed zonings for Cookstown are derived from the Countryside Assessment carried out as part of plan preparation as required by PSRNI policy DES 1. The future expansion of Cookstown must be sustainable, balancing the pressures for growth against environmental, economic and social considerations and the need to integrate land use change and transportation. The oval shape of the urban area is a reasonably sustainable settlement form and account has also been taken of the District Council's request that the plan should avoid further elongation of the town on a north/south axis.
- 3.02.02 **PAC Map 1** shows the ETAP settlement limit in relation to the main constraints affecting future expansion. Land to the east of Cookstown is severely constrained by topography, the Killymoon demesne, archaeological interest, the sewage works and the partial implementation of the EDR. The area to the south-west of the town is next to the industrial quarter. Separation from residential uses, topography and accessibility renders it ideal for industry. Proximity to industrial uses makes it less suitable for housing. The other areas are more suitable for housing because of their proximity to the town centre.

#### Phasing

- 3.02.03 A total of 148.2 hectares has been zoned for housing within Cookstown to be released in two phases to comply with the DRSF. In phasing the housing allocations a sequential approach has been adopted taking into account the following factors.
- ◆ Previous land zoning as contained within the ETAP 1980.
  - ◆ Availability of infrastructure including problems associated with the existing STW and the construction of the EDR.
  - ◆ Distance from the town centre.
  - ◆ Access to public open space, schools, local shops and services.
  - ◆ Existing urban form.
- 3.02.04 Priority is also given to achieving the DRSF "target" of 40% of the housing to be within existing urban areas. 31% of Phase 1 land is within the existing urban fabric. This includes the former ETAP amenity zonings agreed with the Council to be surplus to open space requirements (H8, H10, H11, H12 and H14). A higher percentage has not been possible due to the lack of available land for commercial development in the town centre and the absence of significant "brown field" sites in Cookstown.
- 3.02.05 A major thrust of the DRSF is to promote more sustainable patterns of development based on integration with transport, compact urban form,

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more housing within the existing urban area and the wise and sensitive use of the rural environment. This is to be accomplished by the phased release of housing land. The RIP supports a phased approach to land release.

- 3.02.06 The provision of an unfettered ten-year supply could undermine the town's urban housing drive and adversely impact on the balanced spread of development. In order to introduce a phased release 69.6 hectares has been zoned as Phase 1 land. This will provide some 1040 houses assuming a density of 15 dwellings per hectare.
- 3.02.07 Phasing is necessary and there is sufficient land allocated within Phase 1 to meet the "target" set by the DSRF. There will be no constraint on the town's development as the land needed to accommodate the 1000 dwellings is immediately available. When considered against a current building rate of 70 dwellings per year sufficient land is available to accommodate this figure.
- 3.02.08 Pending completion of the new STW residential development will be constrained to a maximum of 1000 units. However if development continues at a rate of 70 dwellings per year the new works will be available well before any constraint takes effect.
- 3.02.09 Virtually all of the Phase 1 housing allocation is land within the ETAP settlement limit. Of this some 42ha is housing land zoned in the ETAP that has not been taken up. The remainder is white land or land allocated for amenity/recreation use in the ETAP that is now surplus to requirements. The zoning of such land is in accord with the plan objectives for sustainability, development of existing urban areas and avoiding urban sprawl. It is justifiable to include the areas zoned in the ETAP for amenity/recreation and "white land" in calculating the 40% of housing accommodated within the existing urban area.
- 3.02.10 The fact that land zoned for housing in the ETAP has remained undeveloped for more than a quarter of a century does not mean that it will not be developed in the coming years. The ETAP was particularly generous in zoning 131ha to meet the estimated 80ha land requirement for housing. This amount of flexibility and choice could explain the current large surplus of undeveloped-zoned land. Phasing could increase the development value of Phase 1 land increasing the prospects of its release. If the ETAP housing sites were to remain undeveloped this would affect some two thirds of the Phase 1 allocation. However, the annual monitor would show up if there were a threat to the RSF housing "target".
- 3.02.11 Land ownership/availability cannot be considered as the determining factor in zoning land for development. Ownership and the propensity to sell (subject to price and other factors) can change over time. The



"unavailable" areas identified by Mr Henry **(125)** only account for 20% of the Phase 1 lands.

- 3.02.12 The DRSF "target" of 1000 dwellings spanned the period 1996-2010. When calculating the Phase 1 allocation it would have been possible based on the 70 dwellings per year average building rate to subtract 210 units from the 1000 total to cover the 1996-1998 period. The Department took the more flexible approach of considering those dwellings already built on Phase 1 sites as representing the first 3 years of the DRSF supply. The inclusion of some land within Phase 1 on which 60 dwellings are already built or under construction on the sites H02, H13 and H19 in order to extrapolate a 1999-2010 RSF requirement has far less impact than reducing the "target" figure by 210 units.
- 3.02.13 During the plan period the Department will apply Plan Monitor and Manage (PMM) techniques in assessing the performance of the plan. There is no dedicated funding for PMM but an annual housing monitor is already in place. The Department has accepted the recommendation of the EIP Panel that PMM should be the subject of consultation with developers and other interests and will take this forward in drawing up the Regional Planning Policy Statement on "Housing in Settlements" (Response to PIR p. 35). To this extent there may be a question mark as to the implementation of PMM.
- 3.02.14 If the Loughshore CPA produced a significant housing demand in Cookstown this would show up in the annual housing monitor. However, it is more likely that demand in the Loughshore will locate in the rural area.
- 3.02.15 Draft PPS 7 introduces a requirement for Concept Master Plans for major schemes of around 300 dwellings. If adjoining Phase 1 and 2 sites combined would yield a total development of over 300 dwellings the Department would not insist on a concept master plan beyond Phase 1.
- 3.02.16 Economies of scale are a factor in the provision of open space in residential neighbourhoods and it could be that open space serving a combined Phase 1 and 2 area of development might not be guaranteed in the plan period. However, each Phase is self-sufficient in open space. Cookstown is small in comparison with major towns but linkages are essential. Therefore footpath and cycleway links are important. The sequential approach aimed at ensuring urban expansion evenly from the centre was a factor in the selection of Phase 1 land. Another consideration that had to be put into the balance was the advantage of scale for comprehensive planning and the provision of advance infrastructure.

3.02.17 If insufficient Phase 1 land were being released it might be necessary to advance the review earlier than 2005. The annual monitor would afford an opportunity to react if necessary.

Housing distribution and religious geography

3.02.18 Religious geography is obviously a sensitive and emotive issue in Northern Ireland. The impact of land use zonings on community balance can be a material planning consideration. The DRSF (page 10/11) states that land designation must respect the sensitivities of the divided community and should seek to contribute to the healing of community divisions. In accordance with the PAFT guidelines, the Department takes into account any potential differential impacts on particular groups in society (PPS 1). In producing its Strategic Environmental Appraisal the Department has assessed each of the proposed policies (though not specific sites) against an approved checklist of considerations, including "social equity" - which incorporates PAFT.

3.02.19 Whilst necessarily a simplification, an assumption may be made that the north of Cookstown is predominantly "Protestant/Unionist", while the south of the town is mainly "Catholic/Nationalist". In reality, many of the housing areas are reasonably mixed or neutral and there are localised groupings of the traditions throughout the town. A high proportion of the Phase 1 housing allocation in the north of the town is close to a large public sector housing estate. This is an area where there is no integration and Catholics do not favour it.

3.02.20 The correction of any imbalance in the allocation of housing land in relation to religious geography is just one of a number of factors to be taken into account in zoning land. Where there are otherwise compelling planning reasons for the zoning of certain lands the "religious" issue is a secondary consideration. It is not possible to achieve perfect arithmetic equity in the area zoned for housing between one part of the town and another.

3.02.21 Assuming a north/south division of the town based on a line corresponding to Orritor Street/Coagh Street housing land is distributed as follows.

<b>Area of Town</b>	<b>Phase 1 (ha)</b>	<b>Phase 2 (ha)</b>
North	45.09	42.19
South	24.48	36.39
<b>Total</b>	<b>69.6</b>	<b>78.6</b>
<b>% Allocation north / south</b>	<b>65:35</b>	<b>54:46</b>

- 3.02.22 Notwithstanding the 65/35 north and south ratio in the distribution of Phase 1 housing land, the Department takes the view that there is sufficient land in the first five years to cater for the needs of both sections of the community. Even if there were a shortage, this of itself could be a "driver" for mixed communities, which would accord with the RSF aim of healing divisions. Even if there is indirect discrimination in relation to Article 14 of the European Convention on Human Rights, which is denied, it can be justified.
- 3.02.23 Assuming a density of 15 per ha the 24ha allocated in the south of the town in Phase 1 would yield 300 units. Sites H12-13 and H15-17 are more than capable of being developed at 15 dwellings per ha. The review in 2005 can be used to correct any imbalances.
- 3.02.24 Overall, it is the Department's view that the allocation of zoned housing land in Cookstown strikes a balance between competing constraints and opportunities in the town as a whole. The DCAP provides a reasonable spread of house zonings around Cookstown, sufficient to provide a variety of choices of housing location for all sections of the community.

### **Objectors' case**

#### Phasing

- 3.02.25 Only some 45 hectares of additional land has been designated for housing overall. 90% of that is included in Phase 2. There is too heavy a reliance on lands zoned in the ETAP for the Phase 1 commitment. Apart from parts of H17 and H02, comprising less than 3 hectares in total, all the land included in Phase 1 lies within the ETAP development limit. Some 40 ha out of the total 69.6ha Phase 1 allocation were previously zoned. It is likely that much of the land in Phase 1 will remain undeveloped during the new plan period as it has done during that of the ETAP. Zoning 90% of the new land in Phase 2 will constrain the development options. The result will be stagnation for 5 years. Considerable numbers of dwellings within Phase 1 that have already been completed should be excluded from the calculation.
- 3.02.26 The phased release mechanism will have the effect of distorting the market, especially where access to Phase 2 land is dependent on Phase 1 land being developed. Phasing will prevent economies of scale being realised through the comprehensive development of adjacent Phase 1 and Phase 2 allocations.
- 3.02.27 An alternative to phasing could be simply to approve the first 1000 houses or whatever is the current ceiling for sewerage capacity. Developments would have to be tested for sequencing and integration. For example H27 could be approved as an extension to development

already underway at H19. Where co-operation already exists between landowners then these areas should be allowed to be developed in Phase 1 as long as it does not lead to isolated pockets of housing.

- 3.02.28 The Council proposes that the two phases should be substituted by a single phase. This is because of the ETAP "hangover", the uncertainty introduced by the RSF revisions and the lack of means for the Department to ensure compliance. If a single phase were introduced monitoring and management could take place on an annual basis. This would also facilitate sensitivity to the religious geography of the town. The single phase would also allow the north-south axis of the town to be more actively moderated by adopting sites to the east and west of the town.
- 3.02.29 Sequential growth is a laudable ambition. However, this is a rural area where farmers have a sentimental attachment to their land. If farmland is not released for development this will prevent the development of any lands further out.
- 3.02.30 The assurance that the Department will review the housing allocation in Cookstown prior to 2005 should the RSF dictate is welcomed by the Council and gives it comfort regarding the phasing concept. However, the review should also take into account the rate of release of the ETAP lands, progress with the WWTW and EDR and the location of development in the context of the religious geography in the town. Without phasing there would be nothing to stop developers cherry picking the easiest sites. In PMM the capacity to manage the housing allocation is a product of the phasing mechanism. Faced with a choice of phasing or cutting a swathe out of the housing allocation the Council would not be in favour of the latter. It is accepted that the phasing mechanism provides a means by which the dictates of DRSF can be achieved.
- 3.02.31 Mr U Henry (**125**) is concerned that given the amount of land that will not be available in the next 5 years insufficient land has been zoned in Phase 1. H01, H03, H04 (part) and H06 are unlikely to be released due to the owners' reluctance to sell. Development is already in progress at H02 (part), H08, H19 and H13. H09 will only be partially developed due to a disagreement between landowners.

#### Housing distribution and religious geography

- 3.02.32 Objectors, including the Council and Sinn Fein, are concerned regarding the distribution of zoned housing land in Cookstown and they urge that more provision should be made in the south and south-west of the town. The Council considers that the phasing mechanism and distribution of zoned land for Cookstown should be reviewed having

regard to land ownership and availability, the realities of religious geography and feasibility considerations for developers. Too much reliance has been placed on lands previously zoned in the ETAP. The disparity between the Phase 1 housing allocation in the north of the town compared with that in the south will inevitably entail the Catholic community "getting less land and later". The inequality in the distribution of housing land will contravene Article 14 of the European Convention on Human Rights in having a differential impact on the Catholic population in Cookstown.

3.02.33 Sinn Fein identifies a line from Orritor Street through the town centre towards Coagh Street as approximating to the recognised community divide. The table at 3.02.21 demonstrates the disparity in the distribution of housing in the north and south of the town. Furthermore, the Phase 1 housing sites H12-H17 in the southern section all have constraints and problems.

- H12: affected by steep slopes;
- H13 and H14: affected by steep slopes and the need to safeguard archaeological remains;
- H15: affected by the presence of two dwellings and out houses;
- H16: affected by an electricity sub-station and dependant on road improvements beyond the site; and
- H17: dependent on road improvements beyond the site.

Proper consideration has not been given to these constraints. The Department has relied on assumed yields without examining each site in finer detail.

3.02.34 There is little demand for the large zoned areas in the north of the town or else owners are unwilling to release the land. The Technical Supplement (4.33) highlights the amount of undeveloped-zoned land where no permission has yet been sought. It also acknowledges that one of the "principle considerations" in environmental appraisal of potential housing land is "locational factors associated with demand and supply of housing provision"(4.39). Yet this principle has been ignored in zoning the housing allocations. Whilst it is not the role of objectors to suggest the de-zoning of land, the question should have been addressed in the Plan.

### **Consideration and Advice**

#### **Phasing**

3.02.35 A key element in the Government's strategy for sustainability is the enhanced importance now given to achieving compact urban forms. The overzoning in the Plan is strikingly at variance with this cardinal

principle. It is also clearly out of kilter with the emerging RSF 10% guideline. However, whilst one objector (**103**) criticised the Plan for not considering deleting ETAP zoned land that remains undeveloped, no objector has objected directly to any of the proposed zonings. Also, there was a general view shared by Department, the Council and other parties that it is in nobody's interests that the plan should be put on ice. Faced with a choice of phasing or cutting a swathe out of the housing allocation the Council prefers the phasing concept. It is accepted that the phasing mechanism provides a means by which the dictates of DRSF can be achieved and that it helps to prevent developers cherry picking the easiest sites. In this evidential context in which the over-zoning has not been challenged it is clear to me that the phasing proposed is a vital component in the plan. In the absence of such a control mechanism there would be no means of preventing a diffuse pattern of development in conflict with the strategy for sustainable urban form.

- 3.02.36 The RRIP considers sequential phasing of land through the application of the Plan Monitor and Manage mechanism to be a more efficient method of control than sequential testing of individual planning applications. The Panel's endorsement of the phasing mechanism was made in the context of its preference for 15-year plan periods. Whether it should also apply to a comparatively small town such as Cookstown over what is effectively a 10-year period may be arguable. However, the issue of phasing has also to be considered in the context of the Plan's provenance in parallel with the emerging Regional Strategy. Nobody yet knows the finalised HGI for Cookstown and in these particular circumstances in combination with PMM the phasing concept will provide both control and the necessary flexibility for convergence with regional strategy.
- 3.02.37 I do not accept that the heavy reliance on lands zoned in the ETAP for Phase 1 is misplaced. For the most part this land lies close into the existing urban area. Therefore the achievement of compact urban form necessitates its inclusion. The fact that the land has remained undeveloped for so long may be due to the attitude of the owner or, as postulated by the Department, it could simply be because of the over generous zoning of the ETAP. The tension induced by phasing should increase its value and this in turn could influence unwilling owners into releasing their land. Furthermore, much of it lies within notches in the urban edge where development would accord with sustainable urban form.
- 3.02.38 I do not accept that the dwellings already built or under construction on the sites within Phase 1 should be excluded from the calculation. The inclusion of land within Phase 1 on which 60 or so dwellings have been constructed has less impact in extrapolating a 1999-2010 RSF

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requirement from the DRSF 1996-2010 figure than reducing the HGI by three times the annual house building rate.

- 3.02.39 Phasing will inevitably reduce the potential for economies of scale through comprehensive development of adjacent Phase 1 and Phase 2 allocations. There will be less scope for cost sharing of infrastructure. The comprehensive planning of open space and linkages, whilst practicable within the framework of plan policy HOUS 2, is likely to be more difficult. However, on balance I am satisfied that these factors are outweighed by the desirability of achieving sequential development and compact urban form.
- 3.02.40 The Department indicated that, where adjoining Phase 1 and Phase 2 sites would combine to yield major residential development in excess of the threshold in Draft PPS 7 policy QD 3, it would not insist on a concept master plan. This I find surprising given the importance accorded to comprehensive planning in PPS 7 and "Creating Places". In this plan the only development likely to exceed the QD3 threshold would be sites H18:H19/H27:H28. Nevertheless, the absence of a concept plan to ensure an integrated pattern of development for such a major development gives me considerable concern.
- 3.02.41 All in all, however, I find the phasing concept in the plan worthy of support.

#### Housing distribution and religious geography

- 3.02.42 I acknowledge that there is a disparity between the housing allocation in the south compared with that in the north of the town, particularly in Phase 1. The uneven distribution, however, has to be set in the context of the overall generosity of the over-zoning of residential land in Phases 1 and 2.
- 3.02.43 The general perception is that the north of the town tends to be Protestant and Unionist and that the south is Catholic and Nationalist. However, I note that there is little or no demographic evidence demonstrating the degree to which the perception reflects the reality. Moreover, there is some evidence to suggest that new developments in the west of the town are attracting homebuyers from both sides of the community. It is significant therefore that this is the sector of the town with the largest allocation of zoned land. Also, I have some sympathy for the Department's argument that even if there were some constraint in the south of the town this could serve to encourage further mixing of the communities in the west.
- 3.02.44 In any case, I am not persuaded that any constraint that there might be in relation to the allocations in the south is sufficiently significant to

warrant an adjustment in the amount of land zoned in the south. Between them the Phase 1 sites H10-17 comprise some 24ha. Even if these sites are incapable of accommodating densities of 15dpha for various reasons aired at the hearing it is unlikely that they would be exhausted prior to the review in 2005. If it were considered necessary the review could trigger the advancement of H24 into Phase 1 and this would release a further 17ha of housing land. Once the access difficulties are overcome H23 would contribute a further 9ha. This should be more than adequate to meet any housing need in the southern sector of the town through to the end of the plan period.

3.02.45 All in all I have not discerned any convincing evidence that sustains the allegation that the distribution and phasing of the housing allocations in the plan discriminate against the Catholic population of Cookstown. Likewise, I do not accept that there is any infringement of Article 14 of the Convention on Human Rights.

### ***Advice***

3.02.46 I advise the Commission to recommend to the Department as follows

- (1) The phasing concept proposed in the Draft Plan is an essential controlling mechanism in meeting the requirements of the emerging Regional Strategy and a vital component in the drive towards compact urban form.
- (2) The objections to the distribution of housing land in Cookstown on grounds of religious discrimination against the Catholic and Nationalist population have not been sustained.

**3.03 Various general objections by Ardboe Community Group, Coyle's Cottage Women's Group, the Cottage Walking Club and Conservation Group, Kinturk Cultural Association, Moortown Community Development Group and Muintirevlin Historical Association Supported by Cookstown and Western Shores Area Network (Objections 035, 050, 104 and 120).**

### **Outline of objections**

1. Reliance of the Plan on the Planning Strategy for Rural Northern Ireland (PSRNI).
2. Failure of the Plan to complement the Draft Regional Strategic Framework (DRSF).
3. Failure of the Plan to adequately reflect the Rural Development Programme (RDP) 1994-1999 or the overall aim of the Rural Development Programme 2000-2006.

### **Reliance of the Plan on the PSRNI**



### **For the Objectors**

- 3.03.01 The Community Groups object to the Department's attempt to formalise the PSRNI as an integral part of the Draft Plan despite the provisions of policy SP 1 which allows interpretation of regional planning policies at a local level and the setting out of district policies and proposals. This commitment is ignored in that the PSRNI is seen as remaining in force in respect of those topics not covered by the PPSs.
- 3.03.02 The Fermanagh Area Plan Inquiry held 5 years ago prior to the NI Affairs Committee reported on rural planning in Northern Ireland has no relevance to current issues in Cookstown District. The attempt to foist the PSRNI onto local people without any examination is unacceptable.

### **For the Department**

- 3.03.03 As established at the Public Inquiry into the draft Fermanagh Area Plan in 1995 the PSRNI was prepared under Part II of the Planning (NI) Order 1991 and is an expression of government policy that cannot be challenged through objections to an Area Plan.
- 3.03.04 Policy SP 1 of the PSRNI has been replaced by paragraphs 35-42 of PPS 1. The Department carried out a sustainability-led Strategic Environmental Appraisal (SEA) of plan policies to ensure, inter alia, that each Plan policy complies with current government policies.

### **Consideration**

- 3.03.05 The Planning Strategy for Rural Northern Ireland and the Planning Policy Statements that are replacing it are formulated under Article 3 and their statutory authority stems from Part II of the Order. They are expressions of Government policy for securing the orderly and consistent development of land and for its planning. The documents are therefore an essential point of reference in the preparation of an Area Plan. The Courts have held that such policies are immune from challenge at inquiries into development plans held under Part III of the Order. It follows that the objection must fail having regard to statutory authority and practical planning practice.

### **Failure of the Plan to complement the DRSF by failing to reflect strategic planning guidelines SPG 8, 9, 18 and 19 encouraging economic development and diversification in the rural community.**

### **For the objectors**

- 3.03.06 The plan is unduly weighed towards environmental constraints.
- 3.03.07 There are no policies underpinning the strategies relating to the role of local rural centres or aimed at sustaining a living and working countryside. It also fails to incorporate PSRNI policies such as those for economic diversification and flexibility for small rural projects. The Plan could have included a commitment to rural development.

### **For the Department**

- 3.03.08 Subject to achieving a sustainable balance between development and conservation of the environment, the Department is satisfied that the Plan is at one with SPG 8, 9, 18 and 19. The SEA specifically tested the compliance of the plan proposals with RSF.

### **Consideration**

- 3.03.09 The draft plan strategy includes maintaining and consolidating the role of the District's villages as local service centres and sustaining a living and working countryside. There are no specific policies addressing the implementation of these strategies. However, the plan strategy itself is a significant material factor that will carry weight in land use decision making during the plan period. There is also ample cross reference in the plan to regional planning policies in the DRSF, PPSs and PSRNI which contain policies that serve to encourage economic development and diversification in the rural community. Duplication is to be avoided and over elaboration could lead to disorderly and inconsistent decisions across the region. Moreover, the plan increases the number of designated villages from four to twenty three and delineates generous settlement limits. Considering these factors in the round I am not persuaded that on this issue the plan fails to complement the emerging RSF.

### **Failure of the Plan to adequately reflect the Rural Development Programme 1994–1999 or the overall aim of the Rural Development Programme 2000–2006**

### **For the Objectors**

- 3.03.10 The Draft Plan does not adequately reflect the government's imperatives for Rural Northern Ireland as outlined in its RDP 1994-1999. It fails to respond to or reflect local community generated plans and projects; the Loughshore Area Based Strategy and the Cookstown LEADER II Strategy; local levels of rural housing unfitness; and the NIHE's rural housing review *Places for People*.
- 3.03.11 The Plan does not reflect the overall aim of the RPD 2000-2006 of promoting comprehensive and integrated action towards the

sustainable and equitable development of disadvantaged rural areas. Consequently it fails to contribute to the economic, environmental, social and cultural well being of the rural community.

### **For the Department**

- 3.03.12 The Department recognises the importance of strategic initiatives for rural development projects such as Ardboe Rural Enterprise Park and Kinturk Cultural Centre. However, as a land use plan the CAP 2010 needs to be concise. It is impractical to refer to every Government agency strategy.
- 3.03.13 It is explicit in the objectives of the Plan that the Department is concerned to encourage rural regeneration subject to environmental caveats. The designation of Tourism Opportunity Zones in the Sperrins and at Curran Quay are additional to the opportunities existing under regional planning policies that are compatible with sustainable regeneration of the rural area. The Department has been represented on the Loughshore Area Based Strategy Action Group since 1995. None of the measures proposed in *Places for People* to reduce rural unfitness are at variance with existing planning policy.

### **Consideration**

- 3.03.14 The principal aim of the RDP 1994-1999 is to stimulate the economic and social revitalisation of the most disadvantaged rural areas of Northern Ireland through partnership between the public, private and voluntary sectors. The aim is to be achieved inter alia via the Rural Development Council, Area Based Strategies and community-based regeneration projects. Rural development initiatives are of great importance in achieving the RDP vision of a healthy and diverse economic and social environment in disadvantaged rural areas.
- 3.03.15 As highlighted on page 63 of the Draft Plan the DRSF includes the guideline "*to sustain a living and working countryside*". This aim has been incorporated into the Plan Strategy in the final bullet point on page 11. Contrary to the Department's assertion otherwise, there is no explicit indication in the objectives of the Plan on page 10 that it is concerned to encourage rural regeneration. Furthermore there is no particular targeting of regeneration for the most disadvantaged rural areas in the District, such as would provide strategic support for initiatives generated under the RPD, Area Based Strategies etc. Therefore, whilst it is for the RSF to define an overarching and coherent regional strategy for the sustainable regeneration in the countryside, I agree with the Objectors that the Plan could do more to provide strategic support for rural regenerative initiatives.

3.03.16 On the foot of the objection I consider that the fostering of sustainable rural regeneration should be included as a Plan Objective and as a Plan Strategy and that the text on page 63 should highlight the need for regeneration of the most disadvantaged rural areas in the District.

### **Advice**

3.03.17 I advise the Commission to recommend to the Department as follows.

- 1) The objection regarding the reliance of the Plan on the Planning Strategy for Rural Northern Ireland should fail.
- 2) The objection that the Plan fails to complement the Draft Regional Strategic Framework by failing to reflect strategic planning guidelines SPG 8, 9, 18 has not been sustained.
- 3) The fostering of sustainable rural regeneration should be included as a Plan Objective and as a Plan Strategy and that the text on page 63 should highlight the need for regeneration of the most disadvantaged rural areas in the District.

**3.04 Objections asserting that there has been inadequate PAFT/TSN consideration and a request for a PAFT /TSN analysis prior to the implementation of the plan. (Objections 16, 20, 35, 50, 98, 99, 104 and 120)**

### **Department's case**

3.04.01 The Government has been committed for a number of years to promoting a fairer and more just society. Administrative guidance on Policy Appraisal and Fair Treatment (PAFT) introduced on 1 January 1994 aimed to ensure that equality considerations were taken into account in government policies.

3.04.02 The PAFT administrative guidelines require that, in formulating and reviewing policies and in delivering services, government departments and other public bodies should assess the potential for unequal impact in terms of religion and political opinion and seven other categories (gender, race, disability, age etc.). PAFT has been overtaken by new statutory obligations under the Northern Ireland Act 1998.

3.04.03 As from 1 January 2000 Section 75 of the Northern Ireland Act 1998 requires public authorities in carrying out their functions to have regard to the need to promote equality of opportunity and good relations between, inter alia, persons of different religious belief, political opinion and racial group. Schedule 9 of the Act requires authorities to produce an Equality Scheme stating how they propose to

fulfil these duties and it must be submitted to the Equality Commission for approval. A key statutory requirement is that the Scheme must include Equality Impact Assessments (EIAs) on the impact of policies in general on the promotion of equality of opportunity.

- 3.04.04 The tests under the Equality Scheme are more rigorous than PAFT/TSN. However, Circular 1/100 issued by the Office of the First Minister and Deputy First Minister (OFMDFM) states that the existing PAFT guidelines will not be formally withdrawn until the Equality Commission has approved the relevant equality schemes. The Cookstown Area Plan is caught in the transition between PAFT/TSN and the Equality Scheme. The Draft Plan was published in November 1999 before the new duties under the Northern Ireland Act came into operation on the 1 January 2000. The processing of the Plan is not in breach of the Act and the Department has to continue its plan making duties under the Planning Order. The Department's Equality Scheme has not yet been submitted to the Equality Commission. The Cookstown Area Plan is programmed for review in 2003/2004 (Annex 3 of the Corporate Business Plan) and this will provide an opportunity for the plan to be subjected to EIA.
- 3.04.05 Targeting Social Need (TSN) is directed at socio-economic disadvantage. TSN aims to tackle disadvantage by directing resources and efforts towards those individuals, groups and areas objectively defined as being in the greatest need irrespective of community background. The Labour Government re-launched the initiative in March 1998 as "New TSN". Under New TSN each government department has to produce an action plan setting out New TSN objectives, with specified "targets" or actions and time scales to meet each objective. Draft Action Plans were included in the first New TSN Report "Vision into Practice" published for consultation in November 1999. A final Report will be published later in 2000 and will include objectives on regional and land use planning.
- 3.04.06 Strategic Environmental Appraisal (SEA) as required by paragraph 41 of PPS 1 has been carried out. The purpose of the assessment is to promote sustainable development that integrates social progress throughout the community with effective protection of the environment, prudent use of natural resources and the maintenance of high and stable levels of economic growth and employment. The assessment involved (1) ensuring each policy was in line with government advice including the provisions of the DRSF; (2) testing whether plan policies were sustainable or not applying criteria related to the environment, quality of life and social equity; and (3) testing the policies against each other to see if they pull in the same direction.
- 3.04.07 It is not accepted that this analysis is deficient in terms of PAFT and TSN. The Departmental assessment team did not include any

specialists in economics, equality or human rights. However, it was well endowed with expertise and experience in a wide range of issues. Its combined expertise was brought to bear in making its corporate judgements. The Department will also ensure that it complies with the requirements of Section 25 (Schedule 9) of the Northern Ireland Act 1998.

### **Objectors' case**

- 3.04.08 The Department's application of TSN/PAFT to the draft plan is flawed. The requirements were dealt with on a sustainability basis within the Strategic Environmental Appraisal. Little account has been taken of the levels of social disadvantage in a District that contains some of the most relatively deprived areas in Northern Ireland.
- 3.04.09 The Council believes that the Department should re-appraise the content of the Draft Plan in regard to Rural Development, New TSN and PAFT including withdrawing the current policy proposals for the Loughshore area. The Council is not arguing that the Plan as a whole should be held up pending EIA.

### **Consideration**

- 3.04.10 Essentially the Department's case is that the Area Plan is caught in the transition between PAFT and the requirement in the Northern Ireland Act 1998 that the Department produce an Equality Scheme applying the new statutory equality duties in the preparation of development plans. In the meantime the processing of the Plan has continued under the aegis of the non-statutory PAFT. After due consideration I judge that the objectors' challenge to the processing of the plan in relation to the statutory requirements for equality assessment lies outside the scope of the Inquiry.
- 3.04.11 The planning purpose of the SEA as set out in paragraph 41 of PPS 1 is to assess the environmental impacts of the plan's policies or proposals. The objectors have criticised the use of SEA as a vehicle for testing plan policies and proposals against social, equality and economic criteria. They have also criticised the calibration of the assessment criteria (see 4.1.37 below) and the level of relevant expertise amongst members of the SEA assessment team. I consider that these representations relating generally to the processing of the plan in terms of PAFT/TSN are essentially procedural. As such they too lie outside the scope of the inquiry. Nevertheless, where PAFT/TSN issues are raised in relation to particular plan policies and proposals they will require to be addressed and taken into account.

### **Advice**

3.04.12 The objectors' representations challenging the legality of the equality assessment and criticising the PAFT/TSN analysis in the preparation of the draft Plan lie outside the scope of the Inquiry.

**3.05 Objections to various plan policies by Brennen Associates (Objection 107)**

Policy SETT 2

3.05.01 The Department and the objector agree that, provided the attendant back lands have been developed or are capable of development by alternative accesses, the policy should include a mechanism for the release of any unused protected access points for development. The second sentence of SETT 2 will be amended to read "*Planning permission may be refused ...*" instead of "*Planning permission will be refused...*".

Policy HOUS 1

3.05.02 In essence the objection is that the development limits around Cookstown and the villages should be extended to reflect the higher RSF housing forecast and the higher proportion of green field sites needed. The Department points out that the land allocated overall in Cookstown is significantly overzoned and sufficiently generous to accommodate any revised RSF target. Over 30% of new housing development can be met within the built-up edge of Cookstown, which includes a green field component.

3.05.03 The objector has expressed satisfaction with the rebuttal.

Policies HOUS 2 and HOUS 3

3.05.04 The objector makes a number of related points about these policies. These are (1) the responsibility for providing public open space should not be shifted from the District Council; (2) developers cannot be expected to submit comprehensive design schemes for lands that they do not control; and (3) the identification of access points in the Plan may prejudice quality housing development. More generally the objector cites the greater emphasis laid on design in PPS 7 and Creating Places in arguing in favour of moving away from overly prescriptive standards for accesses.

3.05.05 The Department highlights that as regards (1) and (2) above these are matters that are increasingly being controlled and reflected in PPSs and guidance. It points to the general thrust of PPS1 (paragraphs 11-22), draft PPS 7, draft PPS 8 and "Creating Places" (May 2000), which it expects to be incorporated in proposals for all new housing developments. As regards (3) it is not intended that access points should be set in stone in advance of concept design as

this could constrain flexibility and creativity. The identification of access points is only included for guidance and alternative accesses may be acceptable. Since the necessity for right turning lanes is interrelated with the actual density rather than the arbitrary 15dph assumed in the plan all references in the site development policies to the provision of right turning facilities will be expressed using the words "*may be required*" instead of "*will be required*".

- 3.05.06 The objector acknowledges this concession and is content that HOUS2 will be overtaken by the finalised requirements of PPS 7 and PPS 8.

#### RSO 5 Local shops within housing zonings

- 3.05.07 The objector argues that in many housing developments appropriately located on street parking and servicing should be acceptable to avoid the unnecessary creation of large hard-standing areas contrary to the objectives of the Quality Initiative and sustainability.
- 3.05.08 The Department is anxious to ensure that parking of vehicles does not lead to obstruction. However, it accepts the objector's suggestion that "*available*" should be substituted in place of the word "*provided*" in bullet point 3 of RSO 5.

#### TRAN2

- 3.05.09 The objector is anxious that it could be inferred from the last sentence of the text of TRAN 2 that developers would be expected to provide or fund a higher standard of road than would be required to serve solely their own development. The Department states that it does not intend this to be the case. The extent of developer contributions will not exceed that which can be directly related in nature and scale to the proposed development. It will insert a reference in policy TRAN 2 to paragraph 38 of PPS 3, where this principle is stated as policy.

#### TRAN 4

- 3.05.10 The objector is concerned that the provision of walkways and cycleways should not fall on developers of private housing. The Department points to the general thrust of PPS 1 (paragraphs 11 – 22), Draft PPS 8 and "Creating Places". It again cites paragraph 38 of PPS 3 as containing the guiding principle as regards developer contributions. Roads Service will fund designated Safer Routes to Schools. Sustrans Routes are provided by Sustrans. The District Council will fund the strategic footways identified by the blue dots on the Plan. However, in all other cases developers will be expected to provide and fund foot ways and cycle ways within allocated housing areas in accordance with the requirements of the Quality Initiative.



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ROS 1

- 3.05.11 The objector argues that the Council's statutory responsibility to provide adequate recreational facilities includes the provision of open space in housing areas. Therefore, specific areas of open space, where necessary, should be zoned to enable the Council to fulfil its statutory responsibility. The Department points out that plan policies ROS 1 and ROS 2 zone and safeguard major open space. Provision of new open space in the housing will be dealt with in accordance with PPS 1 (paragraphs 11 – 22), Draft PPS 8 and "Creating Places".

**Consideration and advice**

- 3.05.12 Apart from the issue of funding of footpaths, cycleways and open space in housing areas, there is now little of significance separating the parties. In relation to the matters still at issue PPSs 7 and 8 and Creating Places will provide overarching regional planning policy and guidance on the provision and funding of open space and linkages in new housing developments. Consequently, I discern no need for the Commission to make any specific recommendations in relation to this objection.

**3.06 Objection 003 by Mr N Devlin that the Government's failure to release funds for the Eastern Distributor Road is blighting the eastern sector of Cookstown**

**Objector's case**

- 3.06.01 Mr Devlin is at a loss as to how the Department can state that the non-construction of the EDR is not blighting development in the east of the town given its evidence as to the dependence of I3-I6 and housing site H23. His concern is reinforced by the disproportionate rate of development in the western sector since 1970. By comparison, the eastern sector has been devoid of development except at the Dales (north H9) where a small section of the EDR has been constructed.

**Department's case**

- 3.06.02 According to the Cookstown Transport Study even the effect of moderate growth in car usage up to 2010 will result in increased delays and congestion. The situation is particularly problematical around the town centre spinal road and along the eastern side of the town. Significant additional housing and industry will further exacerbate the situation if the EDR is not completed.
- 3.06.03 The EDR has been proposed since the 1970s. It was included in the ETAP. The Phase 1 section has been completed between Moneymore Road and Old Coagh Road. The Settlement Appraisal envisages that

Phase 2 (**PAC Map 3.6A**) will be built in the medium term (3-8 years). Phase 3 is long-term (7-10 years) (**PAC Map 3.6B**). The EDR is included in the Department's 6-15 year programme. Roads Service HQ has advised that the EDR is competing for limited funds with other road schemes and therefore its implementation cannot be guaranteed during the plan period.

- 3.06.04 Policy TRAN 2 states that development proposals that rely upon the EDR will not normally be permitted in advance of the relevant stage of the road being provided – either by Roads Service or by the developer, if necessary. Without the EDR, sites I3 and I4 would be substandard and I6 would prejudice the nearby EDR roundabout. Industrial traffic, particularly that related to I5, would be required to access through the core of the town, having an impact on junctions that are already over-capacity.

### **Consideration**

- 3.06.05 The Cookstown Settlement Appraisal states that until such time as the EDR is built in its entirety or the relevant sections of the road are available, development in the east of the town will remain severely restricted (4.2.4). The EDR is also essential to relieve the town centre of traffic. Even if Stage II from Old Coagh Road to Fountain Road is implemented the southern part of the town centre spine route will remain congested and increased use of Fountain Road would be detrimental to the amenity of this part of the town (4.3.4).
- 3.06.06 The dependence of the eastern section of the town on the EDR for significant industrial and residential development will emerge as a key factor in my consideration of the issues that arose during the Inquiry. In particular it is one of several influential factors that have affected the capacity of the town to attract inward investment. This has had serious consequences for generating new employment and I return to this later. Consequently, I can only agree with the Objector that the absence of Government funding for the EDR is blighting the eastern sector of the town.

### **Advice**

- 3.06.07 Mr Devlin's representation is a comment on the planning blight caused by the low level of priority for the Eastern Distributor in the Roads Building Programme. It is not a specific objection that requires the Commission to make a specific recommendation.

## **3.07 General issues raised in Objection 99 (Sinn Féin)**

### Opportunity sites in Cookstown

- 3.07.01 Sinn Féin points out that the opportunity sites offer the potential to provide employment within easy access of the town centre. Use of landscaping to make the development more acceptable to the surrounding area is essential. Burn Road has benefited from a facelift for shopping and the arts. Increased pressure for development demands an overall scheme, which would attract people to the street and Opportunity Site 04 should be promoted as a potential site for modern industry and technology. Care must be taken over access because of the congestion and traffic hazards. Traffic conditions are particularly difficult in Orritor Street. There needs to be development of the current green space in Orritor Street and throughout the town.
- 3.07.02 The Department agrees with the objector about the need for landscaping and points out that this is a normal requirement.

#### Secondary shopping frontages and local shops

- 3.07.03 Sinn Féin considers it essential that the secondary shopping frontages in the town centre do not become under used. Therefore any proposed developments or renovations should be given sympathetic consideration. Similarly corner shops are a lifeline for the less fortunate sections of the community and every effort should be given to assist this type of development.

#### Consideration

- 3.07.04 The views of the objector on these issues are comments rather than specific objections and need not engage the Commission in formulating advice.

### **3.08 General issues raised in Objection 104 by Cookstown and Western Shores Area Network (CWSAN)**

#### **Objector's case**

- 3.08.01 CWSAN is the umbrella organisation representing over 50 local community organisations in the Cookstown and Western Shores of Lough Neagh area. Community Technical Aid (CTA) on behalf of CWSAN has prepared an assessment of how community issues have been addressed in the draft plan. A summary of the broad key issues emerging from CWSAN's consultations is submitted. This identifies where, if any cognisance has been taken of those issues in the draft plan. Where there is no specific policy it is recommended that a policy be included or a note explaining its absence.

- 3.08.02 CWSAN welcomes the opportunity to have had input into the area plan. However, the planning process must be made more transparent with greater local accountability. "Visioning" and "planning for real" inclusive exercises should be undertaken as a matter of urgency. This approach to planning in other regions (e.g. Fermanagh) has shown a much closer correlation between the local communities' vision and that of the planning authority. Where as a result of consultation priority issues have been identified Planning Service should give greater acknowledgement to those issues.
- 3.08.03 The Department is being selective in its application of PRSNI policy SP1. Three years after its introduction there is no indication of the application of the Government's Best Value Initiative to the production of the Plan. The position on sand dredging in Lough Neagh is still not clear from the DoE's rebuttal.

### **Department's case**

- 3.08.04 Stemming from the CTA assessment it is understood that CWSAN have the following objections. These are addressed as follows.

#### Failure of the draft Plan to include a policy to encourage the provision of a range of house types.

The advice in "Creating Places" on housing mix obviates any requirement to provide policy guidance in the plan.

#### Objection to the omission of a policy to control sand dredging in Lough Neagh.

The PSRNI contains regional planning policies for mineral development. The provisions of the Plan itself supplement these policies. Lough Neagh and its shoreline are formally designated as an Area of Special Scientific Interest (ASSI). By virtue of plan policy MN 1 the entire extent of the ASSI within Cookstown District is identified as an Area of Constraint on Mineral Development (ACMD). In ACMDs there is a presumption against the granting of permission for the extraction and/or processing of minerals (PSRNI policy MIN 3). A proposed Planning Policy Statement for mineral development will be the most appropriate vehicle for any additional policy pertinent to this continuous issue affecting several District Council areas.

#### Omission of a policy on trees, woodlands and hedgerows

The Department has reviewed this matter and proposes to include the following policy in the Plan.

### **Policy CON 8 The Protection of Trees**

*The Department will assess the need for a tree condition survey as part of all development proposals. Planning permission will normally only be granted to development proposals where it can be demonstrated that:*

- *Trees identified for retention will be protected and appropriately integrated into the design and layout of the development;*
- *Development will not significantly damage the root system and drainage of both trees being retained and new planting; and*
- *Adequate separation distance is provided between buildings and existing and proposed trees to ensure no significant adverse effect on amenity.*

3.08.05 On the issue of participation and consultation the Department acknowledges the important role that community groups have had in the preparation of the Plan. Consultation was in line with policy SP 1 in the regional strategy (PRSNI).

### **Consideration**

3.08.06 In my opinion the objections relating to house types and sand dredging in Lough Neagh outlined in 3.08.06 have been adequately addressed by references to regional planning policies and guidance. The Commission need only note the proposed addition of policy CON 8, which augments the protection of landscape features afforded by Policy QD 1 of PPS 7. The criticisms relating to the consultation processes in the plan preparation are procedural in nature and lie outside the scope of the Inquiry.

### **Advice**

3.08.07 (1) The Commission notes the proposed addition of Policy CON 8 relating to the protection of trees.

(2) The other general objections submitted by Cookstown and Western Shores Area Network have not been sustained.

**3.09 Objection 106 by the General Aviation Awareness Council to the omission of a plan policy providing guidelines for small landing strips.**

### **Objector's case**

3.09.01 A policy providing clear guidelines to potential operators wishing to establish small landing strips would be helpful to potential applicants

and Planning Service by establishing clear criteria for developments of this nature. The objector suggests the wording for a new policy TRAN 5 that includes a list of criteria for considering flying sites on their merits in accordance with Section 54a of the Town and Country Planning Act 1990.

### **Department's case**

- 3.09.02 The Northern Ireland planning system is not "plan led" in the English sense and operates via regional policies contained in the PRSNI and PPSs. The Department's policy on airfields is currently set out in PRSNI policy PSU 3 and there is no sense in replicating regional policies at a local level. PSU 3 will be superseded in the near future by the Regional Strategy Framework (RSF) and a Transportation and Land Use Regional Policy Statement (RPPS). There are several policies in the RSF that would have a bearing on the control of flying sites (e.g. SPG 17, 21 and 22). The Department of Regional Development (NI) is responsible for discharging statutory duties in relation to the operation of air and seaports including ensuring consistency with the promotion of integrated and sustainable transport.

### **Consideration**

- 3.09.03 I agree with the Department that applications for landing strips are best determined within the framework of regional planning policy and not ad hoc or replicated policies formulated at a local level. Clearly this is sensible to both avoid inconsistency in development control and seeking to ensure the implementation of sustainable transport policy on the ground.

### **Advice**

- 3.09.04 The General Aviation Awareness Council has not sustained the need for a plan policy for small landing strips.

## 4.0 **RURAL POLICY AREAS**

### 4.1 **Request for a Loughshore Study (Objections 23, 24, 27, 28, 35, 37, 38, 50, 62, 63 67-80, 104 and 120.**

#### **Department's case**

- 4.01.01 The Loughshore Study envisaged in the ETAP was not undertaken. However, with the introduction of the revised Rural Policy in November 1978, the strict needs based controls that formerly operated throughout Northern Ireland were confined to Green Belts and CPAs.
- 4.01.02 In 1996 the Department carried out a detailed Rural Environmental Analysis (REA) of the Loughshore area including an analysis of its socio-economic structure. Also the views of the public, community groups and the Council were sought on the future planning of the area. This study was supplemented and consolidated by the Countryside Assessment published as part of the Draft Plan. The Department has also had regard to published material on the Loughshore, including "Ardboe – The Case for Dispersal" by Community Technical Aid & Ardboe Action on Housing Group (1993) and the "Development Strategy for Ardboe, Ballinderry and Moortown" by Greer and Murray (1991).
- 4.01.03 Therefore, in preparing the Cookstown plan, the Department has carried out detailed research amounting to a Loughshore Study, as required by the PSRNI. The draft proposals for the Loughshore are therefore fully informed and consistent with regional planning policy.

#### **Objectors' Case**

- 4.01.04 Objections to the designation of the Loughshore CPA and village settlement limits have been coupled with requests for "*a closer examination of the special needs of the area*" required by paragraph 6.5, page 5 of the ETAP "*before any specific proposal regarding its future development is put forward*".
- 4.01.05 The Council's planning expert accepted that the DOE countryside assessment, pressure analysis and the socio-economic appraisal contained in the REA amounted to a Loughshore Study by another route. He described the REA as a very rich document. It has been poorly publicised and the Council's view had been predicated without it.

#### **Consideration**

- 4.01.06 Dr Greer, who appeared for the Council, is not only a planning expert but as the co-author of "Development Strategy for Ardboe, Ballinderry

and Moortown" he has a special insight into planning issues in the Loughshore. Therefore his clear and unequivocal endorsement of the countryside assessment, pressure analysis and Rural Environmental Analysis as amounting to a Loughshore Study by another route carries great weight.

### ***Advice***

4.01.07 I advise the Commission to recommend that the argument has not been sustained that a Loughshore Study providing a closer examination of the special needs of the area is a necessary prerequisite for any decision regarding future planning policy in the Loughshore area.

## **4.2 Objections to the designation of a Lough Shore Countryside Policy Area (Objections 16, 20, 23, 24, 27, 28, 35, 37, 38, 50, 62, 63 67-80, 98, 99, 101, 111-115, 120, 104 and 135.)**

### **Outline of objections**

4.02.01 The objectors' various arguments may be summarised as follows.

- The designation significantly disadvantages the Loughshore community contrary to Policy Appraisal and Fair Treatment (PAFT).
- It restricts access to affordable housing in the area with already high levels of deprivation, thereby increasing disadvantage and deprivation contrary to Targeting Social Need (TSN).
- The designation is at variance with government policy and the plan's own strategy to sustain a living and working countryside.
- The designation will have adverse short and long term socio-economic and cultural impacts, such as out-migration, the break up of family kinship ties and community identity and direct effects on schools, on commerce and local enterprise.
- The designation would be in breach of Articles 8, 12, 14 of Schedule 1 and Article 1 of The First Protocol of the European Convention on Human Rights.

4.02.02 Throughout this report the Lough Shore CPA is distinguished from the wider area known locally as the "Loughshore" by word separation and capitalisation of "Shore". This is consistent with the Plan.

### **Department's case**

#### **Plan and Policy Context**



- 4.02.03 In 1978 the Department introduced its Policy for the Control of Development in Rural Areas (the 1978 Rural Policy). Inter alia, this made provision for urban and scenic Areas of Special Control (ASCs) where planning permission would be more difficult to obtain, in order to prevent ribbon development and urban sprawl and to protect areas of high scenic interest. In Cookstown District ASCs were defined around Cookstown and Lough Neagh following consultation with the Council. The ASCs became part of the ETAP on adoption of the plan in April 1980. These policy areas were re-named Green Belts and Countryside Policy Areas by the PSRNI published in November 1993. The original Lough Shore CPA remains in place pending adoption of the Draft Plan.
- 4.02.04 DCAP 2010 plan policy CTY 2 designates CPAs within the Sperrins and in the vicinity of Lough Neagh. The Lough Shore CPA incorporates an area of shoreline, related back-land and a strip along the B161/B160/B73 (Battery Road) abutting the settlement limits of the designated villages in the area.

#### Rural Deprivation

- 4.02.05 Relative Deprivation in Northern Ireland (The Robson Report 1994) analysed 1991 census data to produce an index of deprivation at District level, wards and Enumeration Districts (EDs) for Northern Ireland (NI). Robson measured deprivation in three ways (1) degree (2) intensity and (3) spatial extent.
- 4.02.06 The study established that Cookstown District was generally deprived. It was ranked 8<sup>th</sup> on the degree and intensity of deprivation and 5<sup>th</sup> on the extent of deprivation in NI. At ward level the incidence of deprivation is seen to be at the lower end of the Northern Ireland continuum and to be quite localised geographically (**Appendix 5**). Apart from Ardboe in terms of intensity of deprivation the Lough Shore wards lie outside the 10% most deprived wards in NI.

#### Case for designation of the Lough Shore CPA

- 4.02.07 Policies SP6, SP12 and DES 1 of the PSRNI require development plans to assess development pressure and consider its impact on the landscape and rural character. Countryside Policy Areas can be designated where it is considered necessary to protect landscapes from excessive or inappropriate development. The designation of the Lough Shore CPA meets the strategic policy tests contained in the PSRNI and the planning objectives set out in policy GB/CPA1.
- 4.02.08 The Lough Shore CPA derives from the Countryside Assessment carried out as part of plan preparation as required by policy DES 1. The relevant supplements are the Development Pressure Analysis and the

Landscape Assessment. The Development Pressure Analysis for Cookstown District is based on planning applications between January 1988 and April 1998. The distribution of development has been represented on a series of "dot maps". This has been supplemented by field surveys, including a boat-based visual evaluation of the shoreline backed up by aerial photography.

- 4.02.09 The Landscape Assessment identifies the Loughshore area as a distinct Landscape Character Area. The landscape is generally in relatively good condition but vulnerable to the impact of built development. Traditionally, farms and individual houses have concentrated on shallow drumlins. Larger properties and settlement clusters occupy higher land. Cottages are dispersed in linear form along embanked flood plain roads. Close to Lough Neagh landscapes are of high scenic value and are also important habitats for plants and wild life. The density of rural development in the Loughshore area generally has historical roots in the involuntary displacement of population during the Plantation.
- 4.02.10 The Pressure Analysis and Environmental Analysis highlight the Loughshore as a development pressure area. Between 1988 and 1998 the Loughshore, incorporating all of Ardboe Ward, most of the Loup and Killycolpy Wards and part of Coagh Ward attracted 20% of all the planning applications received in Cookstown District. In the same period, the area received 39% of all applications for rural single dwellings and 22% of replacement dwellings of which 82% and 96% were approved respectively. The distribution of these applications is focused on the main road network, specifically the B161/B160/B73 (Battery Road). The proposed CPA attracted 5% of the District's applications, 10% of rural single dwellings and 5% of replacement dwellings, with approval rates of 77% and 100% respectively. The population of the Loughshore area is roughly 20% of the District population and it is unsurprising that it accounts for 20% of the District's planning applications. However, the area only extends to some 70km<sup>2</sup>. It is the intensity of the development pressure in a relatively small area that is the concern.
- 4.02.11 The landscape evaluation establishes that the landscape in the vicinity of the Lough is high quality and easily devalued by modern development and that ribboning and sprawl are endangering the rural character. The traditional settlement pattern of small cottages built virtually on the edge of the road has become increasingly overwhelmed by large properties of suburban scale, character and build-up.
- 4.02.12 Whilst it also took into account the visual quality of the landscape, the Department's judgement as to the delineation of the CPA was mainly based on development pressure. The area considered to be of scenic quality merges into the area under threat from the pressure of

development. The areas around Kiltagh and Kinturk are already spoiled.

- 4.02.13 There will be stringent control of development within the proposed CPA. However, the controls will not be so onerous as to produce the drastic effects and levels of out migration predicted by the objectors. There will not be a total ban on development and proven needs will continue to be facilitated. Other development requirements can be more than met within the generous settlement limits of local villages and in the rural remainder. Moreover, the CPA has been defined sparingly to reflect the incidence of development pressure and threat to landscape. In many instances it will only be one field deep from the road. It is minimalist. It is not landscape taking precedence over people or the blanket approach alleged by objectors.
- 4.02.14 Applied rigorously policies DES 5, 6 and 7 will control integration, design, build up and ribboning in the open countryside. However, as in a Green Belt, the problem is the number of dwellings being proposed. There comes a point where the development plan is required to back up development control in an area under intense pressure (PSRNI Policies SP 6 and 12). Existing development control policies cannot control development to the extent afforded by the proposed CPA.
- 4.02.15 The Loughshore area is predominantly Catholic and Nationalist, it suffers from comparatively high levels of multiple deprivation and a CPA will inevitably have some adverse indirect effect on the community. The CPA policies will not cater for the socio-economic familial circumstances typical of the Loughshore community and will dramatically reduce the success of applications for houses in the open countryside. However, the CPA will not so limit access to affordable housing that deprivation is increased and the New TSN is contravened. Proven needs will be facilitated within the CPA and other requirements can be met in the villages.
- 4.02.16 The DoE Rural Environmental Analysis (REA) notes that based on 1981 and 1991 census data the 20-39 parental age group has been below the Northern Ireland average. The REA states that this suggests that there has been some outward migration that may reflect the difficulty in finding suitable housing in the area. However, people migrate for a variety of reasons.
- 4.02.17 The sustainability assessment of plan policies contained in the Strategic Environmental Appraisal (SEA) establishes that CPA designation will only have a slightly adverse differential indirect impact on religious/political/ethnic groups. The designation is considered necessary and its differential impact proportionate to the strategic objectives that it is intended to achieve. The programmed review will provide an opportunity for the plan to be subjected to Equality Impact

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Assessment (EIA). If after EIA the equality impacts were judged to outweigh the environmental issues the CPA would be removed from the Plan.

- 4.02.18 The proposed CPA is not manifestly incompatible with the European Convention of Human Rights. This is the relevant question, not whether a human rights audit has been carried out, which is unhelpful.
- 4.02.19 Adoption of the CPA will not interfere with the Article 8 right of people living in the CPA to respect for their home. The concept of home does not include property on which it is intended to build a home and there is no right to a home or family home.
- 4.02.20 The CPA will not infringe respect for private life and/or family life. Even if an individual is refused planning permission within the CPA this will not necessarily prevent him from living in the Loughshore area. Where a dwelling is refused for a family member on family land the extended family could still maintain close ties and work together. Even if there were interference with the right to private/family life, which is denied, the interference is justified under Article 8. The proposal to designate the CPA lies within the wide margin of appreciation enjoyed by the Department in the exercise of its discretionary judgement. It is an appropriate response to development pressure and is no more than is necessary.
- 4.02.21 The adoption of the CPA would not interfere with the Article 12 right of adult children to found a family. Article 12 does not require the state to adopt positive social programmes in support of the family. Article 12 is not a right to found a family where one wants to found a family.
- 4.02.22 Adoption of the CPA will not breach the right under Article 1 of the First Protocol of a person to the peaceful enjoyment of his possessions. The Department has a wide margin of appreciation in the control of the use of property. Even if there is interference, it is justified in the general interest and is no more than is necessary. The plan review process, public inquiry, the potential for the modification of the plan and for the appealing of individual refusals of planning permission all provide procedural safeguards.
- 4.02.23 There is no breach of Article 14 of the convention. The CPA is a response to development pressure and is not based on the ethnicity or the religion of the people living within it. Even if there is indirect discrimination, which is denied, it can be justified because of the need for stricter control of development.
- 4.02.24 The Loughshore has distinguishing features but it is not so distinctive as to require a "bespoke" policy. The CPA does not conflict with the Area Based Strategy (ABSAC) initiatives for rural regeneration. The policies would still allow tourism projects and indigenous industry. The

first port of call for such developments would be the villages. The CPA would not have stymied any of the eligible ABSAC schemes. The CPA "needs test" will take account of the bona fide fisherman. Land use policies will not negate local cultural distinctiveness - the decision to approve the Kinturk Cultural Centre would have been unaffected by the designation of the CPA.

### **Objectors' cases**

- 4.02.25 A people and community focused approach is a core guiding principle of the DRSF (page 22). The DRSF states that this approach recognises that local identity and sense of place are important qualities valued by communities. It respects their desire to protect positive features of local environments and maintain their regional diversity. The confirmation of the CPA would directly conflict with this approach. The admission that designation will inevitably have some adverse impact on the community establishes that the Department has failed to take a full and proper account of PAFT and New TSN. The adverse impact cannot be "indirect", inevitably it will be direct.
- 4.02.26 The Loughshore is a unique society in Northern Ireland terms bearing comparison with the coastal communities of the West of Ireland and the Scottish Islands. It has distinctive history and complex socio-economic structure that is reflected in the cultural landscape of the area. There is a particularly strong sense of belonging in the Loughshore area compared with other rural areas in NI and Cookstown District ("Sense of Belonging Survey"). The local economy is a mix of traditional fishing, mixed farming, skilled crafts and the professions. It is a closely-knit community. Extended families cluster around the available economic resources. There is a close functional inter-relationship of kinship with the local economy. The settlement pattern allows extended families to take care of the vulnerable members of the community. An important ingredient in this society has been the ability of all its members to settle on or near their own family farms and fields. It has provided the lifeblood of the local schools. The CPA will be extremely detrimental to this living rural community.
- 4.02.27 Whilst the Loughshore is a stable, very independent and self-sufficient community, there is also severe economic deprivation as evidenced by the Robson report. Out of 566 wards in Northern Ireland the concentration of rural deprivation in the Loughshore is especially strong. Measured in degrees of deprivation Ardboe and Killycolpy are the most deprived wards in the District and are among the worst 11% -12% of the most deprived wards in Northern Ireland. Ranked for intensity of deprivation, Ardboe ward falls well within the worst 10% in

NI. Sites for dwellings in the countryside are expensive. Therefore kinship is a key factor in affordable rural housing. There is very high male unemployment in the crucial 25-39 parental age range. Census data indicate that there is also significant out migration in this parental age group. A contributory factor is likely to be the increasing difficulty in obtaining planning permission for rural houses. The last thing to do when the community is draining its lifeblood in this way is to impose a CPA.

- 4.02.28 The Rural Environmental Analysis (REA) contains the only substantive socio-economic research on the area. The Plan does not address key issues identified by the REA. The REA noted that the strong personal ties to the area have led to a demand for local housing opportunities that reflect the traditional dispersed settlement pattern. It also discerns a general perception that current planning policy is not sensitive to local circumstances and cannot accommodate this demand. Given the existing trends of significant recent population growth, high average household size, a young population profile and evidence of outward migration among younger adults the REA forecast was for continuing pressure for new dwellings over the plan period. The Plan proposals exacerbate these concerns. The REA concluded that the Loughshore area has very special needs that require a planning response, possibly by designating part of it a Dispersed Rural Community. This conclusion has been sidelined in the preparation of the plan.
- 4.02.29 The Council considers the CPA unjustified even within the criteria used for such designations. Moreover it ignores a host of substantive issues. These include the history and cultural landscape of the area, its socio-economic structure and the degree of deprivation. It also fails to take into consideration initiatives (e.g. the Rural Action Programme and Area Based Strategies (ABSAC)) introduced to address the difficulties in the area. The Lough shore landscape is densely settled with no predominant nucleation. This reflects the limited extent of buildable land, the economic structure and very strong kinship linkages of the community.
- 4.02.30 The evidence does not support the conclusion that the proposed CPA is a necessary response to development pressure. The pressure analysis maps are misleading. Careful examination shows that within the proposed CPA a mere 6 dwelling applications have been approved along the B73 Battery Road. The remainder are quite evenly divided along the 15km of the B161/160 through Kinturk and Aneeter, which are at the very heart of the traditional Loughshore cultural landscape.
- 4.02.31 The ERM only identifies the Loughshore fringe as being of scenic value. The main concern in the landscape analysis is with the possibility of ribboning and ignores socio- economic history and cultural landscape that produced the linear settlement pattern. In any case PRSNI

policies are available to address ribboning, build-up and inappropriate suburban design. The higher rate of refusal of planning applications for single dwellings in the Loughshore indicates that these policies are already addressing the pressure of development. The Department has chosen the sledgehammer of strategic policy rather than the scalpel of the development control policies available to control unacceptable development. It is relying on regional policy statements that are beyond debate at the Inquiry. Given the array of planning controls available the Council considers the CPA singularly inappropriate. Furthermore it neglects the special circumstances of the area that have been brought to the Department's attention on many occasions, not least during preparation of the plan.

- 4.02.32 The planning expert for the Council accepted that the pressure of development is such that some parts of the Loughshore meet the criteria for designation of a CPA in policy GB/CPA 1. Within the CPA on the foot of the PSRNI and PPS 4 there would still be opportunities for farm diversification, expansion of rural businesses and tourism developments. Nevertheless the thrust of the CPA would be to restrict development and would be contrary to ABSAC objectives. The settlement structure of the Loughshore comprises a series of development clusters and a mosaic of single site dwellings. The pivotal position in the settlement hierarchy of Mullinahoe, Moortown and Ballinderry because of their service provision has been acknowledged in the Plan with their designation as villages. The villages are cheek-by-jowl with the proposed CPA. One is no less a Loughshore resident for living in the villages. They will provide for some people but not for others. Two or three miles are very important in terms of kinship.
- 4.02.33 A sense of local identity is very usual in rural communities but local identities are different and it's the differences that count. In the Loughshore the identity stems from closely-knit community living in single houses bonded together in an economic agenda of fishing, farming and other activities. The extreme pressure for development stems from the density of the population compared with other rural areas and the fact that there is a high incidence of areas where it is difficult to build.
- 4.02.34 The Community and Local Historical Associations support the case being made by the District Council. The settlement pattern has its historic roots in the Plantation. There was much more housing around the Loughshore at the time of the Famine. The recent encouragement and associated grant-aid for the restoration of indigenous vegetation will enhance the capacity of the Loughshore landscape to assimilate new dwellings.
- 4.02.35 The Department has portrayed the CPA as a "minimalist" response to development pressure but the CPA extends to 1.95% of the land area

of the District and 98.4% of the shoreline within the District. According to the DOE figures the CPA will affect 25% of all applications for single dwellings in the Loughshore area. The PRSNI "need" tests in CPAs are too high a hurdle in the Loughshore where holdings are small, where farming depends on the co-operation of various family members. Partly in response to the agricultural crisis, there is a pronounced pattern of rural diversification. Few young people choose agriculture as a livelihood and the vast majority of farmers are aged 50 plus. Diversity of income from a variety of sources is a key factor in maintaining the occupation of land. All in all very few will get through the fine mesh of the CPA net. The CPA designation would have drastic socio-economic impacts on the community in which a site on the family land is a major element in the economic equation. There is a high dependency in the community on means tested and non-means tested benefits. Access to affordable, local housing will be denied to many young people. It would result in significant increase in the existing pattern of migration out of the Loughshore area. It will force young families out of their own communities causing the closure of schools and other facilities.

- 4.02.36 The Council is not suggesting that the proposed CPA is a deliberate act of religious discrimination. Nevertheless the proposed CPA will severely disadvantage and discriminate against the Catholic and Nationalist community.
- 4.02.37 Policy CTY 2 is marked in the Sustainability Analysis Matrices (SEA Appendix 2) as having a slightly negative effect *on people of different religious / political beliefs* and *on people of different ethnic groups*. The scale lacks any median between *slightly* and *strongly*. There is no numerical calibration and no objective definition of the scale. There has been no specific research into the negative impact anticipated by the group assessment and no involvement of the local community.
- 4.02.38 The Council is not arguing that the Plan as a whole should be held up pending Equality Impact Assessment (EIA), only that the proposed CPA should be withdrawn from the plan. If the CPA is adopted as part of the plan and then after an EIA in 2005 it is withdrawn it could do a great deal of harm to the Loughshore Community in the mean time. The Department is proposing to apply the Equality test 3-5 years too late. There is nowhere in the Northern Ireland Act authority to exempt development plans from the requirement for EIA.
- 4.02.39 Section 3 of the Human Rights Act 1998 requires that, so far as it is possible to do so, legislation must be read and given effect in a way that is compatible with European Convention rights. Section 6 makes it unlawful for a public authority to act incompatibly with Convention rights. The higher threshold test of manifest incompatibility relied on by the Department in defending the CPA has no basis in law. It is



based on an analogy with statutory provisions for parliamentary procedure that does not compare like with like. Since there has been no audit of the draft Plan for compliance with Human Rights the Department cannot assert that it complies with the Convention. The question to be addressed is whether the proposed CPA will be likely to result in a breach of Convention rights if applied as intended rather than whether the Department may exercise its discretion occasionally to make an exception to the policy.

- 4.02.40 The most pertinent provisions of the Convention to the proposed CPA are Articles 8 (the right to respect for family life, home and correspondence), 12 (the right to marry and found a family), 14 (prohibition of discrimination in the enjoyment of Convention rights) and Article 1 of Protocol 1 (the right to peaceful enjoyment of possessions and the protection of property).
- 4.02.41 The CPA will breach Article 8 by preventing extended families from living together, thereby interfering with their right to respect for their private and family life and home. The European Court has held that in shaping domestic law the State must act in a manner calculated to allow those concerned to lead a normal family life and this must also apply to development plans.
- 4.02.42 The very difficult economic conditions in the Loughshore mean that families are often forced to earn a living from a combination of farming, fishing and various entrepreneurial activities. This requires the families to work together in the common good. The CPA would not cater for the socio- familial economic needs and lifestyle of the predominantly Catholic population. Inevitably it will have a significantly negative impact on the traditional life of the Loughshore. Relocation to the settlements will lead to social, familial, economic and functional dislocation.
- 4.02.43 The Department accepts that right to respect for one's family life includes the right to live together in the same place. It is hard to see what family life means if this were not the case.
- 4.02.44 The state cannot justify the interference with Article 8(1) rights on the grounds that the CPA pursues a legitimate aim. The CPA does not pursue an aim recognised as legitimate by Article 8. Such legitimacy is a prerequisite before addressing whether the interference is necessary and proportionate.
- 4.02.45 The European Court allows a wide margin of appreciation in deciding what planning policies should be adopted. However, this does not displace Convention rights and the Court will intervene where rights are breached by an adopted policy. Therefore the margin of appreciation argument is irrelevant. There is nothing approaching a

pressing social need for limiting applicant's rights within the proposed CPA. Relocation will lead to dislocation and as such is no mitigation.

- 4.02.46 The Department, not an independent and impartial tribunal, will decide whether or not to adopt the CPA. Therefore the much vaunted procedural safeguards amount to very little. Not everyone whose rights are breached as a consequence of the CPA will appeal to the PAC. The Department seems to be looking to the Commission to mend a situation of its own breaking.
- 4.02.47 The CPA will breach Article 12 by interfering with the right of the adult children to found a family in accordance with the social traditions of the area by requiring them to move off the family land. Article 12 identifies no legitimate aims, which might justify interference if proportionate. The fact that the European Court has never held that a planning restriction interferes with the Article 12 right to found a family does not mean that it never will or that the outcome is in any way unlikely.
- 4.02.48 The CPA will breach Article 1 of Protocol 1 by interfering with the right of landowners to give their children family land on which to settle and with the traditional means of earning a living. Whilst there is no right entitling children of landowners to receive family land upon which to settle, there is a right of the landowner to dispose of their land to their children for settlement purposes. The European Court requires a fair balance to be struck between the protection of property rights and the demands of the general interest and has applied the fair balance test to a development plan. The Department's reliance on the *margin of appreciation* ignores this crucial "fair balance" test.
- 4.02.49 The CPA will contravene Article 14 in having a differential impact on the Catholic population of the Lough shore. The proposed CPA is clearly disproportionate in that the disadvantage to the Catholic population is excessive in relation to the aim of environmental protection. The proposed CPA will lead to a stark difference in treatment in planning terms between the Catholic community of the Loughshore and Protestants living in the rural remainder.
- 4.02.50 Whilst in principle a CPA could accord with the general interest, the proposed Lough Shore CPA neither accords with that interest nor strikes a fair balance between the general interest and the interests of those adversely affected. Since the proposed policy is incompatible with Convention rights it should be excised from the plan before adoption so as to remove the risk that it will be applied in development control. This is both a legal and administrative imperative.

### **Consideration**

- 4.02.51 The policy context of the CPA is primarily drawn from the Strategic Policies SP6 and SP12 of the Planning Strategy for Rural Northern Ireland. The strategic objectives of a CPA are identified in policy GB/CPA 1. They are (1) to protect countryside under pressure for development (2) to protect the visual amenity of areas of landscape quality and (3) to maintain the rural character of the countryside. GB/CPA 1 links the strict control of development within CPAs to these strategic objectives.
- 4.02.52 A Countryside Assessment has been carried out as part of the preparation of the Area Plan as required by policy DES1. The Department has drawn on the Countryside Assessment in deciding to designate the CPA. It has also had regard to the findings and possible future options identified in the Rural Environmental Analysis (REA) undertaken in 1996.
- 4.02.53 The current ETAP Lough Shore Policy Area is confined mainly to a narrow strip along the shores of Lough Neagh. In several places land within the current CPA will be excluded from the proposed Lough Shore CPA. These include the environs of Ballyronan marina and a quite sizeable area in Killycolpy and Killywoolaghan townlands. However, the excluded areas are the exceptions and the proposed CPA, if confirmed, will affect a much larger area than the current CPA. On the other hand the proportion of the Lough Shore within the proposed CPA is still modest compared to the area as a whole. The vast majority of the Loughshore as defined at the Inquiry will remain outside the area that is subject to stringent control.
- 4.02.54 The Department argued the case for extending the CPA primarily on the issue of development pressure. The correlation between pressure of applications for new dwellings and the proposed CPA is clearly evident on DOE Map 3, which plots the planning record for 1988-1998. Travelling the B160/B161 confirms the impression of build up along the north-south main road corridor. Similarly, there is readily apparent evidence of development pressure along Battery Road (B73) and in the swathe of countryside centered on Kinturk, Anneeter, Annaghmore and Cluntoe. In my judgement the incidence of new dwellings in these areas is similar to many other areas of the countryside in Northern Ireland where the pressure of development is having a seriously deleterious impact on the rural landscape.
- 4.02.55 In considering whether or not to designate a Countryside Policy Area, however, each area has to be assessed on its particular merits having regard to a wide spectrum of planning, environmental, social and economic issues. This will include having regard to human rights issues and the application of PAFT and New TSN.

- 4.02.56 The Rural Environment Analysis (REA) together with other evidence given to the Inquiry attests to an element of social, economic and cultural distinctiveness of the Loughshore community compared with the generality of rural Northern Ireland. As noted by the REA, the unusually high density of population and the limited extent of developable land has led in places to extreme pressure for single dwellings in parts of the Loughshore. As well as pressure of development on the open countryside the threats to the Loughshore identified by the REA included out-migration of younger adults, erosion of local labour supply, viability of community facilities and lack of funding for infrastructure and economic growth.
- 4.02.57 The possible option of designating part of the Lough Shore a Dispersed Rural Community was canvassed in the REA. However, the REA noted that opportunities appeared limited and that the majority of local facilities, which would provide a focal point, are situated within defined settlements and clusters. It also canvassed the possible option of applying a blanket less restrictive policy (than the current one) to the whole Loughshore or parts of it. However, it added that this could lead to pressure for other parts of the District to be treated similarly and that strong arguments would be needed demonstrating that the situation is so unique as to merit this special approach. It went on to conclude that if such a blanket policy were not seen to be acceptable there would still be a need to tailor specific policies to meet the needs of the local population.
- 4.02.58 It is worth bearing in mind that the Area Plan context for the REA was the ETAP. Apart from Coagh, a designated village, and four identified hamlets (Ballyronan, Derrychrin/Ballinderry, Newport Trench and Killygonlan) the entire Loughshore in Cookstown District remained open countryside subject to normal rural development control. Working on the basis of options explored by the REA the draft Plan proposes settlement limits for Ardboe, Ballinderry, Ballylifford, Ballyronan, Coagh, Moortown and The Loup. These limits encompass nearly half (130ha approx.) of all undeveloped land in the villages in Cookstown District. I have already concluded generally that the settlement limits in the rural area are generously drawn. Viewed in this context it is quite evident that the proposed CPA is one part only of a broader, far from draconian strategic response by the Department to the problems of the Loughshore identified in the REA.
- 4.02.59 As revealed in the Robson Report the Loughshore suffers relatively high levels of deprivation for a rural area. The Rural Development Programme (RDP) identifies the Western Shore of Lough Neagh as one of the most disadvantaged areas of Northern Ireland. The recent outbreak of foot and mouth disease in the area inevitably will have

worsened matters further. Rural deprivation, however, is not uncommon. As well as the Western Shore of Lough Neagh, the RDP also identifies West Fermanagh, the Sperrins, South Armagh/South Down and the Glens of Antrim as being disadvantaged areas most in need. In recent years there has been some albeit limited success in attracting business enterprise into Ardboe, the ward that Robson ranked the most deprived ward in the Loughshore.

- 4.02.60 It is common ground that kinship is an important factor in driving the local economy with family members engaged in diverse but inter-related occupations. However, I am not persuaded that there will be an unduly serious impact on the Loughshore economy if as a result of the more stringent planning control over single dwellings within the sparingly applied CPA members of families are dispersed somewhat more widely around the Loughshore area. In any case as highlighted by the Department the CPA policies do not amount to a blanket ban on single dwelling development. Houses will receive permission where a proven need is demonstrated. The CPA will take account of the bona fide fisherman and appropriate proposals for tourism, agricultural diversification and expansion of rural businesses.
- 4.02.61 I accept that the CPA in reducing the prospects for adult children obtaining sites on their parents' holdings may lead to increased outward migration in the crucial 20-39 age group. However, I consider that there has been a tendency for this argument to be overstated. Firstly, subject to the normal planning and environmental criteria, opportunities for family land to be gifted as sites for single dwellings to individual family members will continue in the vast majority of the Loughshore area. Secondly, the ample supply of development land in the villages and economies of scale associated with developing housing in groups rather than singly should have the effect of producing more affordable speculative housing. Whilst it is hardly likely that this would outweigh the advantage of a gifted dwelling site on family land, it is nevertheless another ameliorating factor. Finally, as accepted by the Council's planning expert, the villages and proposed CPA are proximate and residents of the villages are viewed as much a part of the Lough Shore community as those living in the country. Therefore, it is unlikely in the normal event that there would be any major sense of alienation or social dislocation caused by moving to a nearby village.
- 4.02.62 I do not accept the argument that the PSRNI policies DES 5, 6 and 7 and the controls these provide over integration, design, build up and ribboning are an adequate response to the intense development pressure in the Lough Shore. I accept that in a landscape with the capacity to absorb additional development good siting and design can ameliorate the impact of new development on the erosion of rural character. However, I agree with the Department that inevitably the point will be reached where development control alone can no longer

be relied on to prevent unacceptable build up in an area. Since the build up has reached the critical threshold in the proposed CPA the Department would be failing in its duty under the Order if it failed to alert a prospective applicant that the capacity of the countryside to absorb more development has been exhausted. Followed to its logical conclusion, the objectors' argument would defeat the designation of a CPA in any area of countryside from excessive development pressure. Their approach would defeat the strategic objectives of policies SP 12 and GB/CPA 1. If instead the Department sought to protect the threatened landscape through a series of planning refusals this would lead to justified criticism that it is operating an undeclared embargo on development.

- 4.02.63 The DRSF respects the desire of local communities to protect positive features of their environment and maintain their regional diversity. I cannot discern a basis for the view that the CPA does not accord with these objectives. Likewise I am unable to accept that the planning proposals in the Loughshore area conflict with the *people and community focused approach* outlined on page 22 of the DRSF. I consider that viewed in the round they meet the REA requirement of policies tailored to the needs of the local population.
- 4.02.64 I accept that landscape continually evolves and that the restoration of indigenous vegetation encouraged with government grants could increase the capacity of the local landscape to absorb development. However, it will not be possible to assess the significance of this factor for many years to come. In the meantime the decision to delineate a CPA or otherwise must be based on the current assessment of the countryside. In this regard the acceptance by the Council's planning expert that there are parts of the Loughshore that meet the criteria for designation in policy GB/CPA 1 is clearly significant and carries considerable weight.
- 4.02.65 The Department has acknowledged that the CPA will have some adverse effect on the Loughshore community, which it accepts is predominantly Catholic and Nationalist. It accepts that the community suffers from comparatively high levels of deprivation and that CPA policies do not cater for the typical familial circumstances in the area. On the other hand it argues that the delineation of the CPA together with provision of generously drawn village envelopes is proportionate and meets the current requirements for equality and evaluation and New TSN. I agree with this analysis. I consider that the proposed planning response to the problems in the Loughshore is measured and reasonable. I do not accept the argument that the CPA should be withdrawn pending full application of EIA. The delay could lead to much-increased levels of development pressure targeted on the CPA caused by applicants seeking to pre-empt the tighter policy. There will

be an opportunity to apply EIA to policy CTY 2 when this aspect of the plan is reviewed by the Department.

4.02.66 Finally, I have carefully considered the detailed arguments of the parties on the various issues relating to the legislation for the protection of Human Rights. As I ruled the Inquiry I agree with the Council that the CPA policy has to be assessed against the requirements of the European Convention. Clearly, it makes neither legal nor administrative sense to await breaches of the Convention in the application of the policy to individual planning applications if the incidence and consequences of the breaches are disproportionate to the advantages of the policy in the general public interest. However, my consideration of the various issues including the wider public interest in the protection of the environment leads me to conclude that the proposed CPA is proportionate and falls within the margin of appreciation allowed to the Department as the authority charged with the formulation of planning policy for the orderly and consistent development of land.

***Advice***

4.02.67 I advise the Commission to recommend to the Department that the proposed Loughshore Countryside Policy Area should be confirmed.

**4.3 Objection 022 by Mr Patrick Higgins to the extension of Cookstown Green Belt some 3kms to the east of the town at Killybearn Road / Drumgarrel Road, Cookstown.**

**Site and surroundings** The subject lands lie north and south of Killybearn Road. The land to the north is part of a large area of scrub woodland, which extends northwards and westwards to Drumgarrell Road. The area south of Killybearn Road is made up of grazing land.

**Objector's Case**

- 4.03.01 Mr Higgins argues that the laneway forming the designation boundary is not sufficiently robust. He does not want the boundary to follow the public road and suggests an alternative (**PAC Map 4.3**). He asserts that there is no need for an eastward extension of the Green Belt since there was no net increase in the settlement limit on the eastern side of Cookstown.

**Departmental Concession (in part)**

- 4.03.02 It is acknowledged that the laneway forming the boundary is not as robust as intimated on map coverage of the area. However, the objector's alternative is also within woodland. Following reassessment it is considered logical to retain the boundary along Drumrot Road and continue along Drumgarrell Road to its junction with Killybearn Road, thence eastwards along Killybearn Road to connect with the limit south of the road as published in the Draft Plan. This boundary would result in the exclusion from the Green Belt of the land indicated by Mr Higgins to the north of Killybearn Road. Land indicated to the south of the road would be retained within the Green Belt given its prominent nature and established natural boundaries.

**Consideration**

- 4.03.03 Apart from a small triangle of land to the south of Killybearn Road the Department's proposed amendment generally coincides with the wishes of the Objector. I agree that the prominence and natural boundaries of the triangle justify its retention in the Green Belt. I also agree that Drumrot Road is a logical boundary. Elsewhere the decision to "peg back" the outer edge of the Green Belt to coincide with the road network amounts to a departure from the proposed plan outside the scope of the objection requiring formal modification of the Plan. Since this departure amounts to a net reduction in the extent of Green Belt the Objector's argument that there should be no net increase is addressed.

**Advice**

- 4.03.04 I advise the Commission to recommend to the Department as follows.



- (1) The proposed Green Belt Boundary south of Killybearn Road should be confirmed.
- (2) The proposed realignment of the Green Belt boundary excluding lands delineated in the East Tyrone and Draft Cookstown Area Plans north of Killybearn Road be processed as a modification of the Plan under Article 8(1) of the Order and Regulation 13 of the Planning (Development Plans) Regulations 1991 (as amended).

**4.04 Objection by Broughderg Area Development Association (133) and CWSAN (104) to the exclusion of an area of land north and northwest of the Beaghmore Stone Circles from the proposed Broughderg Dispersed Rural Community (DRC)**

**Area, location and background** The area in question is located in the foothills of the Sperrin mountains in the northwest of Cookstown District. It comprises some 521 hectares of moorland along the valley of the Broughderg River. The area is sparsely populated. There are some upland farms and a few farm dwellings and buildings.

**(PAC Map 4.4).** Broughderg DRC is proposed in the Draft Plan, on the foot of a representation received following publication of the CAP 2010 Preliminary Proposals.

**Objector's case**

- 4.04.01 The Association welcomes the proposal to designate a Dispersed Rural Community (DRC) at Broughderg but objects to the exclusion of the area of land that is the subject of the objection. Recently the area has suffered severely from depopulation. For the appearance of a living countryside, where tourism is of prime importance, it is essential that refurbishment and replacement of derelict buildings are treated sympathetically and modest additional single dwellings are allowed. Only local people would want to build homes in the area. Even then very few would wish to do so and any development would be small in scale. There are fewer archaeological sites within the excluded area than are in the DRC.
- 4.04.02 CWSAN considers the surfeit of controls in Broughderg/Davagh Upper to be intimidating. No consideration is given to New TSN and PAFT, or to the Rural Development Programme.

**Department's case**

- 4.04.03 PSRNI policies SP 5 and HOU 7 provide guidance for the designation of Dispersed Rural Communities. The Department considers a DRC justified at Broughderg because of the focal point for the community of Broughderg and Davagh Upper provided by the church, post office, public house and vacant church/community centre. A locally significant number of dwellings are located south of Broughderg Road.
- 4.04.04 The land the subject of the objection lies within the Sperrins Countryside Policy Area (CPA), the Sperrins Tourism Conservation Zone (STCZ). It is also in an Area of Significant Archaeological Interest (ASAI), the Sperrins Area of Minerals Constraint (SAMC) and Sperrins Area of Outstanding Natural Beauty (AONB).

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- 4.04.05 The Sperrins CPA and the STCZ are required to protect the environment in the immediate vicinity of Beaghmore. The CPA presumes against single houses unless justification can be demonstrated. The STCZ provides control over tourism projects which may otherwise be permissible in the CPA.
- 4.04.06 The ASAI and SAMC are required to protect the wider setting of Beaghmore. The ASAI policy presumes against large-scale development and masts or pylons. The policy would permit single dwellings, small-scale housing or tourism projects on appropriate sites. The SAMC presumes against permission being granted for mineral extraction other than in exceptional circumstances. The proposed DRC lies within the ASAI, SAMC and AONB.
- 4.04.07 The extension to the DRC sought by the Association would conflict with the CPA and STCZ designations that seek to protect tourism assets. The inclusion of the subject area within an extended Broughderg DRC would be compatible with the ASAI, SAMC and AONB.
- 4.04.08 The inclusion of the objection lands within the proposed DRC would be likely to lead to unsympathetic development in a sensitive, historic landscape that is conducive to tourism. The CPA designation is necessary not only to protect the scenic quality but also the nature conservation and archaeological interests in the area. Moreover, protection over and above that of the CPA designation is necessary in the vicinity of the Beaghmore Stone Circles, which are vulnerable to development. The designation of the STCZ, ASAI and SAMC are necessary to control non-residential development that could be permitted under Green Belt policy GB/CPA 2.
- 4.04.09 The Broughderg DRC designation is extensive and the CPA and STCZ were delineated sparingly. Particular account was taken of the Beaghmore Stone Circles and the landscape, both of which are key tourist attractions. The subject area contains few occupied dwellings. The open moorland, in which development is visible over long distances, is extremely sensitive to change. Whilst the Pressure Analysis indicates low demand for development in the area, even a single dwelling could have disproportionate effects.
- 4.04.10 Beaghmore site is a State Care Monument of major all Ireland archaeological significance. The circles are visible over a wide area in which there is a whole system of related monuments. This is reflected in the designation of an extensive ASAI. The area excluded from the DRC lies within the archaeological setting of the monument. Views out from and towards the stone circles are important.
- 4.04.11 The refurbishment and replacement of vacant buildings for tourism, as sought by the Association, is not precluded by the CPA and STCZ

designations. The sensitive refurbishment of traditional buildings is considered appropriate. The practical application of the extension of the DRC would endanger rather than enhance the tourism potential in the area.

### **Consideration**

- 4.04.12 The balance in this case is the weight that should be attached to the disadvantaged local community in need of regeneration against the protection of a special landscape and its value as the archaeological setting of the renowned Beaghmore Stone Circles. In weighing these issues the key policies are those identified by the Department (see 4.04.03-04). The Department also referred to PPS 6 without identifying specific policies. The Beaghmore Stone Circles are a State Care Monument and, since unarguably they are at least of regional significance, both the monument and its setting falls within the protection of policy BH1 in PPS 6.
- 4.04.13 Apart from an area northeast of Keerin Road, the subject area lies within the proposed Sperrins Countryside Policy Area and Tourism Conservation Zone. According to Policy CTY 2 of the plan the CPA has been designated to protect the vulnerable and unique upland around Lough Fea and Beaghmore in which development can have disproportionate effects on the landscape and detract from its sense of wilderness. Within this broader context the Department's opposition to the extension of the DRC focuses in particular on protecting the setting of the Beaghmore Stone Circles.
- 4.04.14 Policies SP 5 and HOU 7 essentially are aimed at regenerating rural areas affected by economic and social disadvantage. The criteria for designating DRCs rule out a location within a CPA. Therefore if the objection is upheld the proposed CPA designation currently proposed within the area of concern to the Association would have to be deleted. The STCZ is an even tighter control than a CPA and would lie uneasily with the ethos of regeneration underlying the DRC.
- 4.04.15 The CPA and the STCZ are essentially aimed at protecting the landscape, particularly the landscape setting of the Beaghmore Stone Circles. The essential issue is whether development that might realistically be approved as a consequence of the DRC designation would impact unacceptably on the setting of the circles and the wider landscape. This requires careful assessment of the landscape and the policies available for its protection in the absence of the CPA and STCZ.

### Landscape Assessment

- 4.04.16 In assessing the current landscape I paid particular attention to the views from the Stone Circles across the valley of the Broughderg River and the reverse view towards the Circles from Broughderg Road.
- 4.04.17 At the Circles, whilst the general landscape is open and expansive, a clear distinction is discernible in the landscape to the south and east from that to the north and west. To the south there is elevated upland culminating in the rocky summit of Black Rock and to the east the view is dominated by Crocknaglogh and the coniferous Davagh Forest Park. To the north and west one looks across the Broughderg River valley containing the objection lands to the slopes of the Sperrins rising beyond where much of the DRC is located. The Landscape Assessment in the Countryside Assessment Supplement describes this area as an expansive, relatively homogeneous landscape, fragmented in some areas by small conifer belts protecting the whitewashed farmsteads from the prevailing wind. This is a fair summary of the view out over the valley from the Circles. What is striking in the context of the current objection is that there is no significant difference in settlement pattern or the quality of the landscape between the objection lands and the DRC. One flows into the other with similar incidence of development and associated vegetation in a generally open landscape. Neither is under threat from build-up. The incidence of development is sporadic and there is scope for integrated development possibly including small groups of dwellings of modest proportions. The valley of the Broughderg is closer to the Circles but the southern flanks of the Sperrins whilst further away are more elevated and are equally a significant element in the setting of the Monument. In the reverse view the flow from Broughderg Road down across the valley floor is seamless whereas the area containing the Circles lies into the distinctively different rocky uplands to the south.
- 4.04.18 Given the evidence of rural dereliction the GB/CPA 1 strategic objective of protecting countryside under pressure from development does not apply. The remaining strategic objectives for designating a CPA are the protection of landscape quality and maintaining the rural character. Judged exclusively on the basis of the quality and character of the Broughderg landscape there is no reasonable basis for distinguishing the objection lands from the DRC. The only other conceivable justification for the proposed CPA is the protection of the Beaghmore Stone Circles.

#### Protection of the Monument

- 4.04.19 There are several scheduled archaeological sites within the DRC. There are none within the objection lands. Archaeologically, the only factor distinguishing the objection lands is that they include an area close to the State Care Monument. It is primarily this area that is

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relevant when addressing the usefulness of the CPA to the protection of the setting of the Monument.

- 4.04.20 The most obvious features detracting from the setting of the Circles are a conspicuous suburban style dwelling in the vicinity of Boughderg Bridge and a derelict farmstead on elevated ground in the immediate foreground. Suburban development can be prevented using the regional development control policies contained in the PRSNI (DES 5 and 6). These policies are heavily reinforced by policy BH1 under which the Department is entitled to operate a presumption against proposals that would have an adverse impact on the setting of the State Care Monument. It seems to me that this potent armoury of protection is more targeted than a CPA or indeed the proposed Tourism Conservation Zone that are being proposed across a swathe of countryside irrespective of its significance to the protection of the Monument.
- 4.04.21 The Countryside Policy Area will do little to prevent further dereliction of farmsteads and other vernacular buildings that are currently contributing the character of the archaeological landscape. Extension of the DRC on the other hand could help to encourage renovation and renewal of farm groups and traditional clachans.

#### Conclusions

- 4.04.22 I find the balance of the evidence in this case favours the objectors. In so concluding I attach particular significance to the following considerations.
- i) In quality and character of landscape the objection lands are not readily distinguishable from the proposed DRC.
  - ii) PPS 6 and the PSRNI regional development control policies for location siting and design provide adequate protection of the Beaghmore Stone Circle.
  - iii) It is not contended that the economic and social disadvantage in the area excluded from the DRC is any less serious than within the DRC.
  - iv) The evidence from the Countryside Assessment that pressure for development is low and the low incidence of existing development support the view that despite the openness of the landscape there is some capacity for additional development, particularly in the vicinity of derelict farmsteads.
  - v) Whilst distance from facilities must determine the size of the DRC, this was not an argument advanced by the Department for excluding the objection lands. Indeed, it appears to me that if it were omitted a "bite" would be left out close to facilities identified as the focus of the DRC.

- vi) There is also a converse argument that the more extensive the DRC the more dispersed will be the incidence of development, thereby increasing the scope for integration and lessening the risk of build-up.
- vii) Finally, it is difficult to conceive what harm would be incurred either on the landscape or on archaeological interests through the erection of small groups of modest dwellings and other buildings in suitable locations conforming with the guidance on page 147 of the Plan.

4.04.23 Irrespective of whether or not the CPA and STCZ are confirmed, the balance of the objection lands northeast of Keerin Road should be included within the DRC. If the objection is upheld it would be important in my opinion that attention should be drawn to Policy BH 1 in the text on page 147 of the Plan.

***Advice***

- 4.04.24 (1) The lands identified by Broughderg Development Association should be included within the proposed Broughderg Dispersed Rural Community and excluded from the Sperrins Countryside Policy Area and the Sperrins Tourism Conservation Zone.
- (2) Attention should be drawn to PPS 6 Policy BH 1 in the text on page 147 of the Plan.

## 5.0 **OBJECTIONS RELATING TO COOKSTOWN**

### **HOUSING RELATED OBJECTIONS**

**NB** The reporting of housing related objections is in clockwise order around the periphery of the town commencing at Dungannon Road.

#### 5.01 **Objection 013 by Euroframe Construction to the exclusion of land fronting Sandholes and Dungannon Roads from the settlement limit of Cookstown.**

**Site, surroundings and background** The site (5.2 ha) is comprised of two large fields with associated scrub and wooded areas. It is bounded by Sandholes Road to the north (proposed settlement limit) and by Dungannon Road to the east. It is variable in topography. A private lane that provides access to a dwelling defines the southern boundary. **(PAC Map 5.01)**. The objection site has remained outside the settlement limit of Cookstown in the ETAP 1980, the CAP preliminary proposals and the DCAP.

#### **Department's case**

- 5.01.01 The settlement limit and the land zoned for Cookstown have been defined following the analysis of development trends and an evaluation of the environmental issues, physical features and the availability of services. Cognisance has been taken of the provisions of the DRSF. Consultation has also been carried out with statutory agencies and Cookstown District Council.
- 5.01.02 Adequate land has already been zoned to accommodate the required housing for Cookstown and surrounding district (see Section 3.01 above). The inclusion of the objection site even for low-density development would significantly add to the surplus of housing land.
- 5.01.03 Development of the objection site would result in urban sprawl, impact on the appearance of the surrounding countryside and negatively affect the town's setting (PSRNI policy GP/CPA 1). To ensure the adequate supply of development land during the plan period it has been necessary to extend the limit into Green Belt but such extensions avoid the "ports of entry".
- 5.01.04 Cookstown Settlement Appraisal (CSA) prepared in accordance with PRSNI policies SP12 and DES 1 identifies the principal environmental considerations for the future growth of the town. The CSA identifies the site as an area where development should be avoided due to the constraints of its topography. It is quite elevated and has a prominent ridge. This combined with the existing vegetation and tree cover



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provides an appropriate visual break at the edge of Cookstown (PSRNI policies DES 2 and DES 3).

- 5.01.05 The Countryside Appraisal Section of the Countryside Assessment emphasises the importance of the entrances to the town, the visual links and setting within the surrounding countryside. Map 12 in the CSA identifies the three principal "ports of entry" to Cookstown on the Dungannon, Moneymore and Omagh Roads (CSA 3.8.4). Approaching the town on Dungannon Road there is a dramatic port of entry, which remains predominantly rural. The tree-lined road cuts through a ridge before arriving at the roundabout. Vegetation assists assimilation of the development on the opposite side of the A29. H24 includes a prominent ridge line and contains less tree cover than the objection site. However, since it will be further away from the observer housing on H24 will have less immediate impact. Views of Cookstown are ameliorated by distance. Not all of the housing on the objection site would be hidden from the "port of entry" by the slope.
- 5.01.06 Approaching Cookstown along Sandholes Road one encounters industry on both sides of the road and then the Free Presbyterian Church and the Simpson Builder Centre. However, there is still a significant green wedge that provides a buffer between town and country prior to the A29 roundabout.
- 5.01.07 H24 was white land in the ETAP. Other factors that justify its inclusion and exclusion of the objection site are quantum of housing land and avoidance of elongation of the north south axis of the town.
- 5.01.08 Dungannon Road (A29) is a protected route. When triggered by the completion of the EDR Sandholes Road will become a part of the realigned protected route A505. There is no priority of protection of one protected route over another. Nevertheless Roads Service would prefer that access be taken solely from Sandholes Road.
- 5.01.09 The submitted concept plan is of limited value without the proposed levels and house types. There is more to sustainability than reducing the journey to work.

### **Objector's case**

- 5.01.10 Detailed design proposals including a slope analysis, vegetation study and concept master plan have been prepared to demonstrate how the objection site can be developed without compromising the important visual and environmental considerations. This is the sort of site that is very much in demand in Cookstown for low-density quality housing. Its proximity to existing and proposed industrial zonings along Sandholes Road makes it an ideal location for executive housing for

key employees. H24 is Phase 2. If the objection is successful it is likely that the objection site would also be in Phase 2.

- 5.01.11 There are a considerable number of factors that throw into question whether sufficient land has been zoned for housing over the plan period. (See 3.01.26). The development would help to address the imbalance in housing allocations between the north and south of the town.
- 5.01.12 There have been significant industrial and communal developments in the Green Belt since the settlement limit was aligned along the Sandholes Road in the ETAP. The DCAP proposes further substantial urban expansion along Sandholes Road. The land further out just a field away is also included within the limit. The filling station and suburban bungalows along the eastern side of Dungannon Road do little to enhance the setting of the town or the "port of entry". All in all, in terms of urban form, visual and environmental impact, economic provision of services and proximity to industrial zonings there is a strong case for including the site within the limit to mirror the proposed H24 housing opposite.
- 5.01.13 Given the constraints on the development of the industrial zonings in the east of the town, the extensive allocation of industrial land in the Sandholes Road area and the development of agri-industry at Loughry, development of housing on the appeal site would assist in reducing travel to work.
- 5.01.14 The proposed development will retain and augment the important trees and hedgerows so as to integrate the low-density development within the woodland setting. The development will be almost entirely screened by the slope and existing vegetation from the "port of entry". This is in marked contrast with housing site H24 upon which development will be open and exposed to view. The mature vegetation and the backdrop of the rising land will integrate development on the objection site when viewed from Sandholes Road.
- 5.01.15 Housing clusters will be kept off the ridge and the planting of woodland along the ridge will complete the screen from the A29. The private laneway provides a natural physical and visual break between the site and the countryside beyond. The proposed executive housing will not appear as an urban intrusion into open countryside. Rather it will retain and reinforce the existing vegetation, thereby enhancing the "port of entry" into Cookstown, whilst retaining the visual break between town and country.
- 5.01.16 The site offers an opportunity for something special in a rural setting. The woodland character of the low density development will be the key to assimilating it in the landscape.

## Consideration

- 5.01.17 As a general proposition in order to justify extending the settlement limit there has to be a need for additional housing. I have already concluded in agreement with the Department that there is an ample sufficiency of zoned land appropriately distributed to meet the housing needs of the community over the plan period.
- 5.01.18 The southern part of the objection site sits up on an east- west aligned ridge breached by the attractive tree lined cutting that is a key feature of the visually important port of entry. Once into the cutting the objection site is hidden by the slope and mature vegetation. However, approaching the cutting the ridge is a conspicuous foreground feature of the broader vista towards Cookstown. The Objector argued that housing would be screened from A29 by the topography supplemented by existing vegetation and supplementary planting. However, the submitted slope analysis and vegetation study shows that the ridge and its southern flank comprise a very significant portion of the site. Moreover, the Concept Master Plan shows several low density housing clusters in this area. It also shows much of the steep vegetated northern scarp remaining largely free of development. The evidence leads to the conclusion that it would be very difficult for a developer to avoid housing being seen from the A29.
- 5.01.19 I am satisfied that the encroachment of foreground housing on the port of entry would have much more impact than development on H24 which is further away. H24 lies much more closely into the existing urban fabric of the town than the Objection site.
- 5.01.20 I can see merit in housing located close to opportunities for employment but this attribute is outweighed in my opinion by the objections relating to quantum of housing land and visual impact on the port of entry.

## Advice

- 5.01.21 I advise the Commission to recommend to the Department that the exclusion of the objection site from the proposed settlement limit be confirmed.
- 5.02 **Objection 103 by Mr S McAleer to the exclusion of land south of Drum Road (A505) from the settlement limit of Cookstown.**

**Site, surroundings and background** The site is located at the south-western edge of Cookstown. It has an area of 10.37ha and is predominantly in agricultural use. It includes a dwelling and farm complex together with another dwelling at the northern end of the site. The site is accessed from Drum Road via a laneway that leads to Derryloran Industrial Estate. **(PAC Map 5.02)**

The site was shown just outside the settlement limit in the ETAP. In the Preliminary Proposals (PP) it was zoned for industry/mixed business use inside the limit of development. Mr McAleer objected to the proposed zoning. He argued that there are more appropriate areas in Cookstown for industry/mixed business and that residential use would be more appropriate. In the DCAP the settlement limits were altered to exclude the site and place it in the Green Belt. Land to the south was included within the limit and zoned for industry/mixed business use (I1 and I2).

### **Department's case**

- 5.02.01 Having acceded to the request for the removal of the PP industrial/mixed business use zoning, the Department sees no need to substitute a housing designation. The supply of housing land is considered to be adequate without the inclusion of the objection site.
- 5.02.02 There is no inconsistency in resisting housing having proposed that the same site should be zoned for industry/mixed business use at the PP stage. The objection site has locational advantages close to existing industry at Derryloran, whereas in terms of the location of housing it is peripheral and unattractive from the sustainability perspective.

### **Objector's case**

- 5.02.03 The growth of housing supply for the town of Cookstown is being unduly constrained in relation to the rest of the District (see 3.01.28 above). An average density of 15dpha for the proposed housing in Cookstown is reasonable. It is accepted that there would have to be a gross inflation of the house building rate to exhaust the figure of 2200 dwellings comprised of Phases 1 and 2. The inquiry is not the forum in which to argue in favour of the dezoning of ETAP housing land that has remained undeveloped.
- 5.02.04 The land is suitable for development and the Department must be of this opinion also given its zoning for industry in the Preliminary Proposals. The settlement limit should be extended north to Drum Road and the site should be zoned for residential development. This would be an appropriate use given the existing housing in the immediate area.
- 5.02.05 Release of the objection site for development would accord with the more desirable east/west axis for expansion of Cookstown. The vast bulk of zoned housing land is in the northern part of the town. The only significant zoned housing land on the southern side of the town is that at H24 for Phase 2 housing. The difficult topography of H24 would restrict the yield.

- 5.02.06 The site is admirably located for sustainable development. It is very convenient to the town centre and to employment, recreation and shopping facilities. It is immediately adjacent to the existing housing. It should be developed for low-density dwellings in keeping with the visual amenity of the area.
- 5.02.07 As a Key Service Centre in the DRSF Cookstown must have a full range of housing types with a range of choice of different locations within the town. The objection land could provide an up-market location convenient to the main employment centre on the Sandholes Road. There is now a need when seeking inward investment to provide a quality local living environment in order to attract entrepreneurs and key personnel.

### **Consideration**

- 5.02.08 I agree with the Department that, having proposed that the site should be zoned for industry/mixed business use in the Preliminary Plan, it is not incumbent on it to zone the land for housing in the Draft Plan. Normally, the requirements in locating industry are more difficult to satisfy than those relating to housing and different criteria apply.
- 5.02.09 The site is well located in relation to the employment in Derryloran Industrial Estate and Ballyreagh and, albeit to a lesser extent, to other facilities in the south of the town. However, as in the case of the previous objection the key consideration is whether there is a need for additional housing land such as would justify extending the settlement limit to include the objection site. I have already concluded that the zoned land is adequate (see 3.01) and reasonably well distributed (see 3.02 and 3.02.44 in particular) to meet the needs of the community through to the end of the plan period.

### **Advice**

- 5.02.10 I advise the Commission to recommend that the proposed settlement limit south of Drum Road be confirmed.

### **5.03 Objection 046 by Mr & Mrs Mulgrew) to the exclusion of land at Black Hill north of Drum Road (A505) from the settlement limit for Cookstown**

**Outline of objection** Mr and Mrs Mulgrew objected to the exclusion of their land from the development limit (**PAC Map 5.03A**) and wished it to be included and zoned for housing. Their view that there is a need for additional land in the southern sector of the town to achieve a better balance in accommodating the needs of both sides of the community is reported separately (see 3.02). At the Inquiry the

Objectors reduced the scope of their objection by amending the site to two fields fronting the A505, part of the farm complex and the farm lane. They also withdrew their objection to the designation of part of the original objection site as a Local Landscape Policy Area (LLPA).

**Site, surroundings and background** The objection site as amended (**see PAC MAP 5.03B**) slopes up steadily from the road to a farm complex. North of these buildings the land (outside the amended site) falls steadily down to the Ballinderry River. These northern slopes and the farm complex on the crest partly within the amended site are prominent in views from the hills and roads within the town further to the north. The area along the riverbank is well wooded. The site lay outside the development limit in the ETAP 1980. It is included in the Green Belt in the DCAP 2010 and a LLPA is proposed along the Ballinderry River corridor. The Ballinderry River was declared an ASSI (Area of Special Scientific Interest) on 20 March 2000.

### **Department's Case**

- 5.03.01 The objection site has been reduced to 4ha but the quantum issue of housing supply is still applicable. 4ha represent a year's supply of housing for Cookstown. It would provide housing in the south of the town and help to counter the north-south elongation. However, there is an appropriate distribution of sufficient development land to meet the needs of the community over the plan period. (See 3.01-3.02)
- 5.03.02 Development of the objection site would result in urban sprawl, impact on the appearance of the surrounding countryside and negatively affect the town's setting (Policy GB/CPA 1).
- 5.03.03 The site is located at Black Hill, which Cookstown Settlement Appraisal (CSA) Map 12 identifies as a prominent hilltop beside a principal port of entry to the town. The undulating countryside provides an important visual break separating the built up area from the countryside (CSA 3.3.3). To allow further development along the A505 would create unnecessary and undesirable urban sprawl along one of the main approach roads into Cookstown. Development has taken place between the Ballinderry River and the A505. However, the Ballinderry River remains a good physical boundary defining the edge of the settlement.
- 5.03.04 Landscape Architects Branch considers that a good planting scheme would add to the intrinsic visual amenity of the LLPA as viewed from Drum Road. EHS Natural Heritage considers that the entrance to the town would benefit from significant planting in the area close to the A505 as this would ameliorate the impact of the existing unattractive development that mars the approach from Omagh.

- 5.03.05 The proximity of the site to the employment, education, retail and recreational centres concentrated in the south of the town has advantages in reducing the use of the private car and relieving the main spine route of traffic. However, these benefits have to be balanced against protection of the countryside and urban sprawl.
- 5.03.06 The south side of Drum Road was zoned for industry/mixed business use in the Preliminary Proposals. The Department balanced the need to supply land for employment against protecting the port of entry. Landscaping would have been used to reduce the visual impact. Had the proposed zoning been retained in the Draft Plan the possibility of releasing the northern side of the road would have been considered.
- 5.03.07 The two features identified by the CSA (3.8.4) as contributing to the dramatic port of entry are Derryloran Church and the Ballinderry River. The river cannot be seen from A505 and one passes a considerable amount of development within the settlement limit before Derryloran Church comes into view. The line of tall trees to the west of the objection site identified on CSA Map 7 would provide a defensible topographical limit but the edge of the existing closely built up development is also a defensible stopline.
- 5.03.08 Elsewhere in the town proposed urban extensions into the ETAP Green Belt have to be viewed in their own contexts and the objectives for Green Belt designation. H24 contains a ridgeline but it does not extend the limit of development any further south and it was white land within the ETAP limit. Inclusion of the objection site would not produce a better settlement limit. The existing dwellings provide significant definition. The objectors' proposed development limit would do nothing to improve the appearance of the port of entry.
- 5.03.09 The impact of the approved 5000sq-ft replacement dwelling has to be visualised within the context of the group of farm buildings.

### **Objectors' Case**

- 5.03.10 Insufficient land has been zoned for development. (See (3.1) above). Significantly more land has been zoned in the north of the town than in the south. This will reduce the housing supply, increase the price of new houses in this area and force people to move to the north of the town (See 3.2 above). If housing densities proved to be less than 15dpha it would be more logical to advance the release of Phase 2 land rather than extend the development limit.
- 5.03.11 The Commissioner in his report of the Public Inquiry into the ETAP commented that Cookstown's urban form should not be allowed to expand north and south and that development east and west would result in a more compact and efficient settlement. The Ballinderry

River has already been breached as a stop line and the inclusion of the objection site will round off development up to a strong physical feature. If the objection site south of the A505 is included within the limit then development of the Mulgrew site will mirror that opposite.

- 5.03.12 The Department's concern for protection of the countryside and avoidance of urban sprawl at this location lies uneasily with its proposals elsewhere in Cookstown. The Plan already involves substantial sprawl particularly along the Lissan and Orritor Roads (H21, H26 and H27). Compared with other lands allocated for development (e.g. H24 and I3) the objection site is topographically and visually unexceptionable. The Department's case is further undermined by its proposal at preliminary stage to zone industrial land on the opposite side of the A505.
- 5.03.13 Approaching on A505 the existing development limit is merely demarcated by the backs of existing dwellings. Unsightly and prominent development sprawling along the skyline has already destroyed the rural character of the area. The farm lane and a hedgerow defining the western boundary of the site will provide a much better development limit. Or the limit could be extended to the strong tree hedge some 60-100m to the west (CSA Map 7), which would be consistent with the regard paid to trees and hedgerows at the other ports of entry. Inclusion of the objection site would provide an opportunity to redevelop the existing farm group and for substantial mature planting thereby improving the setting of the town.
- 5.03.14 Development will be stepped off the ridgeline. This will protect the visual break at Black Hill in views from the north-east and enhance the setting of the LLPA.

### **Consideration**

- 5.03.15 Neither Ballinderry River nor Derryloran Church makes any contribution to the port of entry at Black Hill. The visual break provided by the objection site is somewhat compromised by the impact of the existing farm complex. The approved replacement dwelling will exacerbate this effect. Nevertheless, in my judgement the open undulating farmland to either side of the A505 at Black Hill will still continue to provide a conspicuous and clear cut break between town and country approaching or leaving Cookstown. I am not persuaded that there is any significant advantage to be gained in replacing the existing and approved dwelling on the objection site with housing development, even if of modest density and accompanied with copious tree planting.
- 5.03.16 In any case in order to justify extending the settlement limit there has to be a need for additional housing. I have already concluded in



agreement with the Department that there is an ample sufficiency of zoned land appropriately distributed to meet the housing needs of the community over the plan period. The inclusion of the objection lands would result in unnecessary expansion into the countryside at variance with the maintenance of compact urban form.

### ***Advice***

5.03.17 I advise the Commission to recommend that the settlement limit north of the A505 at Black Hill should be confirmed.

### **5.04 Objection 030 by Messrs D McNeill, A Moffett and S Rutledge to the exclusion of land to the south of Tullagh Road from the settlement limit for Cookstown**

**Site, surroundings and background** The objection site (2.3 hectares) is situated in the Green Belt south of Tullagh Road and north of the Ballinderry River. It consists of two fields sloping southwards down towards the river and a Local Landscape Policy Area (LLPA 1). A rough laneway (public footpath) runs down the western boundary of the site. Recent housing lies to the north east on higher ground. There is also a rath (non-scheduled) to the north of the objection site. **(PAC Map 5.04)**. The objection site has remained outside the settlement limit in the ETAP, the CAP Preliminary Proposals and the DCAP 2010.

### **Objectors' case**

5.04.01 In submitting their objection to the Draft Plan the objectors relied on a statement of planning evidence submitted in relation to more extensive lands that supported an earlier objection at the Preliminary Proposals stage. The objection is summarised as follows.

1. The land would be developed for housing with land adjacent to the river being retained as open space thereby extending the riverside walk. Access to the site can be gained from existing development.
2. The proposed limit does not follow a definable line on the ground. By incorporating the site within the development limit a definable boundary would be created along the existing track.
3. Comprehensive development of the land for low to medium density housing would achieve a sustainable development of quality. The proximity to the town centre and good public transport links meet sustainability objectives, more so than other lands included within the limit.
4. The agricultural quality of the site is indistinguishable from adjacent land included for housing in the plan. There is no evidence of known archaeological features and the site has not been identified as scientifically important.

5. Allocation of the site would result in "rounding off" and would not be visually harmful to the area. The existing housing on higher land is more visually dominant.

**Department's case**

- 5.04.02 Sufficient land is already zoned to meet development needs (see 3.1 above).
- 5.04.03 Development of the objection site would result in urban sprawl, impact upon the appearance of the surrounding countryside and negatively affect the town's setting (PSRNI policy GB/CPA 1).
- 5.04.04 These fields sloping down to the Ballinderry River are very rural and unspoilt. All the open land visible to the south, across the Ballinderry River is also unspoilt. Development of the objection site would impact upon this important part of the town's setting (CSA 3.8.1 and Map 12).
- 5.04.05 Development of the objection site would harm LLPA 1 and the recently designated ASSI along the Ballinderry River. The impact on the ASSI would be more serious if the fields to the south of the objection site were also to be developed. This would be a likely outcome if the site were to be included within the limit. Whilst the proposed footpath extension would be welcome, development of the objection site would be overbearing and would negatively impact upon the character of the LLPA/ASSI and the footpath itself.
- 5.04.06 Development of the objection site would not result in logical "rounding off". Rather it would be seen as an urban extension into open countryside contrary to the objective aimed at achieving compact urban form.
- 5.04.07 The western boundary hedge of the proposed settlement limit at H16 has been removed in recent years. It would be bad planning to extend the limit to include additional land created by developers removing hedge boundaries. Moreover this is still the logical boundary for development. Development of the objection site would extend well beyond the urban edge into the countryside. Also, as the western field has no southern boundary there would be even less logic to the settlement limit.
- 5.04.08 If the site were to be accessed via H16, Tullagh View, Tullagh Road and hence onto Westland Road, an upgrading of the Tullagh Road/Westland Road junction would be required (see Section 5.06). Alternatively the objection site and H16 could possibly be accessed via H15 onto Westland Road (south) directly. However, this would require a comprehensive multi-site layout including a full right turn lane onto Westland Road.

### Consideration

- 5.04.09 I share the view of the Department that there is an ample zoned land appropriately distributed to meet the housing needs of the community over the plan period (3.01-3.2). The objection site is not required to supplement the supply of housing land during the plan period and fails the quantum test.
- 5.04.10 I am not persuaded that development of the objection site would be logical "rounding off". Instead I agree with the Department that development would be an unwarranted urban extension into open countryside contrary to the objective aimed at achieving compact urban form. Also I am satisfied that it would adversely affect the character of the LLPA/ASSI and the riverside footpath.

### Advice

- 5.04.11 I advise the Commission to recommend to the Department that the settlement limit south of Tullagh Road be confirmed.

### 5.05 **Objection 121 by Mr L Loughran to the exclusion of land north of Tullagh Road from the settlement limit for Cookstown.**

**Site, surroundings and background** The site totals some 5.1 ha and is comprised of four fields, a low lying (stream-side) area and a dwelling on a large plot (**see PAC Map 5.05**). There is another detached dwelling on the Tullagh Road frontage, which is excluded from the objection site. Across Tullagh Road and opposite the south-east corner of the site there is a rath (a non-scheduled archaeological site) on the summit of a drumlin. The site lies on the north-western slope of this drumlin. Tullagh Road has dense hedges on either side and has the appearance of a minor road. The field boundaries within the site are mostly good quality thorn hedges. The linear stream area to the north-west of the site is well treed with groups of deciduous species.

The objection site has remained outside the settlement limit of Cookstown in the ETAP 1980, the CAP Preliminary Proposals and the DCAP. Water Service has advised that the site is served by public service and water mains.

### **Department's Case**

- 5.05.01 Adequate land has already been zoned to accommodate the required housing land for Cookstown and surrounding district (see 3.1 above).

- 5.05.02 Development of the objection site would result in urban sprawl, impact on the appearance of the surrounding countryside and negatively affect the town's setting (PSRNI policy GB/CPA 1).
- 5.05.03 The CSA identifies a "prominent hilltop" as the key feature along the Tullagh Road entrance to the town. Development of the objection site would be elevated, prominent and would detrimentally affect the natural setting of Cookstown. There is also concern about the potential impact of development on the adjoining stream that leads to the nearby Ballinderry River ASSI and Area of Local Nature Conservation Importance (ALNCI).
- 5.05.04 The objection site is distinguishable from H25 and H26 in topography and elevation. Also H25 and H26 represent consolidation of the development limit to incorporate and augment two outlying housing estates. Orritor Road is a main road artery providing good conditions for access. Tullagh Road is a relatively minor road with access and visibility constraints and with an overwhelmingly rural character.
- 5.05.05 Roads Service would require Tullagh Road to be up-graded, the junction with Westland Road to be improved and a footpath to be provided along the northern side of Tullagh Road. (For more detail see Section 5.06).
- 5.05.06 The extensive developments between the Orritor and Tullagh roads indicate that this is a very popular sector in the housing market perhaps reflecting a comfort with the area felt by both sides of the community.

### **Objector's case**

- 5.05.07 Development of the objection site would facilitate the orderly expansion of the town on an east-west axis as opposed to north-south. It would help balance and complement the proposed expansion along Orritor Road. Access already exists via Tullagh Road, unlike many of the other zonings. Development can be serviced via the same serviced infrastructure that will be required to "open up" the Orritor Road zonings. Housing development has already taken place along Tullagh Road. The objector has been approached several times by developers, who see these lands as ideal for development.
- 5.05.08 Tullagh Road is not a relatively minor road, does not have access and visibility constraints and is not overwhelmingly rural in character.
- 5.05.09 Inclusion of the site in association with areas H25 and H26 will allow an appropriate "rounding off" of development in this part of the town. The objection site should be assessed in comparison with the

prominence of the rest of North Cookstown approaching from Orritor village.

### **Consideration**

- 5.05.10 As in the preceding cases the objector is seeking an extension of the settlement limit for which there is no justification based on the quantum of housing land needed over the plan period. Therefore inclusion of the objection site would be an unacceptable urban extension contrary to the plan objective seeking a compact urban form. Moreover, unlike H25 and H26, the objection site includes an elevated local prominence upon which development would appear conspicuous and intrusive.

### **Advice**

- 5.05.11 I advise the Commission to recommend that the settlement limit north of Tullagh Road be confirmed.

## **5.06 Objection 124 by Mr J McMahon to the improved infrastructure required to facilitate the development of Housing Site H17**

**Site and background** Housing Site 17 (4.38ha) is immediately north of Tullagh Road (**PAC Map 5.06**). The eastern part of the site was "whiteland" within the ETAP settlement limit. The western part was in the Green Belt.

### **Objector's case**

- 5.06.01 Mr McMahon owns H17 and has developed the majority of the lands west of Westland Road. His objection relates to the infrastructure improvements required to facilitate the development of H17. These are (1) improvement of the junction of Tullagh Road and Westland Road; and (2) a footway should be provided along the northern side of Tullagh Road to connect with the existing public footway network at Westland Road.
- 5.06.02 In order to upgrade the sight lines it will be necessary to acquire lands from third parties who are unwilling to sell. The provision of a footpath to connect into the existing network is impossible, as there is no existing footpath west of Westland Road. It is totally unreasonable to make the developer of H17 undertake or pay for the upgrading of Westland Road. If the footpath and sightline requirements are not lifted and the lands publicly vested it will be impossible to develop H17 and additional development land will be required.

### **Department's case**

- 5.06.03 Roads Service is concerned that presently Tullagh Road is not of an adequate standard to satisfactorily accommodate development on this site without improvements. Hence the requirements listed at (1) and (2) above.
- 5.06.04 A proposed scheme has been devised involving the widening of Westland Road between Tullagh Road and Orritor Road, which it is hoped will be completed within the plan period. Should a developer wish to proceed with development of H17 prior to implementation of this scheme it will be necessary to provide adequate visibility at the Westland Road/Tullagh Road junction. The current sight lines are 6m x 26m northwards along Westland road, whereas 6m x 70m is required.
- 5.06.05 The Phase 1 zonings proposed are sufficient to meet local housing needs relative to the DRSF targets. The fact that some sites require greater infrastructure improvements than others does not render these sites incapable of development. It is therefore reasonable to expect that the objection site can be developed for housing within the plan period.

### **Consideration**

- 5.06.06 Essentially the matters at issue in this objection are the means and financing of improvements to the local road network to allow the development of H17, a Phase 1 housing site, to proceed. The technical justification for the required improvements has not been challenged.
- 5.06.07 H17 was included in Housing Phase 1 notwithstanding that there is no firm programme for the implementation of the pre-required improvement to the junction of Westland Road with Tullagh Road. This junction serves a much wider existing urban area and it is not reasonable in my opinion that the financial responsibility for its improvement should be imposed on the developer of H17. Similarly Tullagh Road also serves a wider area and I am not persuaded that the developer's responsibility for footpath provision should extend beyond the frontage of the objection site.

### **Advice**

- 5.06.08 I advise the Commission to recommend as follows.
1. The Department should review the programming of the improvements required for the Westland Road/Tullagh Road junction with a view to securing their implementation consistent with the development of Phase 1/Housing in the area.

2. The developer of Housing Site 17 should only be held responsible for footpath provision along the frontage of the site.

**5.07 Objections 001& 004/127 (Mr A Hegarty & Mr & Mrs P Cosgrove / Mr J J McMahon) seeking the transfer from Phase 2 to Phase 1 of lands south of Orritor Road, Cookstown**

**Sites and location** These sites comprise adjoining lands south of Orritor Road, from which they are separated by land in agricultural use. Objection site 001 is 0.91ha. There is access via a private laneway to two dwellings. The remainder of the site is a field sloping down to a watercourse on the western boundary. Objection site 004 comprises 2.41ha of agricultural land. The land to the east of the objection sites has been developed for residential use. **[PAC Maps 5.07A and 5.07B]**

**Background** The sites were located outside the development limit of Cookstown in the ETAP 1980. The sites were zoned for housing in the CAP Preliminary Proposals and are now included within the H25 phase 2 housing allocation. Adjoining lands to the south have been allocated as Phase 1 housing (H17).

**Department's Case**

5.07.01 In phasing the housing allocations a sequential approach has been adopted taking into the following factors.

- ◆ Previous land zoning as contained within the ETAP 1980.
- ◆ Availability of infrastructure.
- ◆ Distance from the town centre.
- ◆ Access to public open space, school, local shops and services.
- ◆ Existing urban form.
- ◆ The RSF drive for housing within existing urban areas.

The sequential approach accords with the Plan objective to maintain compact urban form and avoid urban sprawl.

5.07.02 As the lands are located on the edge of Cookstown, outside the current development limit within the Green Belt, they should remain within the Phase 2 allocation. The objection lands are not significantly further removed from the town than Phase 1 zoned H17 land. However, a large part of H17 lies within the ETAP land zoned for development.

5.07.03 The phasing does not preclude the longer-term development of site 004/127 in association with either H25 or Forthglen. Pedestrian and

vehicular linkages are required to link through H25 and H17 to Orritor Road and Tullagh Road. The development of 001 would have to be consistent with the comprehensive development of the adjoining Phase 2 lands. If a single dwelling were to satisfy Green Belt policy it might only be necessary to establish that it would not jeopardise development of the H25 zoning. Net of the land required for road connection serving H25 there will be little left of site 001.

5.07.04 It is proposed that open spaces on either side of the interface of H25 and H17 will combine to address a local open space deficiency. The submission of a comprehensive design scheme for the entire H17/H25 zoning will ensure pedestrian linkages between Orritor Road and Tullagh Road and access to open space. In this way the longer-term comprehensive development of H17/H25 will not be jeopardised by being in separate phases.

5.07.05 The Department would wish to see a direct road linkage between the Tullagh and Orritor Roads independently of or in conjunction with access off Forthglen. The access requirements include suitability for public transport (6m width and widening of bends) and a capability to satisfactorily serve the entire area. Whilst culs de sac were a characteristic of the 1988 Layout of Housing Roads Design Guide the emphasis in Creating Places is on inter-linkage.

### **Objectors' Case**

5.07.06 Very little land has been zoned Phase 1 on the western side of the town. The objection sites are no further from the facilities in the town centre than the Phase 1 H17 allocation. All three landowners, Hegarty, Cosgrove and McMahon are willing to co-operate.

5.07.07 The owner of the H25 lands north of Site 001 has no intention of releasing his lands and is agreeable to the Phase 2 allocation. Site 001, owned by Mr Hegarty would be minimal if a link road were put through it to serve developments either side. In the absence of a link road the site could be developed with three dwellings served off the private lane-way. The lands on either side can incorporate the open space to suit their sites.

5.07.08 Site 004/127 is flat and immediately available for development as an extension of Forthglen. Mr McMahon owns H17 and the residue of Forthglen. It is therefore possible for Mr Cosgrove (004/127) to develop his lands as an extension of Forthglen and to link the roads through H25 and H17 via the access that has already been approved by the Department (I/ 98/0356). This linkage can be built wide enough to accommodate public transport in accordance with the data in Creating Places (page 119). The extension fits neatly into an



existing development pattern. The necessary infrastructure and services are already in place to access the site and its early release will provide the linkages sought between H17 and H25.

### **Consideration**

5.07.09 At 15dpha the combined sites (3.32ha) would yield an additional 50 dwellings. This amount of extra housing in Phase 1 would have little effect in reducing market tension for the release of the residual ETAP zoned land, yet it would assist with meeting a finalised HGI and the Technical Supplement estimate of housing land required in 2010. It is in the west of the town on the south side of the Orritor Road and therefore lies within a part of the town favourable to both sides of the community. It is less than a kilometre from the town centre and therefore it is convenient to retail and other facilities. Currently H17 can only be accessed off Tullagh Road. Release of the objection sites would allow inter-linkage to a standard adequate for buses between Tullagh Road and Orritor Road via H17 and Forthglen within the plan period. Currently there is no linkage through the existing residential developments west of Westland Road. In combination, I judge the balance of these factors favours inclusion of the objection sites within Phase 1.

### **Advice**

5.07.10 I advise the Commission to recommend to the Department that the lands the subject of Objections 001,004 and 127 are re-zoned Housing-Phase 1.

## **5.08 Objection 132 by Ferson Brothers to the exclusion of part of H28 from Phase 1 Housing .**

**Site and Background** This 1.63ha site is located north of Windsor Crescent and Woodglen residential developments on the north western edge of Cookstown. **(See PAC Map 5.08A)** Part of the objection site (outlined in red on **PAC Map 5.08B**) is within the ETAP development limit but is not zoned for a specific use. The balance (shaded blue) is within the Green Belt. In the Draft Plan the entire site is included within housing area H28 as Phase 2 land.

### **Objectors' case**

5.08.01 Planning approval exists for residential development on the part of the site edged red on PAC Map 5.08B (I/95/0343). It would be more practical to include the blue area with the area edged red as a more comprehensive layout may be approved.

5.08.02 The proposed extension fits neatly into the existing development pattern. Ferson Brothers own both portions of the objection site and were the developers of the adjoining Woodglen scheme.

### **Department's case**

5.08.03 Since there is a valid planning approval for construction of a residential road layout on the area outlined in red the Department has no objection to the re-zoning of the approved area as Phase 1 housing land. However, it is considered that the phase 2 designation should be maintained for the blue shaded area. Sufficient land has already been allocated within Phase 1 to meet the target set by the DRSF. The fact that the two areas would be in different housing phases does not preclude a comprehensive approach to the design of any housing layout, which would then be developed in a phased manner.

### **Consideration**

5.08.04 H28 is the largest of the housing allocations in the draft plan and is of sufficient size to require a Concept Master Plan (see 3.02.40). The permission that the DOE relied on for its concession relates to a comparatively small area of H28. In this context I agree with the Department that the balance of the objection site should be retained within the Phase 2 and developed comprehensively with the remainder of H28.

### **Advice**

5.08.05 I advise the Commission to recommend as follows: -

- (1) The area of the objection site within the East Tyrone Area Plan settlement limit and subject to permission I/95/0343 (edged red on plan 5.08B) should be re-zoned Phase 1 Housing.
- (2) The Phase 2 zoning of the area of the objection site outside the East Tyrone Area Plan settlement limit (shaded blue on PAC Map 5.08B) should be confirmed.

## **5.09 Objection 131 by Mr L Donaghy to the exclusion of part of H20 from Phase 1 Housing.**

**Site, surroundings and background** This 3.06ha site fronts onto Lissan Road, in the north-western edge of Cookstown. The southern half is in agricultural use. The remainder is a concrete products and concrete block making plant. The site rises steadily up from the road before levelling off in the area occupied by the industrial use. **(See**

**PAC Map 5.09)** In the ETAP the site is outside the development limit in Green Belt. In the CAP Preliminary Proposals it was included within the settlement limit and zoned for housing. In the DCAP 2010 the site is part of housing zoning H20 that is designated as Phase 2 housing land.

### **Objector's case**

5.09.01 There would be an environmental gain by removing the existing concrete products/block making plant and redeveloping the area as housing. The Concrete production and block making have resulted in dust and noise problems in recent years. There have been complaints and the operator is looking at the possibility of relocating. This would not be financially feasible unless the land can be redeveloped at housing value. Developers would not offer the full value if forced to wait several years to commence building.

### **Department's case**

- 5.09.02 There is sufficient land already zoned within Phase 1 to accommodate plan needs (see 3.02 above).
- 5.09.03 Given the sequential approach to the phasing of housing and the location on the edge of Cookstown the land is better suited as Phase 2-development land.
- 5.09.04 Cookstown District Council Environmental Health Department has advised that no complaints have been received relating to noise or dust emissions from the concrete making plant during the last 10 years covered by the Department's records.
- 5.09.05 Given the lack of complaints relating to dust or noise emissions it is not apparent that the existing plant is causing a problem. The development of housing zone H01 is not jeopardised by the continued operation of the plant. Because of the topography and mature vegetation the industrial buildings and storage are not prominent in the landscape. Therefore, whilst there would be some environmental gain in removing the industrial operation from its current location, its existence is not causing problems either visually or with regard to emissions.

### **Consideration**

5.09.06 There is little on the ground to distinguish H20 from the western wedge shaped section of the Phase 1 zoning H01. The wedge projects out to the boundary of the concrete works. The public health evidence indicating an absence of complaints in the past is based on the current separation of the plant from occupied dwellings. The development of H01 will bring housing much closer to the works in an unfavourable

location in relation to the prevailing wind. There is therefore merit in the objector's argument that advancement of the objection site to Phase 1 housing and relocation of the concrete works would remove this potential source of nuisance.

- 5.09.07 In views from Lissan Road the concrete works is a conspicuous breach of the skyline. There is also a ruinous group of buildings closer to the road on the balance of H20. Residential development of H20 will remove these two unsightly building complexes.
- 5.09.08 At 15dpha the objection site together with the balance of H20 (1.65ha) would yield 70 dwellings approximately. This amount of housing in addition to the transfer of the 001, 004 and 127 objection lands to Phase 1 would have only a marginal effect in reducing the market tension on the residual ETAP zoned land.
- 5.09.09 Given their close interlocked relationship, there could be merit in comprehensive development of H20 with H01. The prospects for through access and other interlinkage would be enhanced. The mature boundary vegetation along the western boundary of H20 provides a more logical delineation of phasing than the H01/H20 boundary.

### ***Advice***

- 5.09.10 I advise the Commission to recommend to the Department as follows:
- - (1) the objection site be advanced to Phase 1 housing allocation; and
  - (2) that, subject to the modification procedure, consideration be given to also advancing the balance of H20 housing zoning to Phase 1.

**5.10 Objection 129 by Mr L Donaghy to the exclusion of lands between Lissan Road and Coolreaghs Road from the settlement limit and to the fact that the land is not designated either within Phase 1 or Phase 2 housing land.**

**Site, surroundings and background** This 9.7ha site is bounded by Coolreaghs Road to the east and Lissan Road to the south-west. It comprises several fields outside the development limit north-west of the town. (**PAC Map 5.10**). The Green Belt status of the land in the ETAP is unchanged in the CAP Preliminary Proposals and the DCAP 2010.

### **Department's case**

- 5.10.01 Adequate land has been zoned to accommodate the required housing for Cookstown and surrounding district. (See 3.01 above).

- 5.10.02 Contrary to PSRNI policy GB/CPA 1 development of the objection site would result in unnecessary urban sprawl, impact upon the appearance of the surrounding countryside and negatively affect the town's setting.
- 5.10.03 The Settlement Appraisal (3.4.1/3.4.4 & Map 7) identifies this site as being one that has important trees and hedgerows helping to define the urban edge and contributing to the overall setting of the town.
- 5.10.04 The site when viewed from the approach roads is not prominent or exposed. The open nature of the site however sets it apart from the land within the settlement limits, which is screened from view by significant trees and hedgerows. In this context the site presents an appropriate and necessary visual break at the edge of the town.

### Consideration

- 5.10.05 Adequate land has been identified for urban expansion to meet the needs of the community through to the end of the plan period. The inclusion of this peripheral site within the development limit would clearly represent unjustified urban sprawl contrary to the plan objective of seeking to achieve compact urban form.

### Advice

- 5.10.06 I advise the Commission to recommend that the development limit between Lissan Road and Coolreaghs Road be confirmed.

### 5.11 Objections 006, 014 and 045 to the exclusion of lands from the settlement limit at Moneymore Road, Cookstown (Rev Dr W McCrea, Mr D Riddell and Mr J Shearer)

**Sites and surroundings** Objections 006 (Dr McCrea) and 014 (Mr Riddell) relate to the same 5.4 ha of land, which is bounded on its southern side by Moneymore Road (A29) (**PAC Map 5.11A**). The relief is irregular with the northeast section rising above the main road, the centre section being relatively low and the southern section being a low ridge. The vegetation mostly comprises thorn hedges with mature beech trees along the A29 boundary. The site includes a riding centre, six dwellings, gardens, fields and hedgerows.

Objection site **045** (Mr J Shearer) consists of a part of site 006/014 (**PAC Map 5.11B**). It measures some 1.1ha and comprises one L-shaped field, which is mostly flat and elevated with thorn hedges on all sides. A lane bounds it to the northwest and it slopes down to another lane at its south-west corner. This lane serves two dwellings and leads onto A29.

**Background** The objection sites were outside the development limit in the ETAP 1980 and are within the proposed Green Belt in the DCAP 2010. Objection **012** to the exclusion of a field to the north-east and immediately adjoining sites 006/014 was withdrawn on day 6 of the Inquiry.

### **Department's Case**

- 5.11.01 The objection sites have been excluded from the development limit in accordance with the policies that have (1) allocated adequate zoned land within the limit (3.01 above) and (2) control the settlement by avoiding urban, sprawl, prevent ribboning and protect the countryside.
- 5.11.02 There is no comfort in the objectors' proposals to limit the number of dwellings. The DCAP does not impose prescriptive densities for residential development. The addition of two or three dwellings on site **045** has to be viewed in the context of the over zoning of housing land compared with the current RSF requirement.
- 5.11.03 Cookstown's urban form is essentially oval. Urban growth has tended towards a north/south axis. The District Council has asked that the development limit be drawn to avoid further elongation on a north/south axis (7.4.2 Settlement Appraisal). The inclusion of the objection sites would elongate Cookstown further, leading to unnecessary urban sprawl and ribboning along Moneymore Road (PSRNI Policy GB/CPA 1).
- 5.11.04 The CSA (3.8.4) identifies this entrance along Moneymore Road as one of the three "principal ports" of entry" which add to the town's unique character. Whilst the A29 south-bound approach contains a number of dwellings the landscape is essentially rural. The objection sites are generally elevated above road level, especially the field opposite the junction with the EDR. Any housing development would be conspicuous and would be seen as skyline development driving north on the EDR or approaching the town along A29. H04 located on a drumlin crest is more elevated than site **045** but its development would not be visible from the A29 approach. Rather than causing urban sprawl housing sites H25 and H26 will link up and consolidate existing development.
- 5.11.05 The existence of a 30mph sign has no relation to planning criteria or visual considerations. There are five dwellings on site **006/014** but it is still rural in character.
- 5.11.06 If boundary vegetation were allowed to grow and development were set back from the south-east boundary of site **045** no dwellings would be visible from A29. It could be written into the plan that housing

should be set back from the hedge. Three dwellings on site **045** would be in keeping with the densities on Moneymore Road in the vicinity.

- 5.11.07 The A29 is a protected route. However, there is potential to provide access for a limited number of dwellings on sites **006/014/045** via the existing lane-way at the south-western corner of site **006/014** provided the access is upgraded. This is because the access is existing and within the settlement limit. Moreover, once the EDR is in service this section of Moneymore Road will no longer be the protected route. Other than at this location it is not possible to access site **006/014** except via a new roundabout at the northern end of the EDR. Such a roundabout will not be constructed until after the completion of Stage 2 of the EDR, which is likely to be some years ahead. DCAP Policy TRAN 2 states that permission will not normally be granted for development that is reliant on the EDR.

### **Objectors' Cases**

- 5.11.08 The Department's case that sufficient housing land has been zoned is based on questionable assumptions (see 3.01.26 above).
- 5.11.09 There are some differences in approach between the individual objectors to the site-specific arguments. These are summarised as follows.
- 5.11.10 Dr McCrea argues that the inclusion of site **006/014** would provide the town with a natural boundary. In terms of urban sprawl development of the objection site is a drop in the ocean compared with proposed housing sites, e.g. H25 and H26. The local community already perceives the objection site as being part of the urban area.
- 5.11.11 Mr D Riddell highlights the fact that he is only seeking to erect one dwelling on objection site **006/014**. The dwelling would be kept off the skyline. Since it would be surrounded by the existing dwellings it would neither elongate Cookstown nor would it affect the rural character of the area. Access could be via the existing lane-way.
- 5.11.12 Mr J Shearer proposes that due to its small size objection site **045** should only be developed for two or three bungalows in keeping with the surroundings accessed off the existing lane. Its development would not represent an unacceptable urban intrusion because it will be surrounded on three sides by existing and proposed housing. The south-eastern boundary hedge can be retained, let grow and reinforced. Set back from the hedgerow the development would not be seen from either A29 or the EDR. It would not intrude on the "port of entry" or into the existing visual break, which in any case has already been compromised by existing development to the north-east.

- 5.11.13 Site **045** extends no further out and is less elevated than H04. Contrary to the pattern elsewhere in the Plan the proposed development limit encloses two existing houses on three sides yet excludes them from the settlement. Inclusion of the objection site would provide a more defensible development limit. Substantial planting would reinforce the definition.
- 5.11.14 The particular site characteristics of site **045** are materially different from the adjacent objection lands. There is no frontage to A29; development of the major part of the site will not be seen from the port of entry; and the access is acceptable. Therefore, development of Site **045** would not set a precedent for the Riddell land where these considerations do not apply.

### **Consideration**

- 5.11.15 I have already concluded in agreement with the Department that there is an ample sufficiency of zoned land appropriately distributed to meet the housing needs of the town over the plan period (3.01). These objection sites are therefore not required to supplement the supply of housing land during the plan period and they therefore fail the quantum test.
- 5.11.16 From my inspections I am satisfied that viewed from A29 approaching the "port of entry" development of the north-east corner of site **006/014** would be prominent and would breach the skyline. Except for a very distant view from the dual carriageway the H04 housing would be hidden. I would be less concerned with the view from the EDR northbound as this is not a "port of entry" and the appearance of site **006/014** from this direction is already compromised to some extent by existing development. Consequently, provided the drumlin crest in the north-east corner were excluded I would not judge the development of sites **06/014/045** at a modest density unacceptable on visual amenity grounds.
- 5.11.17 I have some sympathy for Dr McCrea's concern regarding urban sprawl elsewhere around the planned periphery of the town. However, I am not persuaded that planned sprawl should justify more sprawl elsewhere as this would clearly run counter to the strategic drive for compact urban form. Nor am I persuaded that there is a case for inclusion of site **045**. Whilst the development could be rendered inconspicuous by set back and the growth of vegetation, it would still represent an unwarranted urban extension into the countryside at variance with the plan strategy of urban containment. It seems that Roads Service concerns regarding access to A29 may be resolved within the period of the plan.

### **Advice**



5.11.18 I advise the Commission to recommend to the Department that the proposed settlement limit at Moneymore Road be confirmed.

**5.12 Objection 134 by Mr J Doris to the exclusion of lands north and south of Cloghog Road from the settlement limits for Cookstown.**

**Site, surroundings and background** Objection site 134 (13.7ha) straddles

Cloghog Road. The larger section of the site south of Cloghog Road is bounded to the north and east by Cloghog Road and the old railway line. The southern boundary is defined by a row of mature trees. The smaller section of land north of Cloghog Road is a triangular plot with mature trees and hedgerows defining its boundaries. **(PAC Map 5.12)**. The objection site has remained outside the settlement limit in the ETAP, the CAP Preliminary Proposals and the DCAP 2010.

**Department's case**

- 5.12.01 Adequate land has already been zoned to accommodate the required housing for Cookstown and district. Inclusion of the objection site within the settlement limit would result in unnecessary urban sprawl and would detrimentally impact on the appearance of the countryside and the setting of the town.
- 5.12.02 Development of the objection site would constitute an unacceptable urban extension into the countryside. The trees and hedgerows and the open nature of the site help to distinguish between town and country (CSA 3.4.4). Topographical, environmental and infrastructure constraints limit development opportunities to the east of Cookstown. Consequently there are no reasonable prospects of the lands to the north and south of the site being developed due to the topography. Inclusion of the objection site would therefore be contrary to the plan objective of achieving compact urban form.
- 5.12.03 Compared with zoned housing land, the objection site is marginally closer to formal recreational facilities. It is a similar distance to educational facilities. If anything the objection lands are closer to nodes of employment. There are no infrastructure problems associated with the site and the EDR will facilitate ease of access.

**Objector's case**

- 5.12.04 Adequate land may have been zoned but the site is more appropriate for residential development than the areas proposed for residential development to the north and northwest of Cookstown. Development of the objection site would be less sprawling. Routes to school are shorter and more direct. It is closer to facilities in the main street and to recreational facilities (Golf Course and Leisure Centre). It is nearer to the principal employment areas in the town. Completion of the EDR would facilitate ease of access. The topography is conducive to development.
- 5.12.05 The objection site should be zoned for residential development in preference to the areas in the north and northwest of Cookstown. There is a strong argument for de-zoning these areas and including the subject site.
- 5.12.06 The Council has requested further elongation of the town should be avoided. Release of the site would add width to the oval north/south configuration of Cookstown.
- 5.12.07 Development of the objection site would be less sprawling than zoned areas H25, H26, H22 and H24. It would be in depth, not ribboning. It would lie in with Festival Park and H23. There is ample rural character to the south and east to act as a buffer between town and country.

### **Consideration**

- 5.12.08 Ample land has been allocated for housing through to the end of the plan period and in my view the Objector's arguments that the objection site should be zoned in preference to lands zoned in the north and north-west of the town, to which there have been no objections, are overstated. Development of the objection site would be as sprawling as H22 and H24-26.
- 5.12.09 Release of the objection site for housing would result in a major wedge of development projecting out into the varied topography of unspoilt countryside east of the town.

### **Advice**

- 5.12.10 I advise the Commission to recommend that the settlement limit north and south of Coagh Road should be confirmed.

### **5.13 Objection 043 by Mr P Cosgrove to the exclusion of part of zoning H23 south of Fountain Road from Housing Phase 1**

**Related Objections**      001 & 004/127; 032, 125, 131, 132

**Site surroundings and background** This 4.18ha site is on the eastern edge of Cookstown on the southern side of Fountain Road. The Unipork factory and zones I5 and I6 are on the opposite side of the road. **(PAC Map 5.13)** The site was included within the limit of development and zoned for housing in both the ETAP and the CAP Preliminary Proposals. In the DCAP the site is part of H23, a phase 2 housing zoning.

### **Department's case**

- 5.13.01 There is sufficient land zoned for Phase 1 housing to meet the DRSF target (see Section 4.2).
- 5.13.02 Development of H23 is dependent upon the provision of the EDR (Plan policy TRAN 2). Programming of this section of the EDR is currently uncertain as the Department intends to develop the road in stages over the plan period subject to the availability of finance.
- 5.13.03 Development of H23 would be premature pending the construction of the EDR. This is due to (1) difficulties reconciling junction separation prior to EDR and afterwards; (2) access to H23 could compromise changes to the vertical alignment of Fountain Road necessary for a satisfactory junction with the EDR and (3) prior development of H23 could compromise the design of the EDR.
- 5.13.04 On 9 March 1988 full planning permission was granted for residential development on the northern part of the site (I/348/86). The approval was for ten 2-storey semi-detached dwellings and eight 2-storey detached dwellings. The Department's opinion is that development has not commenced. This opinion takes account of case law, the minimal amount of work carried out with no attempt to resume operations since 1993 and non-compliance with planning conditions attached to the approval.
- 5.13.05 There has been a material change in circumstances since the original grant of permission. On the foot the findings of the JMP Transportation Study there have been changes in the junction requirements and material changes in design standards and specification of the EDR. Roundabouts were not envisaged in the ETAP - the design concept was a series of staggered junctions.
- 5.13.06 In the event that the EDR would be completed before Phase 2 is triggered the Department remains opposed on grounds of quantum to the transfer of these lands to Phase 1.

### **Objector's case**

- 5.13.07 The Objector accepts the JMP engineering explanation why development of the Objection site would be premature pending the construction of the EDR.
- 5.13.08 Following consideration of the matter by Counsel the Objector is no longer arguing that there is an extant planning permission for residential development on the site.
- 5.13.09 The Objector is not prepared to withdraw the objection. In the event that the EDR were completed before Phase 2 is triggered the objection lands should be available for housing.

### **Consideration**

- 5.13.10 The Objector accepts the engineering advice that development would be premature pending the EDR and he is not pursuing his legal challenge asserting that there is an extant permission on part of the site. There have been significant changes to the design concept for the EDR since permission was granted on part of the site in 1988.
- 5.13.11 Mr Cosgrove's net position is predicated on the EDR being completed before Phase 2 is triggered. Even in this event the Department remains opposed to the inclusion of the site within Phase 1 on grounds of quantum. This last point could carry less weight if the finalised HGI converges with the Technical Supplement estimate of housing land needed through to 2010. However, on available evidence it seems most unlikely that the relevant section of the EDR will be completed by year 2005. Indeed, it is quite possible that it will not be built within the plan period. In these circumstances it is sensible to leave the objection site within Phase 2 pending the review in 2005. To do otherwise could introduce an undesirable degree of uncertainty that could adversely affect the monitoring and management of land supply for housing during the interim period.

### **Advice**

- 5.13.12 I advise the Commission to recommend to the Department that the proposed Phase 2 zoning be confirmed.

### **OBJECTIONS RELATING TO INDUSTRY AND MIXED BUSINESS USE**

**NB** The reporting of objections relating to industry is in clockwise order around the periphery of the town commencing at Dungannon Road.

#### 5.14 **Objection 042 by Blue Circle Industries seeking the inclusion and zoning for industry of lands at Ballyreagh**

**Site, surroundings and background** Site 042 (6.6 ha) is located to the south west of Cookstown close to Ballyreagh House. It is made up of the Blue Circle social club, car park and playing fields. East and west of the site there is agricultural land located in the proposed Green Belt. To the north lie Ballyreagh House (the subject of withdrawn Objection 031), industrial zone I2 and the recently developed Copeland complex. The site is bounded to the south by recently landscaped spoil heaps associated with an adjoining quarry. The site has remained outside the settlement limit of Cookstown in the ETAP 1980, the CAP Preliminary Proposals and the DCAP.

#### **Department's case**

- 5.14.01 Because the take up of the ETAP industrial zoned land has been constrained by its heavy reliance on the EDR it is an unreliable way of establishing the future land requirement. The preferred method has been the examination of future employment levels (Technical Supplement 5.24-5.27). This has produced a figure of 38ha. To provide for a reasonable degree of choice and flexibility in site selection, an over-zoning of approximately 55% has been applied resulting in 58.79ha zoned for industry/mixed business purposes at various locations in Cookstown. This primary zoning exceeds the objectors own benchmark figure of 50%. Including the agri-food park at Loughrey and the town centre opportunity sites some 82ha is available for industry/mixed business opportunities in Cookstown bringing over-zoning to 116%. It is not accepted that industrial or mixed business development of the opportunity sites is highly unlikely but in any case the supply of industrial land is adequate without them.
- 5.14.02 Areas have been selected taking into account a range of factors including
- availability of local infrastructure
  - ease of access to road network for distribution
  - ease of access to transportation network for the workforce
  - environmental impact
  - affect on amenity
  - physical constraints

This approach is in accordance with the Economic Development Strategy (EDS) of Cookstown District Council by ensuring that there is an adequate supply of industrial sites that will encourage inward investment. Consequently the supply of land zoned for industry/mixed

business use is considered to be adequate without the inclusion of the objection site.

- 5.14.03 A key element in the EDS is the attraction of warehousing and distribution. Warehousing requires large flat sites with good road access. I3-I6 are dependent on the EDR for access. In its absence industrial traffic would be required to access through the core of the town, having an impact on junctions that are already over-capacity. Even though 91% of the ETAP zoned land for industry remained undeveloped (Tech Supp. 5.12) it was necessary to grant permission for industry in the Green Belt to facilitate the Copeland refrigeration complex at Ballyreagh. This was due to the need for immediate availability to grasp an inward investment opportunity. The scenario that I1 and I2 are occupied and additional land is required to capture footloose industry would have to be addressed at that time.
- 5.14.04 There is no certainty that the EDR will not be built in whole or in part within the plan period and the topographical difficulties of I3- I5 can be overcome at cost. I6 (0.52ha) has been developed as a church. IDB is concerned that the proximity of H09 could restrict the type of industry on I3. Area I3 and H09 are separated by Old Coagh Road and can co-exist. Developers of I3 would not have carte blanche and design and demarcation would address issues of amenity.
- 5.14.05 Site 042 includes a number of sports pitches providing recreation and open space. Such facilities are important to the fabric of a healthy community and therefore should be protected by remaining in the Green Belt. There is protection for recreational open space outside settlement limits in policy OS1 of the emerging PPS8 (p.11). The outdoor recreation facilities proposed at Loughrey will replicate those at Blue Circle. Loughrey is further away from housing. The Department is powerless to prevent Blue Circle closing its facilities. Industrial use would conflict with the environment and amenity of the Green Belt contrary to PRSNI policy DES 3.
- 5.14.06 In June 2000 IDB commented that the zoning of the objection site for industry would increase the attractiveness of area I2. Deliberation of the withdrawn Objection 031 has established that access can be obtained for I2 independently of the Copeland site.

### **Objector's case**

- 5.14.07 The objector highlights the strategic advantages of industry located south of Cookstown and the dependence of the industrial zonings in the east of the town upon the completion of the EDR. It is highly unlikely and unrealistic to believe that I3-I5 will be developed in the plan period. They amount to almost half the land identified for industry and without them Cookstown is totally dependent on I1.

- 5.14.08 The creation of new jobs is a regional priority and is particularly relevant in Cookstown, which suffers from high unemployment. DRSF Policy SPG 15 states that the Department will make provision for a generous and continuous supply of urban land for employment uses and as a long term reserve to allow flexibility for imaginative industrial development projects in the future.
- 5.14.09 Considering Cookstown's historical difficulties in providing suitable land an overzoning of up to 50% would provide a more appropriate degree of flexibility and choice. Failure to construct the EDR will continue to prevent the development of I3, I4, and I5 (28.87ha). I3-I5 fail the criteria used to select industrial land (Tech Supp. 5.29). Undulating with steep slopes they are unattractive for industrial development. Zone I3 is compromised by the proximity of H09. Emissions from the Unipork factory will reduce the attractiveness of I5.
- 5.14.10 The number of planning permissions granted for industrial development within the Green Belt or on "white land" in the mid-1990s demonstrates the ongoing lack of land suitable for industry in Cookstown. These include the Copeland development at Ballyreagh and permission for Viper International on an unserviced site on the Pomeroy Road at Ballygrogan. If the PAC upholds any of the objections to industrial zonings this will further reduce the land available for industry.
- 5.14.11 Allowing for implementation of the proposed open space at Loughrey College the removal of the Blue Circle playing fields would reduce the open space in the town to 53.8 hectares. This would still be 20 hectares more than the required open space identified in the Plan (33 ha). The approach of the Department to the Blue Circle lands contrasts with its proposals for the development of more centrally located sites that were zoned in the ETAP as recreation/open space. The proposed 31ha sports complex at Loughrey will overcome any shortfall in the provision of playing fields in the southern part of the town. It will also provide the Blue Circle employees with good alternative facilities.
- 5.14.12 The workforce of Blue Circle has declined from 450 employees 20 years ago to less than 100. Few of the employees are involved in the teams using the playing fields. The land is underused. Six expressions of interest have been received from prospective purchasers, all for industry.
- 5.14.13 The planning merits of releasing the site include the following.
- The site meets all the criteria for selection of industrial land (see 5.14.02) and better than many of the proposed zonings. It is readily accessible and can be economically developed.

- It can provide road access to I2 without having to come through the Copelands site or the existing farm complex at Ballyreagh, which contributes to the setting of the town.
- It will increase the size of I2 from 2.68ha to 9ha. This would reduce the development costs of I2 and increase its attraction to developers.
- The limit proposed in the DCAP is poorly defined. Release of the objection site would round off development out to the restored spoil heap. This large feature will provide a strong defensible limit.

5.14.14 In June 2000 IDB observed that given the dependence of I3-I6 on the EDR Planning Service might wish to consider further whether inclusion of this area affords the best solution to meeting the overall estimated land needs or whether better alternatives exist adjacent to proposed zoning I1. Since site 042 is the only objection site seeking an industrial zoning at Ballyreagh it is the only available opportunity for additional land in this area.

### **Consideration and Advice**

5.14.15 The DRSF highlights the importance of generous and continuous supply of industrial land. An adequate supply of industrial sites that will encourage inward investment is also an essential prerequisite for the Cookstown District Economic Development Strategy. Yet 50% of the industrial land zoned in the Plan is dependent on the completion of the EDR. The EDR is a publicly funded project and its completion by the end of the plan period is very doubtful. Moreover, there are significant topographical constraints that render much of I3-I5 unattractive for industrial development. The plan envisages the town centre opportunity sites as suited to mixed use and commercial development. They offer limited scope for industry and recent permissions for residential and retail development indicate that their market potential lies elsewhere. The Loughrey Agri-Food Park is aimed at accommodating food processing and associated R&D activities and its contribution to employment in the town, whilst not insignificant, is circumscribed to one particular sector.

5.14.16 It would appear that an influential element in the Department's strategy for employment in Cookstown is continuity with the East Tyrone Area Plan, in which most of the land zoned for industry lies in the I3-I6 swathe. Yet the decisions to locate both Copeland and Viper outside the town in the Green Belt graphically illustrate the failure of the currently approved plan to cope with major industrial developments.

5.14.17 The Council's EDS identifies major warehousing developments linked to the distribution of agricultural products as the main opportunity for



inward investment. Such developments are only likely to be attracted to the town if they can obtain ready access to A29 and the strategic road network. In the proposed plan only I1 and I2 are independent of the EDR. I1 will be reserved for IDB or LEDU sponsored clients. Even if the problem of access to A29 is resolved I3's topography poses difficulties for warehousing. The inevitable conclusion is that much of the industrial land allocation in Cookstown is poorly equipped to accommodate the key element in the Council's strategy for economic development.

- 5.14.18 Turning now to consideration of the specific objection I do not find the case for the preservation of these lands in recreational use to be convincing. The Department accepts that the facilities at Ballyreagh will be replicated at the Council's 31ha development at Loughry. I do not accept that the distance from residential areas is significantly different and find force in the argument that the Department's zeal to preserve the Blue Circle facilities lies uneasily with its proposals to develop ETAP amenity and recreation land for housing. The objection citing policy DES 3 has not been cogently argued. Moreover, I discern substance in the view that the restored and landscaped quarry spoil heap provides defensible demarcation for urban containment at this point in the settlement limit.
- 5.14.19 The objection site enjoys ready access to the strategic road network. It lies into the industrial area to the north and the advantages of extending I2 to incorporate the objection site are endorsed by IDB. It offers an alternative access to I2 well separated from the access to I1 and without any potential for conflicting right turning movements. Finally, zoning the objection site (6.6ha) would make a significant contribution towards reducing the deficit in readily developable industrial land in the town.

### ***Advice***

- 5.14.20 I advise the Commission to recommend that the settlement limit at Ballyreagh be extended to incorporate objection site 042 and that the land be allocated for industry and mixed business use.

### **5.15 Objection 085 by Mr J Harris to the industry mixed use zonings I1 and I2**

**Site and surroundings** The site, located to the south-west of Cookstown, has a combined area of 29.4ha. I1 (26.72ha) is predominantly flat agricultural land with field boundaries defined by mature hedgerows. It is dissected by a lane-way that provides access to a number of dwellings and farm buildings. The adjacent land to the south, west and north-west is agricultural. The Derryloran Industrial Estate and light industrial uses lie to the north and east. I2 (2.68ha) is

a flat field to the rear of Ballyreagh House with a corridor for access to the north.

**Background** Following the ETAP public inquiry all of the current I1 and I2 zonings were located in Green Belt just outside the development limit. A large eastern part of the current I1 was proposed in the draft ETAP for industry but was excluded after the Public Inquiry. All of I2 was shown in the CAP Preliminary Proposals within the Green Belt. The eastern section of I1 was included within the limit and zoned for industry. The current proposed zonings were included to address representations made in respect of the Preliminary Proposals (**see Section 5.02**).

### **Department's case**

- 5.15.01 The site has been included within the settlement limit in accordance with the policies that (a) have designated adequate land to meet the foreseeable needs and (b) are based on a methodology contained in the Technical Supplement (see 5.14.01-02). To exclude the objection site could result in an inadequate supply of land to provide choice and flexibility.
- 5.15.02 IDB is of the view that I1 and I2 are attractive locations for industry and supports their inclusion in the plan. I1 ranks as the best of the land zoned for industry and approximates to IDB's requirement over the plan period (20ha). I1 is more attractive for industry than the land south of Drum Road that was zoned for industry/mixed business uses at the Preliminary Proposals stage. I2 is a natural extension of the existing zoning to the north. Both sites have contours suitable for industrial development and both are well located for access to the strategic road network. Likewise, there is ready access to the workforce in the main population centres in the town. The zonings are compatible with existing industrial uses in the vicinity, a relationship that also makes this location less suitable for housing (Settlement Appraisal 7.4.3 and Map 21).
- 5.15.03 While it is acknowledged that the objection sites are of high agricultural quality, it is virtually impossible to avoid such land. PSRNI policy is to protect as far as practicable the best and most versatile land (AG1). Land quality is only one factor amongst many that must be taken into account.
- 5.15.04 Factors in the decision to zone I1 and I2 instead of the land at Drum Road were land supply, infrastructure, topography, and adjacent land uses. The decision was based entirely on planning merit and the Department denies and deplors the allegation that developers exercised undue influence.

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**Objector's case**

- 5.15.05 The proposed zonings will destroy good quality agricultural land. Such land is an irreplaceable resource and it is Government policy that it should be preserved as far as possible.
- 5.15.06 The proposed zonings incorporate the entire farm holding apart from the pig production unit and consequently the objector will lose his livelihood as a farmer. Zone I2 borders on the pig unit and the objector could be forced to alter his pig production on environmental health grounds. The development of I2 in close proximity to the objector's dwelling would lead to loss of amenity and privacy.
- 5.15.07 Rather than having better accessibility as alleged by the Department, the proposed zoning has less road frontage than the original zoning at preliminary plan stage. The McAleer land at Drum Road would have provided a natural extension of the Derryloran Industrial Estate. It fronts onto A505, which leads directly to the A29. It would appear that developers hold sway in the plan process and that the re-zoning has been at the behest of a developer who now owns part of I2. This raises an issue of natural justice.

**Consideration**

- 5.15.08 There is no evidence in the papers supplied at the Inquiry that supports the Objector's allegations that developers exerted improper influence on the zoning of I1 and I2. I have already concluded that there is a shortage of industrial land readily available for development and I1 is judged to be the best of the land that is available. IDB considers it to be more attractive for industry that the McAleer land south of Drum Road and I1 and I2 both enjoy superior accessibility to A29. In these circumstances the requirement for industrial land clearly outweighs its acknowledged agricultural quality. One can only sympathise with the Objector over the loss of his farming livelihood but the employment needs of the town are of greater significance than the interests of an individual and his family.
- 5.15.09 The impact of industry on the residential amenity and privacy of Ballyreagh House may be capable of being ameliorated through screening and physical separation. The co-existence of industry and intensive pig production is a matter of judgement for prospective developers and of regulation by the Environmental Health Authority. I do not consider either of these issues separately or in combination of such significance as to warrant a change in the draft zoning.

**Advice**

5.15.10 I advise the Commission to recommend that the proposed zoning of I1 and I2 be confirmed.

**5.16 Objection 010 by Mr D Duncan to proposed industrial zonings I3 and I4 on lands off Coagh Road and Old Coagh Road.**

**Site and surroundings** The objection site has a cumulative area of 22.75ha and is made up of good quality agricultural land with varying contours, punctuated by dwellings, farm complexes and vegetation. I3 (17.85ha) is bounded by Old Coagh Road to the north, Coagh Road to the south and Limekiln Lane to the west. The land rises away from the Coagh and Old Coagh roads to a farm complex accessed off Limekiln Lane. The line of the old railway dissects the northern section of the site. I4 (4.9ha) contains another farm complex. It is bounded by Coagh Road to north, by the Unipork factory to the south and by an old railway line to the west. **(PAC Map 5.16)**

**Background** Virtually all the objection site was included within the settlement limit for Cookstown on the ETAP. In the draft plan the northern and southern sections were originally zoned for Industry. Following the Public Inquiry the industrial zoning of the southern section was deleted and left as white land (see paragraph 5.03.15 of the PAC Report).

**Objector's case**

5.16.01 The industrial zonings I3 and I4 will not mix well with the existing residential development in the area due to smell, visual intrusion and transport problems. Given the emphasis now placed on Human Rights greater thought should be given to the protection of the amenities of the local residents. Nobody living close to Unipork wants more industry in the area.

5.16.02 As much industry as possible must be encouraged in Cookstown but it must be in the right place, i.e. between Ballyreagh Industrial Estate and the Blue Circle Cement Factory. The Plan (page 71) acknowledges that the southern end of the town is the best location for industrial expansion. It has all the advantages that I3 and I4 lack. There is an abundance of suitable flat land with excellent access to the road network. Moreover there are very few people living there. Relocation of the proposed industry and mixed business use from I3 and I4 to this area would facilitate the concentration of the majority of this type of activity in an established industrial area.

5.16.03 There is no logical reason for I3 and I4 except that the bacon factory is already close by. I3-I6 has been lifted from the ETAP without any consideration given to planning merit. Industrial development on this side of the town will hinder growth to the east and increase the

tendency for expansion on the north-south axis. Residents close to Unipork already suffer from odour problems, loss of visual amenity and noise created by the PA system and lorries exiting the factory throughout the night. The contours of I3 and I4 are unsuitable for industrial development and are more suitable for housing. I3 and I4 should be zoned for housing but the EDR is needed first. I3 and I4 would offer residential development close to town centre, schools and other facilities. I3 is particularly suitable for housing. I4 could be designated for "Phase 3" housing development in the Plan for 2020. Ideally Unipork should re-locate to Ballyreagh. This would allow the entire area east of the EDR to be developed for housing.

### **Department's case**

- 5.16.04 Including the agri-food park at Loughrey and the opportunity sites some 82ha is available for industry/mixed business opportunities in Cookstown (5.14.01). Areas I1-I6 (58.79ha) have been selected taking into account a range of factors and the Cookstown Economic Development Strategy (5.14.02). The supply of land zoned for industry is considered to be adequate and the inclusion of the objection site is necessary.
- 5.16.05 The Cookstown Transportation Study confirms that key junctions in the town are already under stress. The existing routes between the spine route and I3-I6 are not of an appropriate standard to accommodate the additional volume and industrial nature of the traffic that would be generated. Consequently I3 and I4 are dependent upon the implementation of stage 2 of the EDR. However, once completed, the EDR will provide good transport links for the industrial zonings to the east of the town and will provide an attractive area for industry/mixed business. With the opening of the EDR the traffic impact of I3 and I4 on housing to the west will be acceptable. Landscaping and buffer planting along the EDR will provide screening and increased amenity for adjacent sites.
- 5.16.06 In terms of environmental impact and effect on amenity, the industry/mixed business use designation of this area suggests that it is compatible with existing uses (the objection site is located within close proximity of the Unipork factory). For a number of reasons, not least possible odour nuisance, residential development at this location would be inappropriate. The earlier zonings in the ETAP endorse this argument. The industry and mixed business designation is in the Department's declared preference. Housing is a possibility but not in the vicinity of Unipork because of the amenity problems. There are no roads reasons why I3 and I4 could not be housing as H09 and H23 are in similar locations on the eastern side of the EDR.

- 5.16.07 IDB regards the cost of providing the EDR in order to unlock I3 and I4 to be disproportionate to the benefit.
- 5.16.08 I3 and I4 are not the most attractive locations in the plan because of their reliance on the EDR. However, they are important in providing a spatial balance to Ballyreagh and they have the advantage of size. Also, alternative development opportunities must be provided to encourage inward investment and there is a need to provide industrial land for non- IDB client companies.
- 5.16.09 Intensive pig slaughtering at the existing Unipork factory produces a high volume of industrial effluent. This requires pre-treatment before discharge to the public sewer. The process has resulted in odour nuisance giving rise to a large number of complaints, all within a radius of some 300m-500m of the effluent treatment plant. Works to reduce the problem were completed in spring 1999 and revised management procedures became operational in July 1999. Since that time complaints have reduced significantly from some 12-20 complaints every three months prior to 1999 to just 5 complaints in 2000 up to the time of the Inquiry. The substance of the plan was formulated on the basis of the odour nuisance that pre-dated the recent improvements. H10, H11 and H12 all lie within 500m of the plant, yet these sites have been allocated for housing.

### **Consideration**

- 5.16.10 In assessing the objection relating to I3 there are several factors in my opinion that weigh in the objector's favour.
- (1) The DRSF requires the Department to make provision for a generous and continuous supply of urban land for employment uses. Events during the last plan period involving the loss of Green Belt demonstrate that footloose industries require immediately available sites. The dependence of I3 on linkage to a non-existent EDR Stage 2 and the unsuitability of the topography are significant factors likely to deter inward investment.
  - (2) In addition to conformity with the ETAP, a prime consideration in the original decision to allocate these lands was the odour problem caused by the Unipork treatment plant. However, evidence emerged at the Inquiry not previously known to Planning Service indicating that the smell nuisance may no longer be so serious following the improvements in the pre-treatment of effluent. In any case most of I3 lies outside the 500 m zone of recorded complaints received prior to these improvements.
  - (3) I3 lies closer in to the town centre than much of the zoned housing land. In terms of both convenience and sustainability

therefore I3 is well located for housing. Moreover, housing on I3 would complement H09 and together they could form a residential neighbourhood enjoying ready access to the town centre.

- 5.16.11 Having considered all the evidence I find the objection sustained in relation to the industrial and mixed business zoning of area I3. Mr Duncan also made the representation that the land should be rezoned for housing. It was not rebutted that I3 is suitable for residential use. However, given the scale of the traffic likely to be generated by such a large area, I agree with the objector that the EDR is a prerequisite for residential use. As there is considerable doubt that the EDR will be implemented within the plan period I consider that the land should be designated Phase 2 Housing.
- 5.16.12 In terms of spatial balance and providing scope for inter-linkage of related industries I see merit in retaining the opportunity for some industrial consolidation around the nucleus of Unipork. I4 is well placed for this. Industrial or mixed business use on I4 could provide a degree of spatial balance in facilitating employment with minimal journey to work for those living in the east of the town. The alternative of housing use proposed in the objection could expose the residents to late night noise and possibly odour nuisance close to the Unipork factory. On this balancing of the evidence I find the objection to the I4 designation has not been sustained.
- 5.16.13 The deletion of the I3 industry and mixed business zoning has wider implications for the supply of industrial land in Cookstown District through to the end of the plan period. I will return to this later (5.20).

### ***Advice***

- 5.16.14 I advise the Commission to recommend to the Department as follows.
- (1) The I3 zoning for industry and mixed business use should be deleted and the land redesignated for Phase 2 Housing.
  - (2) The I4 zoning for industry and mixed business use should be confirmed.

### **5.17 Objection 021 by Mr R Greer to the exclusion of lands south of Coagh Road from the settlement limits of Cookstown**

**Amended objection** In his response to the Departmental's rebuttal evidence the objector has reduced the extent of his objection to land closer to his dwelling on which he considers a mixed business use would be appropriate. **PAC Map 5.17** shows the original objection site. **Map 5.17A** shows the amended site.

**Site, surroundings and background** The objection land lies between the Coagh and Cloghog Roads on the eastern edge of Cookstown. The Unipork factory is to the west accessed off Molesworth Road. The drumlin crest that contains a rath rising to the east of the objector's house and identified in the Plan as a local landmark has been excluded from the amended site. The objection site has been shown outside the settlement limit within the Green Belt in the ETAP, the CAP Preliminary Proposals and the DCAP.

### **Department's case**

- 5.17.01 Given the objector's view that the amended site should be zoned for mixed business use, the quantum of land required for Industry/Mixed Business Use is the relevant land supply test. Given the 55% over-zoning of land in this category there is no need to include the objection site (Technical Supplement 5.2.2 page 30). There is potential to accommodate small scale enterprises on some of the opportunity sites (DCAP pages 68-70).
- 5.17.02 To include the objection site within the settlement limits would constitute an unacceptable and unnecessary urban extension into the countryside. Where practicable trees and hedges should be used to define zonings.
- 5.17.03 The amended site is less prominent than the original but it is still elevated and prominent when viewed from Coagh Road. Materials are being stored on site. Dispersed distribution and planting mitigates the impact. However, there is still interference with the natural visual amenity of the landscape.
- 5.17.04 The amended objection site is higher again than I4 and would require even more significant earthworks altering the natural contours in order to prepare the ground for development. Net of the 12m-accommodation strip for the water main there will still be a significant amount of I4 available for development.

### **Objector's case**

- 5.17.05 The amended site measuring some 0.6ha lies closer to Mr Greer's dwelling and would be used for an extension of the existing established storage area for building material and plant. He envisages developing the area for mixed business and possibly a dwelling forming a small complex.
- 5.17.06 Due to the contours the development of the amended objection site would have no effect on the landscape. It would only be seen from a short section of Coagh Road. It would be hidden from Molesworth Road and Cloghog Road.



- 5.17.07 If the eastern boundary of zones I4 and I5 had followed a straight line offering more scope for rectangular developments the zoning would have included the amended objection site. A 12m strip safeguarding the 300mm water main could preclude development of a large part of I4.
- 5.17.08 After I4 is developed on filled ground any development of the appeal site will be insignificant. The northern boundary of I5 is more elevated than the amended objection site. Development of the north-east section of I5 would be visible from Fountain Road, Molesworth Road, Cloghog Road and Coagh Road.

### **Consideration**

- 5.17.09 The amended objection site is elevated and prominent. It breaches a natural hedgerow boundary that prevents development spilling out from I4 and up the northern flank of the hill towards the rath. Even a mixed business complex of modest scale would have an unacceptable impact at this sensitive location.

### **Advice**

- 5.17.10 I advise the Commission to recommend that the settlement limit south of Coagh Road be confirmed.

## **5.18 Objections 009 and 011 by Messrs S and D Allen to the exclusion of lands north of Cloghog Road from the settlement limits for Cookstown**

**Site** The site (0.68 hectares) accommodates Clare Market Garden (PAC Map 5.18).

### **Departmental concession**

- 5.18.01 Whilst sufficient land has been made available for the needs of the town over the plan period, inclusion of the site would incorporate the existing established enterprise on the urban edge and provide only limited development opportunities. The site is not prominent in the local landscape and is well integrated. The established use is well related to the urban form of Cookstown in terms of topography and land-use. There appear to be no technical difficulties preventing development.

- 5.18.02 Consequently the Department considers the objection site can be included within the settlement limits.

### ***Advice***

- 5.18.03 Whilst these objections have been formally conceded the Department may need to take into account the outcome of the Objections 047, 048 and 066. If these objections are ultimately successful the Department may wish to consider the rationality of the conceded extension of the settlement limit to include Clare Market Garden. In this context it is worthy of note that the residential property immediately to the west the Market Garden lies within I5 and is not the subject of objection.

5.19 **Objections 047, 048 and 066 by Mr P Montgomery, Mr R Coulter and Mr I Clarke to land being zoned for industry ( I5) at Cloghog Road, Cookstown**

**Sites, surroundings and background** The sites are overlapping and comprise some 3.8ha of land that form a large part of the I5 industry/ mixed business zoning (**PAC Maps 5.19 A, B and C**). A portion of the Coulter site measuring some 0.6ha extends into Green Belt outside the proposed limit of development. The industrially zoned land is bounded to the west by a lane-way, to the south by Cloghog Road and to the north and east by field boundaries. The land rises gently from south to north away from Cloghog Road. Nos. 2, 4 and 8 Cloghog Road lie within or are close to the objection sites. Apart from the section of the Coulter site in the Green Belt all three sites were included within the settlement limit on land zoned for industry in the ETAP.

### **Objector's case**

- 5.19.01 They object to the inclusion of family properties within I5 and to the adverse impact on their residential amenity as a result of noise, air pollution, odours, visual impact and interference with access. Mr Montgomery (047) is horrified that his home, 2 Cloghog Road, will disappear. Mr Coulter (048) objects to the planned urban boundary on the grounds that his farm, which includes Nos. 2 and 4 Cloghog Road, will be reduced in size and rendered non-viable. Mr Clarke (066) who occupies the farmhouse, 4 Cloghog Road, also objects more generally on visual amenity grounds. He cites the impact on the historically interesting farmhouse and industrial and commercial development breaching the skyline. He also refers to the stench produced by effluent treatment at Unipork, which according to his letter in December 1999 has not been significantly improved by modifications.

### **Department's case**

- 5.19.02 The supply of land zoned for industry/mixed business use is considered to be adequate and the inclusion of I5 is necessary. To exclude I5 could result in an inadequate supply of land to provide choice and flexibility. (See 5.14.01-02 and 15.16.04) The topography is suitable for development. The high development costs affecting I3 do not apply to I5. Unipork is an established industrial presence and it makes sense to consolidate existing uses. Because of its small size and access problems I5 would not be unattractive to IDB.
- 5.19.03 The development of I5 is dependent on the implementation of Stage 2 of the EDR (Coagh Road to Fountain Road). When the EDR is complete I5 will enjoy good transport links and accessibility by the work force will be greatly improved.
- 5.19.04 Complaints relating to smell have reduced following improvements to Unipork's treatment of its industrial effluent (see 5.16.09). However, there are still occasional odour problems. Complaints aimed at noise from Unipork are minimal. The objectors are aggrieved that their family properties will be greatly devalued. However, the proposed zoning and settlement limits are exactly as were adopted in the ETAP. Mr Coulter's farm is only 8.1ha and possibly it is already non-viable.
- 5.19.05 The non-scheduled standing stone on I5 lies outside the objection sites and archaeological concerns can be addressed through the imposition of planning conditions. EHS considers that the area east of Unipork has a countryside charm which is a valuable asset. An attractive two storey dwelling, fronted by small fields and backed by mature trees provide a very attractive entrance to the town from the east. Industrial development would not necessarily destroy this asset but it would have to be sensitively handled.

### **Consideration**

- 5.19.06 I5 is divided into two portions by the proposed walkway cycle route shown on the draft plan. The western portion not affected by the objections contains a wooden building but otherwise has an air of dereliction and its outlook is dominated by Unipork. The contrast with the eastern portion is striking. This area subject to the objections has a pleasant rural ambience whose contribution to the entrance to the town is recognised by EHS.
- 5.19.07 I have already concluded that the zoning of the 17.8 ha I3 land for industry and mixed business use should be deleted from the Plan. The further loss of some 3.8ha of zoned land has implications for industrial land supply in the town. However, I5 is similarly dependent on the implementation of the EDR. It does not have the advantage of size

enjoyed by I3 in and is unattractive to IDB. Set in this context I conclude that the contribution of these lands to visual amenity outweighs their usefulness for industry, which in any case is deferred pending the EDR.

5.19.08 I conclude that these objections to the inclusion of the eastern part of I5 have been sustained and that the settlement limit be redrawn to exclude the objection lands.

### ***Advice***

5.19.09 I advise the Commission to recommend that

- (1) The totality of objection sites 047, 048 and 066 sites should be deleted from the I5 zoning for industry and mixed business use.
- (2) Objection sites 047, 048 and 066 should be excluded from the settlement limit for Cookstown and included within the Cookstown Green Belt.

## **5.20 General Conclusions on the supply of land zoned for Industry and Mixed Business Use Zoning in Cookstown**

5.20.01 As agreed at the Inquiry, it is in no-one's interests that the adoption of the Plan should be the subject of unnecessary delay. However, issues have emerged from the policy context, and evidence adduced at the Inquiry relating to the supply of industrial land over the Plan period that in my judgement are crucial and require to be addressed.

5.20.02 The key points are as follows.

- DRSF Policy SPG 15 states that the Department will make provision for a generous and continuous supply of urban land for employment uses.
- Since 1991 unemployment in Cookstown District has remained at about 4% above the Northern Ireland average. The Cookstown District has the 4<sup>th</sup> highest unemployment rate of Northern Ireland's travel to work areas. (Cookstown Area Plan Technical Supplement paragraph 5.4).
- A key element in the Council's Economic Development Strategy (EDS) is the attraction of warehousing and distribution. Warehousing requires flat sites with good road access. (5.14.03).
- The Technical Supplement recognises that it is important that the Plan assists the EDS by ensuring that there is an adequate supply of good quality industrial sites that will encourage inward

investment. (Cookstown Area Plan Technical Supplement paragraph 5.8).

- The Department acknowledges that the take up of the ETAP industrial zoned land has been constrained by its heavy reliance on the EDR. The preferred method of establishing the future land requirement has been the examination of future employment levels. This has produced a figure of 38ha. To provide for a reasonable degree of choice and flexibility in site selection, an over-zoning of approximately 55% has been applied resulting in 58.79ha zoned for industry/mixed business purposes at various locations in Cookstown. (5.14.01)

5.20.03 In my opinion the supply of industrial land for Cookstown District has been put in severe jeopardy by the Department's uncritical acceptance of the ETAP allocation of industrial land dependant on the implementation of the EDR between Old Coagh Road and Cloghogue Road. As high-lighted by Mr Devlin and others, the uncertainty over the programming of Phases 2 and 3 of the EDR is blighting the development of the eastern side of the town. More specifically, predication of the allocations on the construction of the EDR is effectively jeopardising the supply of zoned industrial land. Much of the zoned land in any case presents topographical difficulties for industrial development that would be costly to overcome. Events during the last plan period demonstrate that footloose industries require immediately available sites. Absence of such sites has led to substantial unplanned incursions into Green Belt. Clearly, this is the antithesis of good planning. Given the strategic importance now attached to compact urban form and the protection of the countryside, it is even more imperative that this type of ad hoc approach to industrial land supply should not be replicated during the forthcoming plan period.

5.20.04 A reduction of 17.8 ha comprised in I3, if confirmed, will have a significant impact on the supply of zoned industrial land for Cookstown. The addition of the Blue Circle site (6.6ha) would only partially offset the loss. The current figure of 58.8ha of land zoned for industry/mixed business use would be reduced by 11.25ha to 47.6. If, in accordance with my advice the eastern part of I5 (Objections 047, 048 and 066) were also to be deleted from the plan the figure would be reduced by a further 3.8ha to 43.8ha, just 5.8ha over the Technical Supplement estimate of land required during the plan period. The current 55% over-zoning would then be reduced to some 15%. Viewed in terms of safeguarding inward investment, I consider that this figure is perilously slim. It is well below the 55% that the Department considers is required to provide for a reasonable degree of choice and flexibility. In my judgement it does not accord with the requirement of DRSF Policy

SPG 15 that provision should be made for a generous and continuous supply of land for employment uses.

### **Conclusion and Advice**

- 5.20.05 I conclude, therefore, that the deletion of I3 and part of I5, if confirmed, will effect a critical reduction in the supply of zoned industrial land. If it is minded to uphold the I3 and I5 objections I advise the Commission to recommend to the Department that it carries out a review of the draft Plan specifically aimed at identifying adequate land zoned for Industry and Mixed Business Use to meet the needs of the District over the plan period.

### **RECREATION/OPEN SPACE/LLPAs**

- 5.21 **Objections 102 and 130 by Messrs McAleer and Rushe and Mr J Wylie to the inclusion of lands on either side of Dungannon Road within various amenity designations.**

**Outline of objections** These objections relate to 3 sites owned by McAleer and Rushe (Areas 1-3 **PAC Map 5.21**) and a fourth owned by Mr Wylie (**PAC Map 5.21A**) McAleer and Rushe object to their land being variously included within LLPA 1, Recreation and Open Space R2 and Community Woodland proposal R4 as the designations fail to recognise existing commercial operations and restrict development opportunities. The objection in Area 1 is to the LLPA 1 and R2 designations, in Area 2 it is to LLPA 1 and in Area 3 the Community Woodland proposal R4 is the issue. Mr J Wylie objects to the inclusion of his land (Area 4) within LLPA 1.

**Sites and surroundings** Area 1 (1.1 ha) is west of the Dungannon Road. The western portion is heavily wooded and slopes steeply down to the Ballinderry River where a millrace runs parallel to the river. The eastern portion is flat land containing a large industrial building and open storage. Area 2 (0.7 ha) is on the eastern side of Dungannon Road. It is a builders' depot and contains a yard, stores, offices and workshops. To the north there is a filling station, a dwelling and a farmyard. To the south there is a wine bar fronting onto the river. Area 3 (0.3 ha) is agricultural grassland bordering onto the river. Area 4 (0.9 ha), the Wylie land, is some 75 m north of the Ballinderry River on the east side of Dungannon Road. It includes a dwelling and several farm buildings.

**Background** In the ETAP Area 1 is within the development limit and zoned for amenity use for a walkway and associated facilities along the Ballinderry River. Areas 2, 3 and 4 are all white land within the development limit. In the DCAP Areas 1, 2 and 4 are within LLPA 1.

Part of Area 1 is also within R2. Area 3 is partly white land and partly within the proposed R4 Community Woodland. Area 4 is within LLPA 1.

Planning permissions granted on the eastern portion of Area 1 since 1973 have included an underground wash pit (1988) and change of use to vehicle maintenance depot and vehicle sales (1988). On Area 2 permissions have included the erection of a workshop (1985) and a retail warehouse (1997). A sports complex was permitted on Area 4 in 1989.

### **Department's Case (partial concession)**

#### R2 zoning

- 5.21.01 Policy R2 proposes that some 3.5 hectares west of Kings Bridge should be used for a riverside walkway. Recent discussions with the Council have established that it is not opposed to the removal of the entire R2 zoning subject to the retention of the proposed riverside walkway. In view of this, the Department would not oppose the removal of the R2 zoning.

#### LLPA 1

- 5.21.02 Local Landscape Policy Areas are designated in accordance with PPS 6 (2.23-2.24) in order to maintain the intrinsic environmental value and character of areas. The Ballinderry LLPA is based on the area's topography, tree cover, nature conservation interests, historic buildings and industrial heritage.
- 5.21.03 Areas 1, 2 and 4 occupy prominent positions on the approach to Cookstown from the south and read with the river corridor. The Department is aware of the current land uses and is of the view that sympathetic development could be permissible within the policy area. In order to address the concerns of the objectors the Department is minded to augment paragraph 2 of LLPA 1 to read as follows.

*"Within this area there will be presumption against new development apart from changes of use to outdoor leisure and recreational uses or development which is ancillary to the enjoyment of the open space. An exception to the above is the possible redevelopment, including suitable alternative land uses, of areas containing existing development. Proposals may be acceptable provided they do not detract from the intrinsic value of the designated area".* In this way the LLPA designation can be retained to ensure adequate control whilst acknowledging that the principle of redevelopment is acceptable.

#### R4 Community Woodland

5.21.04 The Council has advised that the woodland proposal is confined to the south of the river and that the triangular portion north of the river is not included. In view of this the Department would not oppose the removal of the Community Woodland designation from Area 3.

### **Objectors' cases**

5.21.05 It is unacceptable in planning terms to propose that lands which for many years have had a history of commercial/industrial uses and some of which have been granted permission for retail use should be blighted from further beneficial development. Having heard the Department's evidence the representative of McAleer and Rushe indicated that all the matters raised in the objection have been resolved to his client's satisfaction. He acknowledged that a challenge to the riverside walk made in the response to the rebuttal has no standing in the Inquiry.

5.21.06 Mr Wylie objects to the inclusion of his land within LLPA 1 because he is anxious to develop the land. He is happy to include landscaping and believes that the exclusion of Area 4 will not affect the overall objectives of LLPA 1.

### **Consideration**

#### Areas 1,2 and 3

5.21.07 The Department's proposed amendments have resolved the concerns raised by Messrs McAleer and Rushe. The evidence that the R4 Community Woodland will be confined to the south of the river affects a larger area than Area 3. Reduction of R4 and the removal of R2 in its entirety will require a modification of the Plan.

#### Area 4

5.21.08 It is a role of urban LLPAs to ensure that new development does not dominate an area's distinctive characteristics. They are also intended to act as buffer zones between different uses and to help reduce the likelihood of over-intensive development (DCAP policy CON 2).

5.21.09 The Wylie lands are more elevated than Area 2 and further removed from the sensitive landscape of the river corridor. Approaching Kings Bridge from the Dungannon Road roundabout the conspicuous 2-storey dwelling and the farm buildings are conspicuous and discordant breaches of the skyline above the river valley. However, they are no more discordant than the new hip roofed XL "Stop and Shop" and its filling station canopy, which catch the eye and detract from the view of the church spire beyond. Both are integral elements of the plethora of elevated development, which has highly urbanised landscape characteristics that contrast starkly with those of the Ballinderry River



corridor in the vicinity of the bridge. Any linkage in terms of landscape quality is tenuous to say the least. If the aim is to prevent more intensive development of the heights above the river or provide a buffer zone it is puzzling why the objection site is included in the LLPA and the XL development is not. All in all, I find the reasons for the including Area 4 in LLPA 1 unsustainable.

#### *Advice*

- 5.21.10 (1) The Department has conceded that the R2 zoning should be lifted from Area 1 and that the R4 zoning be removed from Area 3. These objections therefore need not engage the attention of the Commission.
- (2) The Commission should recommend to the Department that Area 4 be excluded from LLPA 1.

#### **5.22 Objection 044 by Mr M Rea to the inclusion within R2 and LLPA 1 of land at Sweep Road, Cookstown.**

**Site and location** The site (1.1ha) on the south side of Sweep Road contains a large dwelling and a partially constructed development road. The southern portion has been raised with imported fill material. Mature vegetation covers the slopes down to the Ballinderry River and a millrace. **(PAC Map 5.22)**

**Outline of objection** Mr Rea (Objection 044) objects to the inclusion of his land within recreation/open space zoning R2, local landscape policy area LLPA 1 and the application of policies ROS 1 and CON 2 at this location. He claims that a valid planning approval exists for housing development.

#### **Department's Case**

##### R2 zoning

- 5.22.01 Following recent discussions with the Council the Department would not oppose the removal of the R2 zoning (see 5.21.01).

##### LLPA 1

- 5.22.02 LLPAs are designated in order to maintain the intrinsic environmental value and character of areas (see 5.21.02). The objection site contributes to the landscape and the visual character of the Sweep Road area, which is characterised by large houses in extensive grounds with mature vegetation. It also forms part of the Ballinderry River corridor. The river and its associated vegetation are an important landscape and visual amenity. The designation of an LLPA represents an opportunity to protect and enhance the amenity for the future. The

Council attaches importance to the proposed LLPA because of its proposals for public access along the river.

- 5.22.03 Removal of the LLPA designation would create an undesirable break in this river corridor.

#### Planning history

- 5.22.04 In its rebuttal evidence the Department's interpretation of the planning history was that there is no extant approval for additional residential development of the objection site other than for the existing dwelling and an estate road.
- 5.22.05 On 3<sup>rd</sup> November 2000 full planning permission was granted for 2 additional dwellings accessed from the turning head of the existing estate road.

#### **Objector's case**

- 5.22.06 The Objector argues that an outline planning permission for 5 dwellings granted in May 1991 is still valid.

#### **Consideration**

- 5.22.07 The existing dwelling is a large dwelling in extensive grounds in keeping with the prevailing character and environmental quality south of Sweep Road. If implemented the development of two additional dwellings permitted in November 2000 will increase the built-up appearance of the objection site and erode the general spaciousness of the river corridor. Nevertheless, I am satisfied that omission of the subject lands from the LLPA would prejudice the protection of the special environmental quality and character of the area.

#### ***Advice***

- 5.22.08 I advise the Commission to recommend as follows.

- (1) The R2 designation should be removed from the objection site 044.
- (2) The LLPA 1 designation should be confirmed.

#### **5.23 Objection 025 by Heron Properties to the proposed recreation/open space zoning R1 west of Westbury Drive**

**Site and location** The site extends to some 4.7ha adjacent to the Ballinderry River. At the southern end of the site there are industrial/commercial buildings to the north of which there is cleared ground used for open storage.

**Outline of objection** The objector does not contest the principle of the R1 zoning **(PAC Map 5.23)** but seeks the exclusion of a small area of land at the southern tip of R1 as the land is required for possible future expansion of the existing business **(PAC Map 5.23A)** . He wishes this portion to be rezoned for industrial use or left as white land. The objector does not object to the designation of the remainder of R1. Within the area the objector wishes to be excluded planning permission was granted in 1996 for the extension of the Northern Mouldings factory.

### **Department's Concession**

- 5.23.01 The small area in question lies naturally into the existing commercial premises and is of little amenity value. Its removal would not compromise the integrity of the proposed recreation/open space area. The Department has no objection to the adjustment of the R1 zoning to exclude the area indicated on "PAC Map 5.23A" and leave it as white land.

### ***Consideration and Advice***

- 5.23.02 This objection has been conceded and need not engage the attention of the Commission.

### **5.24 Objection 083 by James Street Residents to the inclusion of their gardens within Local Landscape Policy Area 3.**

**Site** LLPA 3 lies immediately north of the First Presbyterian Church on the west side of the main street. **(PAC Map 5.24)**

### **Objector's case**

- 5.24.01 The gardens are not on a ridgeline associated with the church and are not visible from adjoining streets. A Tree Preservation Order would be a better mechanism for protecting trees. Development of this area for commercial or residential purposes would be of benefit to the town centre.

### **Department's case**

- 5.24.02 The James Street LLPA has been designated in order to protect the setting of the First Presbyterian Church, which is a listed building, from undesirable and damaging development.

- 5.24.03 The garden areas within the LLPA are on elevated ground and contain significant vegetation that reinforces the planting around the church and echoes a historic planned form. The treed area is a valuable and notable feature in terms of the current and historic townscape.
- 5.24.04 Although views of the church and its setting are restricted, there are views along the northern section of the main spine road through the Town Centre and from Ferguy Heights.
- 5.24.05 Whilst the trees are the primary reason for the inclusion of this area within the LLPA control also is required over possible future development. Therefore a TPO is insufficient.

### **Consideration**

- 5.24.06 Whilst views of LLPA 3 are restricted, they are important to the townscape of Cookstown. They provide a striking foil for the First Presbyterian Church and are an important ingredient in the setting of this important listed building. Due to the interplay of ground levels and perspective the trees are vulnerable to being masked by development. Also, the LLPA includes individual trees of unexceptional amenity value that might not normally merit a TPO, yet they contribute significantly to the setting of the church. For both these reasons therefore I agree with the DoE that a TPO is insufficient protection.
- 5.24.07 In concluding that the LLPA should be confirmed I have taken into account the value placed in the plan on commercial and other forms of development in the town centre. Nevertheless, I conclude that the Department is correct in seeking to protect this small but valuable landscape that makes a significant visual contribution to the town centre.

### **Advice**

- 5.24.08 I advise the Commission to recommend that LLPA 3 be confirmed.

### **ROADS FOOTPATHS AND CYCLEWAYS**

- 5.25 **Objections 08 (Coulter Brothers), 026 (Mr G Crooks), 089 (Mr J Doris) and 126 (Killymoon Golf Club) to to the designation of the Sustrans Cycle Route and the walkways and cycle routes on the eastern side of Cookstown.**

**Location** Killymoon and Fountain Road, Cookstown. (See PAC Map 5.25)

**Department's case (part concession)**

- 5.25.01 Relevant policies in the draft plan are TRAN 4, ROS 1, ROS 2 and AGR 1. The DRSF refers specifically to the provision of cycle and pedestrian networks and facilitating access to the countryside.
- 5.25.02 The DCAP incorporates the Council's plans for the provision of a network of cycle routes and walkways. The Council has a legal duty under the Access to the Countryside (NI) Order 1983 "to assert, protect and keep open and free from obstruction or encroachment, any public right of way". The Council has employed a Countryside Access Officer in recent years and has already successfully implemented managed public accesses.
- 5.25.03 Due to recent objections and the pressure to complete the Sustrans Cycle Route on time, the Council has now agreed a new route for Sustrans on the eastern side of Cookstown. The new Sustrans Route will be shown on the final version of Plan along the public roads to the east of Cookstown. The amended Route will not affect the golf club, Killymoon Castle or the river. The Council still intends to assert the right of way along the route shown in the draft plan at a future date. The other walkway/cycle route along the old railway line will be retained in the Plan as an integral element of the longer route that skirts the east and south of Cookstown.
- 5.25.04 The Council believes that the section of the proposed walking/cycle route through Mr Doris's land is a legitimate right of way. It believes therefore that it has a duty to assert and maintain the pathway so that the public can enjoy this attractive countryside location.
- 5.25.05 The Department is satisfied that the public right of way through Mr Doris's land can be asserted by the Council in such a manner that will minimise disruption to his agricultural operation. The Council has successfully co-operated with other landowners elsewhere in negotiating the details of routes, fences, styles and gates. It is therefore proposed to retain this footpath/cycle route in the draft Plan, on the basis that it is an important element of the overall plan strategy and that the proposal is a firm intention of the District Council.

**Objectors' cases**

- 5.25.06 Messrs Coulter, who own Killymoon Castle, object to the proposed walkway and cycle route on grounds of invasion of privacy and impact on the layout of the historic estate. Mr Crooks is concerned that a

walkway so close to the river would be inappropriate and dangerous and would affect the fishing. He wants the paths and walkway kept a good distance from the Castle environs.

- 5.25.07 Killymoon Golf Club is relieved that the Sustrans Cycle Route will be relocated but is very concerned that the footpath and cycle way has not been abandoned. The proposed route will force the Club to shorten its course and would severely constrain its development plans. The club criticises the heavy-handed approach by the Council and Planning Service. The Club views the Council's attitude is damaging the club's contribution to tourism and sport and threatening to drive the club out of the town environment.
- 5.25.08 Mr Doris disputes that the right of way crosses his land. The proposed path/cycle way would seriously interfere with his farming business by dividing lands grazed as a unit. It would also be incompatible with use of the embankment as an essential cattle roadway. It would cause increased vandalism to fences, damage to property and stoning of cattle. Raw sewage in an adjacent former sewer would present a public health danger to users of footpath. In addition adoption of the Council's proposals in the Plan could prejudice future court cases disputing the right of way. The Council should have asserted its right of way before including the proposal in the DCPA.

### **Consideration**

- 5.25.09 On a preliminary point I cannot accept that area plan proposals for footpaths must be based on undisputed, established rights of way. In the absence of a strategically planned network the assertion and protection of rights of way would be uncoordinated and lacking in overall direction. Indeed, in the absence of an overall plan, it is difficult to see how footpath access to the countryside could be cogently asserted.
- 5.25.10 The concession relocating delineation of the Sustrans Cycle Route along public roads east of Cookstown partially addresses at least in the short term the concerns of objectors. However, there is still strong opposition to the proposed footpath and cycle route.
- 5.25.11 Killymoon and the Ballinderry river corridor is a most attractive area. Given its proximity to the town the advantages of public footpath access are obvious. Such access is entirely in accord with current (PSRNI policy REC 4) and emerging regional strategy. Riversides and disused railway lines are used throughout the UK to provide routes for recreational cycling and walking. The opportunity in this case to link riverside and an old railway through an attractive demesne has great merit. The objectors have not persuaded me that the route delineated on the town map should be altered. In so concluding I am not

persuaded that the footpath/cycleway will unduly impair the privacy of Killymoon Castle or the layout of the estate. I am not persuaded that the implications for the golf course and fishing interests are as serious as represented by the Club and Mr Crooks. Finally I am not convinced that the issues raised by Mr Doris are of such substance as to outweigh the advantages to the community of the proposed walkway and cycle route.

### ***Advice***

5.25.12 I advise the Commission to recommend to the Department that the proposed delineation of the proposed walkway and cycle route affecting the objectors' lands be confirmed.

### **5.26 Objection 084 by Brennen Associates concerning access to Opportunity Site OS 2**

#### **Objector's Case**

5.26.01 The objection relates to the suggestion in the Draft Plan that access to OS 2 can be obtained from the Milburn Park public sector housing estate to the north (**PAC Map 5.26**). The objector considers that this unduly limits the site's potential and may prove detrimental to the residential amenity of existing housing. The preferred development option is retail and Brennen Associates request that access proposals be extended to include the option of access through OS1 or elsewhere.

#### **Department's Case**

5.26.02 In the preparation of the plan Roads Service identified three theoretical accesses to OS2 (1) from Milburn Street via Factory Lane (2) from Milburn Park and (3) from Orritor Street via existing open space. When compared to options (1) and (3) option (2) is the most desirable solution. However, the Department is willing to consider other accesses on their merits. Piecemeal development is to be avoided and comprehensive development of the land would be favoured.

#### ***Consideration and Advice***

5.26.03 The Department is willing to consider alternative ways of accessing OS 2 on their merits within the development control process. The inference is that the statement in OS 2 regarding access from the north will be deleted. Consequently, I consider that the objection need not engage the attention of the Commission.

### **5.27 Objection 110 by Unipork to the proposed alignments of the Eastern Distributor Road and the Walkway/Cycle Route through**

## **I4 and I5 and issues related to the development of H23, I5 and I6**

**Background** Unipork occupies a large modern industrial plant/factory situated to the east of Molesworth Road, north of Fountain Road at the eastern edge of Cookstown.

**(See PAC Map 5.27)**. Lands north and east of the plant are proposed for industry in the Plan (I4 and I5). A proposed walkway/cycle route is to follow a lane way running south to north through I5 and then westwards along field boundaries to the north of Unipork. The ETAP included the Unipork site within a larger area zoned for industry. That plan also included the proposal for a new eastern distributor road (EDR). The line of the EDR has been protected since 1979 and the northern section has been built between Moneymore Road and Old Coagh Road.

**Outline of the objection** The objection may be summarised as follows.

- (1) The development briefs for H23, I5 and I6 should be amended to include extensive landscaping, thereby providing a buffer with Unipork.
- (2) The walkway/cycle route could constrain future expansion.
- (3) The proposed EDR protection line has an unacceptable impact on the operation of the Unipork factory and its future expansion.

As regards (1) the Department has stated that it would be prepared to amend the site development requirements for H23, I5 and I6 to include a reference to the Unipork factory. However, when considering details of landscaping it could only insist on a reasonable level of provision. The objector has welcomed the proposed amendment. The net issues therefore are (2) and (3).

### **Department's case**

#### **Proposed walkway/cycle route**

- 5.27.01 The Cookstown District Council Access Officer has advised that the Council is still committed to the principle of the proposed walkway/cycle route. However, it also recognises the importance of Unipork to the town and will be flexible with the exact line of the path which has yet to be asserted as a public right of way. The Council and JMP agree that an alternative near by route should be feasible (possibly along Cloghog Road, Molesworth Road and the EDR) which would not constrain the future industrial expansion of Unipork or the development of the industrial zoning. Therefore the Department is



satisfied that matter can be resolved in such a manner that will minimise disruption to industrial interests.

The Eastern Distributor Road (EDR)

- 5.27.02 The Cookstown Transportation Study (CTS) confirmed that the existing network will be unable to accommodate the additional traffic that will be generated as the town grows and that the development proposed in the DCAP cannot occur without the EDR. The existing access roads are not of an appropriate standard to accommodate the additional industrial traffic that would be generated by the proposed industrial zonings. The requirements in TRAN 1 to protect road lines and in particular the EDR is therefore a critical element in the plan. The EDR would be Crown development, which would be processed in a similar manner to a normal planning application. An Environmental Statement will be required and a public inquiry will be held if it appears to the Department to be necessary.
- 5.27.03 During the course of the CTS the Department's consultants, JMP, re-examined the design of the EDR. They recommended that the design should be set to reflect a 40mph speed limit, and that the main junctions along the route should be roundabouts. The updated design standards allow greater flexibility in the vertical alignment. Because of the constraints of the road corridor the revised standards have no significant impact on the horizontal alignment. This continues to follow the alignment envisaged in the ETAP.
- 5.27.04 The proposed design of the EDR in the vicinity of Unipork is indicated in JMP Study Report 4 – Plan 2787/103A and 104A (the "red line" see **PAC Map 5.27A**) and includes roundabout junctions with Coagh Road and Fountain Road. With the EDR in place Molesworth Road will be closed to through traffic. The three accesses currently obtained from Molesworth Road will continue to be available. However, the northernmost access (Access C) will probably have to be moved a short distance south of the existing position. Alternatively, if the access were beside Accesses "A" and "B", the Unipork site could be extended to include the redundant highway and the triangle of land (the northern section of I6) between it and the EDR (see options 1-3 accompanying JMP's letter of 27 October 2000). The security concerns of the company could be resolved by moving the fence and the gate. HGVs traversing the car park would be acceptable, as there would only be 4-5 movements per day.
- 5.27.05 Should direct access be needed to the EDR PPS 3 paragraph 29 does not rule this out. Access could be obtained in the vicinity of the existing northern access via a ghost- island priority junction. Alternatively, in this particular case of an existing land use with

proposed roundabouts facilitating U-turns, Roads Service would allow access/egress via a left in/left out arrangement. There are in any case alternatives to access via Molesworth Road. Access could be obtained from Cloghog Road or Coagh Road in association with the development of I5 and I4 respectively. The access arrangements can be finalised in the detailed design in discussion with the site owners and should have no significant impact on the Unipork operation.

- 5.27.06 Whatever alternative access is chosen the current alignment of the EDR will require some 1600m<sup>2</sup> of Unipork land with the loss of some 50 parking places. Mitigating the impact on Unipork parking would require either replacing the land lost to the EDR or redesigning the EDR to minimise the impact on the Unipork land holding. JMP has outlined three options for replacing the lost parking in part or in full utilising the abandoned section of Molesworth Road and a sliver of land at the northern tip of I 6. It is accepted that I6 and I4 are both in third party ownership and there is nothing in the Plan reserving third party land for Unipork parking.
- 5.27.07 JMP and Roads Service have also considered an alternative alignment (the "green line" (see **PAC Map 27A**) that involves pushing the road to the west such that it would minimise impact on the Unipork operation. They have concluded that the proposed "red line" route is the most appropriate and should not be amended. This is because, unlike the "red line", the revised alignment would require the demolition of three residential properties (nos. 50, 52 and 71 Molesworth Road) and would remove a large area of garden from another. Also the alternative alignment would require a significant increase in the size of the cutting and six times the amount of excavation (18,000m<sup>3</sup> instead of 3000m<sup>3</sup>). The objector's "optimised green line" somewhere between the red and green lines depends upon horizontal radii that depart from the recommended standard. A recent outline application (I/2000/0824) for a dwelling impinging into the "green line" is regarded as premature pending the outcome of the Unipork objection.
- 5.27.08 Unlike the "red line", the "green line" cannot be included within the swathe of protection because it has not been in the public domain. In any case the "red line" is the most appropriate route and can be constructed without detriment to Unipork. If the "red line" is not protected it could be disastrous for the Area Plan in its entirety.
- 5.27.09 The crucial environmental impact of the "green line" is the additional loss of three dwellings. Roads Service is also influenced by the availability of zoned I4 land north of the Unipork site. The existence of an established footpath need not prevent Unipork employees parking outside the path.

- 5.27.10 The objector's difficulties with the loss of parking can be addressed through the statutory procedures at the detailed design, Direction Order and Compulsory Purchase Order stages. At that time there would be scope to negotiate parking and access arrangements. Indeed, the Department could consider utilising its powers under the Roads Order to acquire land for the purpose of resettlement. However, vesting for such a requirement cannot be guaranteed as to do so would prejudice the rights of an owner to object.
- 5.27.11 The Department has no objection to further study and would be willing to insert the following sentence in policy TRAN 1.  
"This road (the EDR) will be the subject of further study to determine the precise alignment for this protected road line."  
However, protection for a line that has not been in the public domain would be a travesty to the rights of third parties. The outcome of the objector's approach would be that, every time after expert investigation the Department rejects an alternative, however unhelpful it should be put into the public domain.

### **Objector's case**

#### Proposed walkway/cycle route

- 5.27.12 Unipork welcomes the reassurances of the Council that it will be flexible but it insists that the line on the map should be amended to follow the alternative route along Cloghog Road, Molesworth Road and the EDR. It contends that no evidence has been adduced that the proposed walkway north of the Unipork site is a public right of way.

#### The Eastern Distributor Road

- 5.27.13 Unipork has no objection in principle to the provision of an EDR and welcomes its inclusion in the proposed plan. However, the Company objects strongly to the alignment proposed for the EDR between Coagh Road and Fountain Road and to the proposal in policy TRAN 1 to accord it protection line status. The protected road line should be amended to prevent prejudicial effects on the present operation of the factory and its future expansion. The amended wording offered by the Department is rejected because it is predicated on the "red line".
- 5.27.14 The factory buildings occupy the central part of the Unipork site with workshops, stores, fuel tanks etc. at the north end and a truck wash and effluent treatment plant to the south. Car parking and service areas are located on the north-west side of the factory. Unipork owns vacant land within 15 to the east of the factory. However, levels and access difficulties, the disposition of "clean" and "dirty" operations and stringent health regulations effectively preclude its development. The

natural direction for expansion is north into I4. However, I4 is not owned by the company and there is nothing preventing its development by other industrial or mixed business uses. The loss of parking spaces to the EDR could seriously constrain northward expansion within the existing land holding. At the south end of the factory there are two accesses. Access "A" is the "dirty" access for bringing in the pigs and removing waste. Access "B" is the "clean" access for the dispatch of processed food. To comply with health regulations a wall separates these two accesses. This separation is an essential component of the Unipork operation and cannot be breached. Access "C" at the north end of the factory provides access to 186 parking places as well as access, turning and parking facilities for service vehicles. Because of health related issues Unipork prefers its employees to park outside the boundary fence.

- 5.27.15 From an operational point of view the alignment of the EDR could not be worse. If direct access to the EDR would not be permitted a new access replacing Access "C" would have to be constructed some 60m to the south. This would make vehicular movements within the site tortuous and indirect. Much of the existing car parking to the west and north-west of the factory would be lost. The effects on access and parking and the lack of any practical remedy would have the most serious adverse implications for the factory and would jeopardise approved expansion plans. A "left in/left out" direct access to the EDR would have to accommodate HGVs. The constraint imposed by the "splitter" island would be insufficient to prevent cars making the "banned" right turn.
- 5.27.16 The obvious solution would be to move the line of the EDR to the west so that the existing Access "C" can be maintained and any loss of car parking kept to a minimum. Any option other than realigning the road to the west would require the Department to enter into binding agreements to provide land by vesting and/or road abandonment procedures, which it is incapable of engaging in so far in advance of this long term road proposal. This would apply to the three options for alternative access arrangements off the cul-de-sac head of Molesworth Road canvassed by JMP in their letter dated 27 October 2000. The objector accepts that these arrangements are technically feasible and that statutory mechanisms for vesting etc. are available to put them into effect. Unipork's concerns can be met if those procedures are implemented. The problem is that there is no guarantee that they will be.
- 5.27.17 The net effects of the "green line" are (1) a 0.1ha increase in the total land-take, (2) an insignificant additional visual impact on properties and (3) demolition of 3 properties. This falls well short a significant environmental effect claimed by the Department. JMP's assessment is weighted too much towards the environment and takes no account of

the costs in lost jobs, of land and property acquisition or the cost of the necessary accommodation works. Without an overall comprehensive comparison, the overall impacts and costs of the alternative road alignments cannot be evaluated. It is accepted that the dwellings that would be demolished by the "green line" are currently occupied

- 5.27.18 The adoption of the proposed EDR as presently aligned would potentially permit the Department to proceed to vesting order stage without any proper consideration of an alternative alignment. Alternative routes for the EDR were investigated prior to the ETAP Inquiry. The objector is not suggesting that road proposals protected in the preceding plan should be abandoned when the plan is reviewed, only where there is a case for realignment.
- 5.27.19 The Department should be seeking to protect a "swathe" that is inclusive of both the "red" and "green" lines but the latter has not been put into the public domain and this raises concern for the rights of third parties. The only practical solution is for the matter to be heard at a public inquiry where different road alignments can be considered and evaluated. To facilitate this the objector would wish to see the insertion of a sentence in TRAN 1 reading *"The section of the EDR between Coagh Road and Fountain Road will be the subject of further study regarding alignment"*. This would not preclude the EDR being approved in principle or the adoption of the protection line for the remaining sections of the route. Only the one section would be subject to further study to determine its alignment. This procedure has been followed on other occasions in the adoption of an Area Plan.
- 5.27.20 The "optimised green line" is more than a mitigating detailed design exercise as it protrudes beyond the proposed swathe of protection shown in the Plan. The "optimised" line maintains Access "C" and minimises the volume of cutting required. It would eliminate some 16 parking spaces. It would affect two semi-detached cottages. It would be possible to save one dwelling for the further loss of some 20 parking places. Horizontal radii of 440m are a departure from standard but are entirely satisfactory in the context of this 40mph road. The cost of accommodating the impacts of the "red line" on Unipork could outweigh the cost arising from the "green line" of acquiring residential properties and compensating the owners.
- 5.27.21 The Department has hung its hat on the "red line" and is not willing to place the "green line" in the public domain in such a way as will safeguard the rights of third parties. Therefore it has to defend the red line or risk losing the road as a whole. Re-advertisement within the DCAP procedure would resolve the difficulties.

### Consideration

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Proposed walkway/cycle route

5.27.22 The Council is anxious not to proceed with the published route to the detriment of the Unipork operation and is considering an alternative route via Cloghog Road, Molesworth Road and the EDR. Whilst I can see advantages in a cycle way and footpath segregated from the local road system, I can also see that the proposed route could adversely affect expansion of the Unipork complex. On the basis of the statements to the Inquiry I conclude that the route of the walkway/cycle route should be revisited by the Department in consultation with the District Council.

The Eastern Distributor Road

- 5.27.23 The net differences between the parties are quite narrow but significant. The Department and the Objector both are of a mind to amend the text of policy TRAN 1 to allow further study of the alignment of the EDR. However, the Department's position is that any realignment should be confined to the swathe connected by the red dots on the plan, the "red" line. This is the line shown in the CTS, which has been in the public domain. The Objector seeks to obtain a degree of flexibility for the entire section between Coagh Road and Fountain Road, which it is agreed would require a modification of the plan and possibly a further public inquiry. Both parties are agreed as to the extent of the third party property affected by the "green", "red" and "optimised green" lines.
- 5.27.24 The first issue to address is access. The objector accepts that the three options for alternative access arrangements via Molesworth Road canvassed by JMP in their letter dated 27 October 2000 are technically feasible and that statutory mechanisms for vesting etc. are available to put them into effect. Furthermore Unipork accepts that its concerns can be met if those procedures are implemented. The company's sole residual objection is that vesting cannot be guaranteed. Whilst I can understand the Company's reluctance to hazard its future on a process the success of which cannot be guaranteed, it is not an argument that carries determining weight in my opinion. Vesting normally accords with the provisions of an adopted plan that has been formulated on the assumption that vesting will be successful. To preclude a solution to a planning problem involving vesting because of the uncertainty of the outcome, if widely applied, would derail the planning process. Likewise, such an approach in the context of the Unipork objection is not to be commended in my opinion.
- 5.27.25 In any case if needs be Roads Service would accept a left in/left out access direct to the EDR. Therefore, even if all three options for

access off the cul-de-sac proved impractical due to failed vesting, Unipork would still have a ready means of access to the road network.

- 5.27.26 The second issue is displacement of car parking. Again I find that the Objector's arguments lacking in persuasion. Viewed at its most basic Unipork is seeking to protect its employees' car parking at the expense of the loss of between one and three currently occupied dwellings. If the company's options to re-accommodate its parking were foreclosed one might see a justifiable case for the removal of occupied dwellings. However, Unipork owns vacant land within I5 to the east of the factory. Whilst levels and access difficulties and health regulations may preclude its development for industry I have difficulty accepting that it could not be used for the parking of employees' cars. Alternatively, whilst I4 is not owned by the company and there is nothing preventing its development by other industrial or mixed use businesses, equally there is nothing to prevent Unipork seeking to purchase land in this the natural direction for its expansion.
- 5.27.27 All in all, I am not persuaded that the Unipork objections to the proposed alignment of the EDR are sustainable.

### ***Advice***

- 5.27.28 I advise the Commission to recommend as follows.
- (1) The route of the walkway/cycle route north of Cloghog Road should be reviewed by the Department in consultation with the District Council.
  - (2) The alignment of the Eastern Distributor Road between Coagh Road and Fountain Road as indicated by red dashes on the Draft Plan for Cookstown should be confirmed.

## 6.0 VILLAGES

### 6.01 General Objection 099 by Sinn Féin to the settlement limits proposed for Ardboe, Ardtrea, Ballinderry, Ballylifford, Coagh, Moneymore, Moortown, Stewartstown and The Rock.

Objections 020, 023, 024, 027, 028, 036, 037, 038, 062, 063, 067, 068, 069, 070, 071, 072, 73, 74, 075, 076, 077, 078, 079, 080, 091, 092, 094, 095, 096, 097, 101, 10A, 122, 123, and 135 by community groups and individuals to the settlement limits proposed for Ballinderry, Ballylifford, Ballyronan, Moortown, Pomeroy, Stewartstown, The Loup and The Rock.

#### **For the Objectors**

- 6.01.01 Sinn Féin objects to the restrictive nature of the settlement limits in all of the villages named in its objection. In the case of Ardboe, Ballinderry, Stewartstown and The Rock it objects to the delineation of the limit. These more specific objections are reported later in this Section.
- 6.01.02 On a general level the objectors argue that the settlement limits do not take into account the actual availability, feasibility and development costs affecting the supply of land for development in the villages. The general objections to the Ardboe limit and at Stewartstown are reported separately at 6.02 and 6.30. The general objections to the restrictive nature of the other village limits are summarised as follows.

Ardtrea The potential, although perhaps low, for development is now almost impossible to envisage.

Ballinderry The village limit is excessively restrictive and stifles development at the village core at Ballinderry Bridge.

Ballylifford The proposed linearity of the settlement limit appears to run counter to the plan proposals for other areas. The village envelope is out of tune with local housing demand and should be enlarged to meet local needs.

Ballyronan The Plan acknowledges that demand for housing in the village is likely to be high. The reduction in the envelope since the Preliminary Proposals therefore displays a high degree of inconsistency, particularly when compared with other villages whose limits have been expanded since the preliminary plan. It also lies out of kilter with the increased RSF housing target. The limit does not allow for further tourist potential.



Coagh The relatively small settlement limit reduced further by four Local Landscape Policy Areas and areas constrained by sewage infrastructure should be extended to compensate for the restrictions. The demand for housing has been assessed as high in Coagh.

Moneymore The need for conservation and safeguarding the route of the by-pass places constraints on the potential for development. This balance needs further examination. It is difficult to envisage how the high demand for housing will be accommodated.

Moortown The proposed settlement limit is too rigid for a developing community. It is so seriously restrictive as to prevent any further development in the foreseeable future.

Pomeroy Land supply within the village envelope is insufficient to meet local requirements.

The Loup Some of the land within the envelope has already been developed. Development of other lands is impractical.

The Rock Land supply within the village envelope is insufficient to meet local requirements.

### **For the Department**

6.01.03 Village settlement limits derive from the Countryside Assessment carried out as part of plan preparation as required by policy DES 1 of the Rural Strategy. The relevant supplement is the Settlement Appraisal for the Villages. The quantum of land within the proposed village envelopes for the named villages is more than sufficient to meet the local development needs and provides a balanced distribution of development opportunities within each village given the environmental and infrastructure constraints. Moreover, the limits in the published plan are now proposed to be extended to include additional lands in Ardboe, Ballylifford, Coagh and The Rock that have been conceded in response to objections.

### **Consideration**

6.01.04 In Section 3.01 I concluded that the rural settlement limits are generously drawn and that there is no need for a systematic assessment of the capacity of settlements to accommodate the current regional HGI or the estimated housing requirement in the Technical Supplement. The capacity of settlements to accept additional development will vary according to the constraints imposed by physical geography, conservation of the natural and man made environment, infrastructure and other planning factors. Given the ample sufficiency of the undeveloped land in the villages to accommodate the estimated

housing needs during the plan period I consider that, apart from small scale rationalisation and rounding off, there would have to be very convincing grounds for extending the limits of specific settlements.

6.01.05 Maintenance of compact urban forms is an objective of the plan. The schedule of undeveloped land in the villages updated to take account of the conceded objections (**Appendix 3**) shows the undeveloped land in Ardboe, Ballinderry and Ballyronan in excess of 50% of the village envelope. In Coagh the proportion (59%) is even more generous. In Ballylifford, Moortown, Pomeroy, Stewartstown, The Loup and The Rock the ratio of undeveloped land to existing development is well in excess of 30%. In Moneymore, the figure is 28%, which is still quite reasonable over the 10-year period of the plan. At Ardtrea the proportion of undeveloped land shrinks to 15%. However, this is a very small-scale settlement with a limited range of services and facilities whose potential for development is also constrained by the LLPA and the protection of important views.

6.01.06 Not all the undeveloped land in the villages will become available during the plan period and there may be other constraints retarding the supply of land. However, viewed in the round and individually I consider that the settlement limits are not unduly restrictive and that most are generously drawn.

### **Advice**

6.01.07 The objectors' criticisms that the settlement limits in Ardboe, Ardtrea, Ballinderry, Ballylifford, Ballyronan, Coagh, Moneymore, Moortown, Pomeroy, Stewartstown, The Loup and The Rock are too restrictive have not been sustained.

### **ARDBOE**

***NB Map 6.02/14 is a key map showing all of the objection sites in Ardboe. (Mullinahoe, the spelling adhered to by the local community including the Muintirevlin Historical Society, is preferred to Mullanahoe, the spelling adopted by the Ordnance Survey.)***

**6.02 Ardboe: General Objections by Sinn Féin (99), Father B McHugh PP (101) and Ardboe Community (120) supported by Cookstown and Western Shore Area Network (104)**

### **For the Objectors**

6.02.01 The overall limit of development is too tight, fails to recognise the local settlement pattern of indigenous ribbons and in a number of places it is not logical (**see references A-J on PAC Map 6.02A**).

- Including the northern side of the junction of the Kilmascally Road and the Mullinahoe Road (**A**) would square off the settlement and is preferable to creating linear development as proposed in the plan.
- An extension of the limit further along the Kilmascally Road will round off development (**B**)
- The settlement limit should be extended along both sides of the road to include the Diamond (**F and J**). The revised limit should take account of existing planning approvals including the golf course. The limit as proposed precludes the future development of what is the heart of Ardboe (**C-D**)
- The limit forecloses development along one side (the western) of Mullinahoe Road (**E F and H**) ignoring investment in footpaths and street lighting.
- Any future expansion of the Forbes Kitchens factory (**I**), Ardboe's largest manufacturing employer is prevented.
- The identification of specific access points along the Kilmascally Road curtails many options for development

All in all, the proposed limits are too rigid for the developing community.

6.02.02 The implications of the unique local fishing industry are not addressed and the settlement limit should be much larger to compensate for development options curtailed by the Lough Shore CPA. The allocation of industrial land on the former airfield should be accompanied by local policies geared to economic regeneration of the area.

### **For the Department**

6.02.03 The village settlement limits are derived from the Countryside Assessment prepared as required by PRSNI policy DES 1 (Settlement Appraisal of the Villages). A key objective of the Plan is to maintain compact urban forms that respect the individual identity and character of the settlement, avoid urban sprawl and ribboning and encroachment into the open countryside. In Ardboe, the limit rationalises and consolidates the existing strongly linear morphology. Adequate development land suitable for appropriate residential, industrial, commercial and community uses is available within the proposed limit (**Map 6.02B**).

6.02.04 The Department's views on the specific areas are as follows.

#### Area A

6.02.05 Initial site investigations suggested that there would be storm sewer discharge difficulties between the Diamond and the junction with Kilmascally Road. These can be overcome by the construction of a new storm sewer and improvements to an existing watercourse. This in turn allows adjustments to be made to the settlement limit (see **Map 6.02C** and site-specific concessions below).

#### Area B

6.02.06 The imperative at this location is the control of ribbon development. Whereas the area to the south of the Kilmascally Road is within the village fabric, Area B is still open countryside and merits exclusion from the limit.

#### Area C –D incorporating F and H

6.02.07 The land within the CPA on both sides of Mullinahoe Road is attractive open countryside between the strongly nucleated settlement form of the Diamond and the bulk of Ardboe. Inclusion of this land within the limit would represent a substantial encroachment into the surrounding rural area. The potential for ribboning along the approach roads to the village and the blurring of the break between village and country would be unacceptable. Also, the land to the west of Mullinahoe Road is elevated and prominent. Development in this area should be controlled in order to safeguard visual amenity and rural character. Golf Course use is acceptable in the CPA (PSRNI policy GB/CPA 2). However, the Department is prepared to release the lands hatched on **PAC Map 6.02C** to reflect existing and approved development in the vicinity of Lake View Cottages (**see also Objections 052, 053, 054, 055, 056, 058, 117 and 119**).

#### **Consideration**

6.02.08 The concessions made by the Department have addressed the concerns of the Objectors to some extent. However, most of the site-specific objections remain at issue and will be considered shortly. I have already concluded that viewed as a whole the village settlement limits are generously drawn. This particularly applies to Ardboe where according to the Updated Village Undeveloped Land Areas document (UVULA), including areas proposed to be conceded, some 49ha of undeveloped land are located within the limit. This is by far the largest amount of undeveloped land in any of the settlements and represents 18% of all the undeveloped land in the villages (see **Table 1**). Consequently, I do not agree with the objectors that the proposed limits are too tightly drawn.

#### **Advice**

6.02.09 The objection that the limit of development for Ardboe is too tight and rigid for the developing community has not been sustained.

**6.03 Objections 052, 053, 54 and 119 by P & G Forbes to and M McElroy to the exclusion of lands north of Lakeview Cottages, Mullinahoe Road (areas A, B & C) from the settlement limit of Ardboe**

**Site location** The objections relate to the Areas marked A, B and C on **Map 6.03**.

**Departmental Concession**

6.03.01 Whereas sufficient land has been made available for the needs of the district over the plan period, it is recognised that the inclusion of the site would permit small-scale development. The site is well related to the settlement limit in terms of topography and settlement form. It is not prominent in landscape and the northern boundary of the site would provide a firm definition for the proposed limit. There are no technical difficulties preventing its development.

**Advice**

6.03.02 Since these objections have been conceded they need not engage the attention of the Commission.

**6.04 Objections 055 and 119 (Area D) by P Forbes to the exclusion of land east of Lakeview Cottages, Mullinahoe Road from the settlement limit of Ardboe**

**Site and location** The site is Area D on **Map 6.03**. It comprises two parts, Areas "X" and "Y", see **Map 6.04**. Area X is 0.25ha adjoining and to the rear of the Forbes factory site. Area Y (1ha) is partly to the rear of the factory and partly to the rear of Lakeview Cottages. It is part of a large rectangular field that stretches towards the northeast.

**Departmental Concession (part)**

6.04.01 A considerable amount of land has already been ceded for the expansion of Forbes kitchens. Inclusion of Area "Y" within the limit would result in unnecessary expansion of the village into open countryside contrary to the plan objective of maintaining compact urban form and avoiding urban sprawl. There is an ample supply of undeveloped land within the proposed limit. The north-east boundary of area "Y" is undefined and its inclusion within the settlement could not be justified even as a logical rounding off.

- 6.04.02 Area "X" is well defined along the north-east and south-east boundaries and relates visually to the factory. Whilst sufficient land has been made available in the District over the plan period, the release of "X" would allow some limited development adjacent to the factory. Whilst "X" could achieve an acceptable form, the lack of definition along the south-east boundary of Area "Y" precludes its inclusion within the settlement limit. There is also the cumulative effect on quantum of conceding additional land.
- 6.04.03 The existence of a very strong hedgerow along the northern boundary distinguishes sites 119 A-C from "Y". A significant factor in restraining progression from approving "X" to approving "X" and "Y" was the quantum consideration. There is nothing in policy terms to prevent the juxtaposition of housing and industry.

### **For the Objector**

- 6.04.04 The concession of area "X" is of limited use in terms of future expansion of Forbes' factory, which is the biggest industrial employer in the Loughshore. All the logic is to expand into "X" and "Y". The absence of a hedge is not a sustainable reason for preventing significant expansion of the major local employer. It conflicts with the Plan's stated keenness to encourage the expansion of existing firms. The inclusion of area "Y" will serve to rationalise and consolidate the settlement form.

### **Consideration**

- 6.04.05 There is a Plan strategy to protect and extend industrial and business areas where they are within easy reach of the urban population and will not have a significant impact on the environment or local amenity. The Forbes factory lies into the urban fabric of the village and is an employer of major significance in the Loughshore where there are comparatively high levels of deprivation. Whilst I accept the general thrust of the quantum argument I consider that it is of great importance that the future of this local employment asset should not be prejudiced through lack of room for expansion. Areas "A", "B" and "C" that have been conceded are separated from the factory by the lane-way. Area "Y" directly adjoins the factory premises and would readily facilitate extension of the existing building complex. I consider that the absence of a physical demarcation with the balance of the field can be rectified through landscaping and is not sufficient reason to deny the existing business readily adjacent space for expansion.

### **Advice**

- 6.04.06 I advise the Commission to recommend that the entirety of Objection site 055/Objection 119 Area "D" be included within the settlement limit.

**6.05 Objections 116 and 117 by Mr Patrick McConville and Mr John McClean to the exclusion of lands east of the junction of Mullinahoe Road and Kilmascally Road from the settlement limit of Ardboe**

**Site location** Objection site 116 (1.4ha) lies immediately north of Kilmascally Road (**Map 6.05A**). Objection site 117 (6.8ha) lies immediately to the north of site 116 and extends from the back of properties fronting Mullinahoe Road as far as the abandoned airfield (**Map 6.05B**).

**Departmental Concession (in part)**

- 6.05.01 Sufficient land has been made available for the needs of the district over the plan period. However, it is recognised that the inclusion of the site 116 and the western portion of site 117 (shown hatched on **Map 6.5B**) would permit small-scale development in close proximity to existing commercial and social services within the settlement. The land is well related to the settlement limit in terms of topography and settlement form. It is not prominent in the landscape and, with the resolution of the storm water problem, there are no technical difficulties preventing development.
- 6.05.02 The proposed supply of undeveloped land in the village is adequate. The balance of Objection site 117 is located in a flat featureless landscape further removed from village services. Its inclusion would result in unnecessary expansion of the village into open countryside contrary to the objective of maintaining compact urban form and avoiding urban sprawl.

**For the Objectors**

- 6.05.03 The concession is welcome and will serve to consolidate the village core. Whilst the inclusion of the balance of site 117 would produce a somewhat bizarre development limit, it could be rationalised within a regeneration policy for the village in which less emphasis would be placed on fixed boundaries. Development already exists in the form of airfield buildings/hardstandings. The site creates an opportunity to integrate the central core of Ardboe and the former airfield.

**Consideration**

- 6.05.04 I have already concluded that the settlement limit is generously drawn and I agree with the Department that the inclusion of the balance of site 117 would result in unnecessary extension of the village. I can see merit in the consolidation of the village core but have not been

persuaded that this should include extension of the development limit out to the boundary of the former airfield.

### ***Advice***

6.05.05 The issue of the exclusion of the conceded lands need not engage the attention of the Commission. The balance of objection site 117 should remain excluded from the settlement limit.

### **6.06 Objection 056 by Mr G V Forbes to the exclusion of land east of Mullinahoe Road from the settlement limit of Ardboe**

**Site location** Objection site 056 (0.9ha) lies immediately east of a housing construction site immediately south of Lakeview Cottages. **(Map 6.06).**

### **Department's case**

6.06.01 There is an ample supply of undeveloped land within the area identified to accommodate development over the plan period. Inclusion of the site within the settlement limit would result in unnecessary expansion of the village into open countryside contrary to the objective of maintaining compact urban form and avoiding urban sprawl. As the eastern boundary of the site is undefined and the southwest boundary is merely defined by a fence and lane, the inclusion of the site could not be justified as rounding off. The footprint of the village in the vicinity of the objection site has been consolidated. The landscape has been affected by the former airfield and associated development but is reverting to normal agricultural use.

### **Objector's case**

6.06.02 The objection site is suitable for housing because it is accessible to the sewerage system and would be a natural extension of the adjoining housing development.

### **Consideration**

6.06.03 I agree that there is ample undeveloped land available to accommodate the need for housing within the proposed settlement limit and therefore the objection site fails the test of quantum. Also development would breach the hedgerow boundary of the existing construction site and extend into an open-ended field resulting in urban sprawl.

### ***Advice***



6.06.04 The exclusion of objection site 056 from the settlement limit for Ardboe should be confirmed.

**6.07 Objections 058 and 119 (areas E & F) by P Forbes, M McElroy and G V Forbes to the exclusion of lands west of Mullinahoe Road from the settlement limit of Ardboe.**

**Site and location** Objection site 119 (areas E and F) and objection site 58 comprise some 4.5ha each and substantially overlap. A church, school, nursing home and several dwellings lie within the proposed limit south of the site. **(Maps 6.03 Areas E and F and Map 6.07 )**

**For the Department**

Area E (Site 119) and the equivalent part of Site 58

6.07.01 Outline permission was granted to develop five dwellings on area E on 19 January 2000. This decision was on the foot of outline permission granted for 4 dwellings in 1994. A minor amendment to the CPA and inclusion of the site within the settlement limit would rationalise the planning history in this location.

Area F (Site 119) and the remainder of Site 58

6.07.02 There is an adequate supply of land within the proposed settlement limit. Inclusion of the objection site within the limit would result in the unnecessary expansion of the village into open countryside contrary to the plan objective of achieving compact form and avoidance of urban sprawl. The presence of a footpath in the vicinity and street lighting along the eastern side of Mullinahoe Road would not outweigh the reasons for excluding the site.

6.07.03 The limit has been delineated having regard to the dispersed settlement pattern and the two nuclei of The Diamond and the facilities at the junction of the Mullinahoe Road and the Kilmascally Road. Including the church, school and nursing home within the limit is a rationalisation of the existing situation. Area F lies close to but not within the village core. It has a distinct rural ambience and its inclusion would set a precedent, which could be applied elsewhere.

**For the Objectors**

6.07.04 The entirety of the lands comprised in the objection sites should be included within the limit. They are centrally and conveniently located close to all the facilities at the social, commercial and community core of village. It is illogical to encourage a village to develop on one side of the road only and to fail to make use of existing infrastructure. This includes a main foul sewer, street lighting and a footpath along the

eastern side of Mullinahoe Road. There is no other instance where development along one side of a main road through a designated settlement is prevented on the basis of a planning policy.

### **Consideration**

- 6.07.05 The inclusion of Area E is a product of the planning history. The extension of the limit to include the balance of the objection lands would make the village envelope significantly more generous than it already is and therefore fails the quantum test. It would run counter to the objective of maintaining a compact urban form and avoiding urban sprawl. These considerations in my view outweigh the proximity of the area to the village core and the availability of sewerage, street lighting and footpath provision.

### **Advice**

- 6.07.06 The issue of the exclusion of the conceded Area E need not engage the attention of the Commission. The balance of objection sites 58 and 119 should remain excluded from the settlement limit.

## **6.08 Objection 090 by Mr M McKeown to the exclusion of land west of Mullinahoe Road from the settlement limit of Ardboe**

**Site location** Objection site 090 (2.4ha) comprises three fields immediately opposite the junction of the Kilmascally and Mullinahoe Roads. (Map 6.08).

### **Department's case**

- 6.08.01 There is an ample supply of undeveloped land within the area identified to accommodate development over the plan period. Inclusion of the objection site would result in the unnecessary extension of the village into open countryside contrary to principles of urban containment. The subject lands rise up from Mullinahoe Road to a crest and development would appear exposed and prominent from the road. Ribbon development is not being encouraged. The Plan is seeking to rationalise existing development.

### **Objector's case**

- 6.08.02 Mr McKeown has retained ownership of these lands with the aim of providing possible sites for members of his immediate family. Development would be limited to a few dwellings and consequently the traffic generation would be light. The Department's opposition to ribbon development lies uneasily with the encouragement given to it elsewhere in the plan.

### **Consideration**

6.08.03 The inclusion of this site within the settlement limit would facilitate unnecessary expansion of the village and the incursion of development onto an elevated and a prominent site. These considerations in my opinion outweigh the proximity of the site to the village core.

***Advice***

6.08.04 The exclusion of Objection site 090 from the proposed settlement limit for Ardboe should be confirmed.

**6.09 Objections 113, 114, 115 and 019A by Mr G Campbell, Greg and Ann Park, Mr S Tennyson and Mr M Forbes against the designation of the Loughshore Countryside Policy Area insofar as it forecloses future development at Mullinahoe Road and the Diamond (113, 114 and 115) and the exclusion of their lands from the settlement limit for Ardboe**

**Sites and location** The objections relate to various lands east and west of Mullinahoe Road in the vicinity of The Diamond in an area largely affected by the proposed Loughshore CPA. Mr and Mrs Park's land is entirely within the proposed CPA. The other objector's lands lie partly within and partly outside it. On Day 16 Mr Tennyson's objection was reduced to the three fields closest to Mullinahoe Road and the two fields closest to the former airfield. **(Maps 6.09 A-D)**

**Objectors' cases**

6.09.01 The CPA designation should be removed because it forecloses future development in what is the physical heart of Ardboe, the area between the Diamond and Mullinahoe. It will inevitably lead to the stagnation and strangulation of the Diamond.

6.09.02 Mr Forbes (Objection 019A) highlights the significance of the approved golf course and clubhouse on part of the Objection site (I/95/0130). Development would link in perfectly with the Diamond and would detract in no way from the view of Lough Neagh. He also draws support from the footpath linking the Diamond with Lakeview Housing Estate and the existence of street lighting.

6.09.03 Specifically in relation to Objection 113 Site A should be brought within the logical northwards extension of Ardboe. Site B should be included within a similarly logical northwards and eastwards extension of the limit. An established industrial use already exists on the site.

- 6.09.04 Specifically in relation to Objection 114 Site A should be brought within the development limit because it lies contiguous with the proposed Diamond development area. It is already bounded on the southern side by a major planning approval (I/95/0130). Sites B and C should also be included because of (1) the approval of I/95/0130 (2) frontage development is already in place on both sites and (3) substantial infrastructural development in the form of footpaths and street lighting has already been put in place.
- 6.09.05 Likewise in relation to Objection 115 significant development (I/95/0130) has been approved immediately to the west and footpaths and street lighting are already in place. Local proposals should take account of the legacy of the former airfield. This should be reflected in the potential for significant, appropriate development on the eastern part of the site where the airfield sewerage works and substantial areas of concrete hard standing still exist.

### **Department's case**

- 6.09.06 The view that designation of the Loughshore forecloses future development opportunities is predicated on a misunderstanding of the policies that operate in CPAs. None of these policies places a ban on development. The presumption against development is mitigated by the possibility of approval for a wide range of uses provided they meet the policy criteria. Whilst there is likely to be less development within the defined CPA than hitherto, the control would not amount to foreclosure. Moreover, on those parts of Objection sites 113, 115 and 119A outside the CPA planning approval for single dwellings is limited only by the requirement for satisfactory location, siting and design.
- 6.09.07 The objection sites constitute an area of attractive countryside between the strongly nucleated settlement of the Diamond and the bulk of Ardboe village further south. Inclusion within the village envelope would result in substantial encroachment into the surrounding rural area where unspoiled countryside is at a premium and requires the special protection afforded by the designation of a CPA. The potential for ribboning on the approach roads to the village and the blurring of the clean visual break between town and country at this location would be unacceptable. Development in this area should be controlled in order to safeguard visual amenity and rural character.
- 6.09.08 As is the case in relation to the other Objectors, Mr Forbes (119 Site A) cannot rely on the approval of application I/95/0130. Golf courses and associated clubhouses are allowed in the open countryside outside urban areas (PSRNI policies GB/CPA 2 and REC 2). The converse must therefore apply that permission for a golf course does not imply that the land in question has become urbanised. In the absence of compelling personal and domestic circumstances family requirements

are not of themselves material in land use planning decisions and plan making.

6.09.09 Specifically in relation to Objection site 114 site A, the proximity of the Diamond would not offset the potential for ribboning at this location. In relation to sites B and C the frontage development referred to is a small roadside farm building subsumed within the settlement node of the Diamond.

6.09.10 Reference has been made in Objection 115 to "significant appropriate development" as a legacy of the Ardboe airfield. The former airfield is an abandoned historical use of the land and is no longer relevant to development control decisions. There is sufficient land within the settlement limit, both zoned and white land to accommodate any likely future industrial requirements in Ardboe. There is no need therefore to include any of

Mr Tennyson's land within the limit for that purpose. Given the land available in total, there is no justification for extending the limit to provide for more housing, commercial or community uses. Areas "A", "B" and "C" immediately to the south are separated from Mr Tennyson's land by a mature hedge. There is no advantage in extending the limit to the next good hedge, particularly as this would result in incursion into the gap between Ardboe and the Diamond. An area of mossed over hardstanding would not fall within the PPS4 policy framework for the re-use of redundant non-agricultural buildings for industry.

### **Consideration**

6.09.11 There is already ample land included in the village envelope and extension to include the Diamond would involve a significant enlargement of the settlement as a whole. This would run counter to the objective that seeks compact urban form and I share the view of the Department that the objection lands should be excluded. Given the pressure of development that threatens to close the gap between the Diamond and the main settlement I consider the delineation of the Lough Shore CPA in this key location entirely appropriate.

6.09.12 In so concluding I find little of substance in the arguments advanced by the objectors for the inclusion of their lands. Permission for a golf course, a use that is acceptable in a CPA, is not a persuasive reason for extending the development limit. Likewise, I discern little significance in the existence of street lighting and footpath provision. Site 114 A would encourage linear development along the south side of Trickvallen Road. The very limited frontage development on 114 B and C does not justify the inclusion of these relatively large sites. I discern no good reason for departing from the good hedgerow delineating the development limit along the northern boundary of conceded sites 119

A, B and C. Finally, I consider that the eastern portion of the Tennyson site is too far removed from the Ardboe Business Park to justify its inclusion within the limit with a view to making it available for industrial or business use.

### **Advice**

6.09.13 The proposed exclusion of Objection sites 113, 114, 115 and 019A from the Ardboe settlement limit and the delineation of the Lough Shore CPA in the vicinity of the Diamond should be confirmed.

### **6.10 Objection 019 B by Mr M Forbes to the exclusion of lands fronting Kilmascally Road from the settlement limit for Ardboe**

**Site and location** The site (3ha) is level agricultural land east of the proposed settlement limit for Ardboe. The north-east boundary is undefined. Mature hedgerows define the other boundaries. There is a dwelling north-west of the site and an extensive ribbon of development on the opposite side of Kilmascally Road. **(Maps 6.10)**

### **Department's case**

6.10.01 There is an ample supply of undeveloped land within the proposed settlement limit. Inclusion of the objection site within the limit would result in the unnecessary expansion of the village into open countryside contrary to the plan objectives of achieving compact urban form and the avoiding urban sprawl. The impact of the suggested revision to the limit would be accentuated by the lack of definition at the north-east boundary of the site. Whilst the site is sufficiently deep for in-depth development, past trends in the area suggest that there will be pressure for single dwellings along the road frontage resulting in the elongation of the settlement along Kilmascally Road. The mere ownership of land confers no automatic right on an individual to develop it. Private aspirations to accommodate family members on family land cannot be met through the area plan process.

### **Objector's case**

6.10.02 The objection site has been excluded from the limit for no apparent reason. It is adjacent to the proposed zoning on Kilmascally Road and can be serviced by the existing sewer. The area opposite included in village envelope appears not to have adequate drainage or access. The objection site on the other hand has good drainage and access and can be screened off to accommodate planning policy. A house on the land was only demolished a few years ago. It is the objector's dream to provide his family with land for their homes. He asks that they be allowed the choice to live and work locally and to recreate community life.

## Consideration

6.10.03 Objection site 019 Area B is peripherally located and well removed from the village core at the furthest eastern extremity of the dispersed settlement of Ardboe. Development of the objection site would consolidate the linear settlement opposite and could be controlled to secure development in depth if this were thought appropriate. However, ample land has been included within the settlement limit to meet the needs of the village and the surrounding rural area during the plan period. An extension of the limit to include the objector's land would unnecessarily exacerbate the diffuse and sprawling pattern of the village settlement. The objector's wish to hand on land as his legacy to the next generation is an understandable aspiration but it is also one that is frequently encountered in rural areas and is not a persuasive reason for extending a village envelope.

## Advice

6.10.04 I advise the Commission to recommend that objection site 019 Area B should remain excluded from the proposed settlement limit at Kilmascally Road, Ardboe.

## 6.11 Objection 101 by Father B McHugh PP to the exclusion of parochial lands to the rear of St. Patrick's Primary School from the settlement limit for Ardboe

**Site and location** The site ( 0.57ha) is elevated land on the upper slopes of Cave Hill. It is defined on its western boundary by a row of low leylandii and on its other boundaries by mature trees and hedges. It is currently used as a greyhound compound. **(Maps 6.11)**

## Department's case

- 6.11.01 The parochial lands sit on the skyline in an otherwise largely flat landscape. The Countryside Assessment refers to the need to avoid elevated land at Cave Hill. The site is very prominent when approaching the village from the north and south along Mullinahoe Road and from the east along Kilmascally Road. Development of the site would be visually intrusive. The visual impact and consequent loss of amenity would not be ameliorated by retention of existing boundary vegetation or additional planting or site works. The Cave Hill is one of few local sites with such prominence.
- 6.11.02 Development could only proceed at a loss to the community heritage. The site is part of a rath and is close to the souterrain from which the name Cave Hill is derived. In this context the archaeological remains must be regarded as having local importance and the remains and their setting are likely to require protection under PPS 6 policy BH 2.

Part of the cave lies within the settlement limit but the core of the "fort", which is the focus of the archaeological site is located within the objection site. It is also suspected that the souterrain extends into the site.

- 6.11.03 The souterrain is a scheduled monument. The rath is a domestic farmstead of the sixth to eighth centuries AD. The rath is not currently scheduled but there are very few raths in the area and therefore it has local rarity value. Protection of the remains within the settlement limit can be addressed having regard to the provisions of PPS 6 policies BH 2 and BH 3. If the objection site were included within the limit the same policies would apply. However, PPS 6 policy BH 2 would require the rath to be kept undeveloped as a feature within the site layout. If it were established that the remains were not of local importance development could take place conditional on the completion of a licensed archaeological excavation.
- 6.11.04 The primary reason for excluding the objection site is the elevation of the land. There is no evidence that the greyhound compound is a commercial use. There is no extant planning permission for such a use.

### **Objector's case**

- 6.11.05 In the context of the contours in the wider area the significance of the elevation of Cave Hill is questionable. The archaeological remains have the protection of PPS 6 whether or not they are included in the settlement limit. The site has already been developed as a greyhound compound. The Church, which has huge local significance for the local community has an interest in the development of its parochial lands.

### **Consideration**

- 6.11.06 There is ample undeveloped land within the proposed settlement limit within which to accommodate the development needs of the village and the surrounding rural area. Development of the site would represent a conspicuous breach of the skyline of Cave Hill, which given its archaeological interest also has local cultural significance. Applying policy BH 2 of PPS 6 can protect the archaeological value of the scheduled souterrain and the non-scheduled rath together with their archaeological settings. However, such protection of itself is likely to rule out the physical development of the rath. Therefore, whilst the prominence of the site is the primary factor in delineating the limit at this point, it is also sensible that for archaeological reasons the site should remain excluded from the settlement limit. No significance can be attached to the existing use of the land the planning status of which remains questionable. Finally,



whilst the Church is undoubtedly a focal point for the parish and the local community, this of itself does not outweigh the planning reasons for excluding the site from the settlement limit.

### **Advice**

6.11.07 I advise the Commission to recommend that the proposed settlement limit at Cave Hill, Ardboe be confirmed.

### **6.12 Objections 059 by Mr Sean Quinn to the proposed designation of land for industrial or mixed business use north of Kilmascally Road Ardboe**

**Site and surroundings** The site (1.5ha) is level grassland located between Ardboe Business Park and a former concrete works currently in use for storage. **(Maps 6.12 and 6.12A)**

### **Objector's case**

6.12.01 Mr Quinn asks that the objection site should be shown as white land to allow for alternative development which could include housing. "White land" status would open up the options for the Ardboe community. The separation from potential sources of noise nuisance is adequate. Should disturbance occur it could be rendered innocuous by double-glazing etc. Normal development control procedures should be able to cope.

### **Department's case**

- 6.12.02 The relevant policy context consists of PSRNI strategic policy SP 3 and PPS 4 paragraph 13. SPG 9 paragraph 9.1 of the RSF document commits the Department to supporting economic and social regeneration in disadvantaged rural areas.
- 6.12.03 Policy SP3 and paragraph 13 of PPS 4 indicate that the Department will not normally zone land in villages for specific purposes. However, following publication of the Preliminary Proposals Ardboe Development Association and local councillors identified a need to include the Business Park at Ardboe to allow for further expansion of the businesses and industry located there. The Rural Development Division of the Department of Agriculture supported their case. It was contended that development of the Business Park would stimulate further investment in the area. By February 1998 public funding, in the region of £1.3m had been contributed to the establishment of the

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Business Park including a resource/office centre, six craft shops, 11 workshop units, and a temperature controlled warehouse.

- 6.12.04 There is an adequate supply of land for housing within the proposed settlement limit. The proposal to zone the objection site and other lands including land adjacent to the Business Park for industry and mixed use complies with strategic policy guidance.
- 6.12.05 The Environmental Health Officer (EHO) advises that housing on the objection site could be susceptible to noise nuisance. This would be particularly the case during noise sensitive hours at night due to the noise emission from the chill unit on the near side of the cold store building and also from refrigerated units parked on the access road overnight. The cold store is currently disused but could be reoccupied at any time. Also there are engineering activities in some of the small business units in the Business Park. These could also cause noise nuisance when steel is being delivered and worked on. If complaints were received from residents the Environmental Health Authority would have to approach the owners of businesses to seek amelioration of the nuisance. This in turn could prejudice the operation of these businesses and reduce the potential for employment generating development opportunities in the area.
- 6.12.06 The engineering activities in the small units are not intensive and are generally confined to the daytime. Also there is a degree of separation buffering the site from noise emissions from the larger units. However, in the Department's view the area overall is quite limited. The noise associated with agricultural activity is not comparable with the potential level of nuisance generated by industrial users. The EHO is not aware of there having been any complaints relating to the former concrete works. It is a moot point whether this use has been abandoned.

### **Consideration**

- 6.12.07 The importance attached to economic and social regeneration in the Loughshore is reflected in the unusual step of specifically designating land within the village of Ardboe for industry and mixed business use focused on the Ardboe Business Park. An essential aspect to the funding of the Ardboe Business Park is its role as a stimulant for further investment in the area. I am firmly of the view that anything that would prejudice the performance of the Business Park in its role of catalyst for growth is to be discouraged.
- 6.12.08 In the case of this objection there is a significant risk that environmental protection of the future residents of dwellings erected

on the objection site would adversely affect the optimum performance of industrial enterprises within and in the vicinity of the Business Park. This in turn could prejudice the potential of the area to attract new investment.

- 6.12.09 I accept that any noise nuisance caused by the industrial users in the Park is likely to be confined to less noise sensitive hours. However, many of the dwellings built on the site would be very close to the open yard area where unloading and other activities involving the use of steel will be concentrated. This to my mind is not a desirable relationship in which to locate new residential development. Moreover, there is also the possibility that the cold store could be reoccupied and this would expose residents to night-time noise not only from the chill unit on the near side of the building but also from refrigerated lorries parked in the access road overnight.
- 6.12.10 I do not accept the objector's premise that noise problems can be left to be addressed through normal development control procedures. The risks should be avoided at first instance by ensuring that housing is not located in an unsuitable environment. There is ample undeveloped land elsewhere within the settlement limits. There is therefore no need to put the amenities of residents and the regenerative potential of the Business Park both at risk by allowing the "white land" option for housing development on the objection site.

### ***Advice***

- 6.12.11 The zoning of Mr Quinn's land for industry and mixed use should be confirmed.

### **6.13 Objections 057 by Mr M J Campbell to the failure to zone land for industrial or mixed business use beyond the proposed settlement limit for Ardboe**

**Site and surroundings** The site (4.7ha) is part of the former Kinrush airfield. The land is flat grassland and contains an area surfaced in concrete. There are several businesses in operation in the vicinity. Immediately east of the site there is a builder's suppliers and 400 to 500m further east a concrete products factory. Opposite the site to the west there is a small scrapyard, while a second builders supplies outlet and Ardboe Business Park is located some 250m to the south. **(Maps 6.13 and 6.13A)**

### **Objector's case**

- 6.13.01 Zoning the site would accord with the regional planning context and the approach taken on industry and mixed business use in the draft Plan. Local proposals should take account of the legacy of the former

airfield and the need for regeneration through growth in employment. Industry and business enterprise should not be hamstrung by the proposed rigid development limit.

### **Department's case**

- 6.13.02 The relevant policy context consists of PSRNI strategic policy SP 3 and PPS 4 paragraph 13. SPG 9 paragraph 9.1 of the RSF document commits the Department to supporting economic and social regeneration in disadvantaged rural areas. The history of Ardboe Business Park is summarised at 6.12.03 above.
- 6.13.03 It was necessary to reconcile the need to include a Business Park and allow for expansion against the plan objective of maintaining compact urban forms and avoiding urban sprawl and the policy guidance in PPS 4. The issue was compounded by the characteristics of the landscape in the area. The site falls within an area that the Village Appraisal identifies as not having a capacity to readily absorb development due to lack of vegetation or relief. The settlement limit was drawn to rationalise existing development. Identification of the core of the Business Park led on to inclusion of the vacant land to the south and the irregularly shaped area extending towards the northern tip of the zone as these were considered to be logical extensions. They will provide choice and flexibility of land supply. Access is available and there are no dwellings in close proximity, which might restrict the type of industry that might be accommodated on the site.
- 6.13.04 The objection site is removed some 250m from the existing Business Park. It is in a visually sensitive location and is adjacent to dwellings. It is 300m from the nearest point of connection to the public road system. Following a Ministerial Direction the Department has consistently maintained that any new development at the abandoned airfield would require connection to the public road network to Private Street Standards. At a practical level therefore the difficulties of bringing the road network up to standard excludes the bulk of the airfield.
- 6.13.05 There is an ample supply of 6.1ha of undeveloped land within the proposed zone for Industry and Business Use. Furthermore, subject to normal planning and environmental considerations, PPS 4 allows for permission to be granted for industrial development in rural locations in order to meet special circumstances. Zoning the objection site would result in the unnecessary expansion of the village into the open countryside.
- 6.13.06 The need to reduce the need for commuting is an essential principle of sustainability. However, Cookstown is just 10 miles to the west a comparatively short commuting distance and there is a bus service.

6.13.07 Roads Service has no objection to the inclusion of this site within the limit of development subject to the developer being required to bring the road up to standard for adoption. There is a minor works scheme to widen Kilmascally Road to 6.5m and to provide a footway throughout the 650m from Mullinahoe Road to the entrance to the industrial estate. The scheme is included in the draft programme for construction in the year 2002/03. The programme will not be finalised until March 2002 after consultation with Cookstown District Council. Water Service has advised that connection to the public sewer is required and that pumping may be necessary.

### Consideration

6.13.08 Earlier in this report on the foot of the inertia associated with the EDR I advised the Commission to recommend that the Industry and Business Use zonings in Cookstown should be reviewed with a view to rectifying the deficiencies in the potential land supply. It seems to me only prudent that the review should extend to include a review of the prospects for increasing the extent of the land that is zoned for industry and mixed business use at Kinrush. I believe that this review should include the subject land and the adjoining land to the southwest that lies between the airfield perimeter road and the Business Park.

6.13.09 In so concluding I have taken the following into consideration.

- i) The general view shared by the parties that the Ardboe Business Park has the potential to provide an economic stimulus in the heart of the Loughshore, which is a disadvantaged rural area. Expansion of the Business Park would accord with the emerging regional policy committing the Department to economic and social regeneration in disadvantaged rural areas.
- ii) Increasing the employment potential in Ardboe will reduce reliance of the Loughshore area on urban employment opportunities in Cookstown. Also by providing employment nearer home it will reduce the amount of commuting involving private motor cars.
- iii) The scheme to widen and improve Kilmascally Road will provide a much-improved standard of access to the Business Park.
- iv) A significant extension of the industrial and mixed business zoning to include the objection site and the land to the southwest would generate economies of scale that would be helpful to developers in making connection to the public road system up to a standard

suitable for adoption. It could also be helpful in financing connection to the public sewer and installing sewage pumping facilities.

- v) Ardboe Business Park has already been funded with £1.3 m of public money. Without adequate, readily available land with which to attract additional industry and business uses its potential to act as a catalyst for employment generating growth will be seriously prejudiced.

6.13.10 The achievement of compact urban form is a matter of great weight in the formulation of the Plan overall. However, on this occasion, in my opinion, it is outweighed by the importance of ensuring that the full potential of the publicly funded Ardboe Business Park to generate employment in this relatively disadvantaged rural area is properly safeguarded.

### **Advice**

6.13.11 I advise the Commission to recommend that extension of the Ardboe Business Park to include objection site 057 and the land to the southwest enclosed by the former airfield perimeter road be considered as part of a review of the District industrial land supply through to 2010.

### **6.14 Objections 082 by Mr J P Duffy to the proposed zoning of land for recreational open space south of Kilmascally Road, Ardboe**

**Site and surroundings** The site (0.2ha) located within the existing residential developments of Cavehill and Cluntoe View. It is contained in two parcels of land shown as areas A and B of the location plan (**Map 6.14**). Area A is a small well-maintained grassed area. Area B is undeveloped and unkempt. The parochial hall and car park are to the north of site B.

### **Department's case (part concession)**

6.14.01 The adjoining residential development is high density having been developed at 26 units per hectare and throughout the village there is a shortage of public open space. Area A already functions as a tended area of open space/play area and Area B could function as an informal area for children's play. Whilst the Department considers that the retention of Existing Recreation/Open Space is important it is recognised that the adjoining housing area is small and the retention of the overall site for public use is likely to be problematic.

6.14.02 It is further considered that housing on Area B would relate well to the existing housing development while Area A is in a central location ideal

for facilitating the supervision of children at play. It is therefore now proposed that Area B is left as whiteland but Area A should be retained as an area of Existing Recreation/Open Space.

- 6.14.03 Outline planning permission was granted in the early 1980s to NIHE for housing development of land including Site A but currently there is no extant permission on the site.

### **Objector's case**

- 6.14.04 In a written submission in December 1999 the objector cast doubt on the capacity of undeveloped land within the proposed settlement limit to accommodate additional development. A planning enquiry as to the prospects for erecting 9 Housing Association dwellings on the site was received favourably by a Planning Officer in 1992. Policy allows a developer to set aside land for the benefit of the site. It does not state that third party lands shall be sterilised to accommodate existing developments. The site is suitable for development because it has access to a public road and footpaths, sewerage and water mains. Development will help to improve the aesthetics of the existing development. The planning history of the site favours the objector.

### **Consideration**

- 6.14.05 Following the conceding of Site B, the net issue is whether the proposed zoning of Site A for existing Recreation/Open Space should be confirmed.
- 6.14.06 There is already a small well tended area of amenity open space that provides a focus for the 14 dwellings that makes up Cave Hill development. Site A may serve as a small informal kick-about area for local children. However, it immediately adjoins No.14 Cave Hill and playground activities could be a source of nuisance to the occupants of this property. Enclosed by a retaining wall supporting a close boarded fence and dominated by the rear elevation of 2-storey semi-detached properties Area A has the look of a left over area rather than a purpose designed element of the layout. There is also some force in the objector's argument that residential development would effect an aesthetic improvement. All in all I am not persuaded that designation as existing recreation/open space is merited.

### **Advice**

- 6.14.07 The entire existing Recreation/Open Space zonings should be removed from the objection site 082 at Cave Hill, Kilmascally Road, Ardboe.

### **BALLINDERRY**

***NB Map 6.15/19 is a key map showing all of the site specific objection sites in Ballinderry.***

**6.15 Objections 091 by Mr Liam McGuckin and Sinn Féin (099) to the exclusion of lands at Ballinderry Bridge Road from the settlement limit of Ballinderry and to their inclusion within the Lough Shore Countryside Policy Area**

**Sites and location** Mr McGuckin's site (2.1ha) (**Map 6.15**) is agricultural land immediately north of the settlement limit which at this point defines a satellite cluster separated from the rest of the village of Ballinderry by the Ballinderry River. There is a playing field and a small cluster of development south of the site and a loose ribbon of development on the opposite side of the road. The land referred to in Sinn Féin's objection includes site 091 and extends north to the cross-roads and an AOH hall.

**For the Objectors**

- 6.15.01 The proposals for Ballinderry are excessively restrictive and contradict previous development schemes. The Plan accepts that the core of the village is located at Ballinderry Bridge yet the Lough Shore CPA immediately stifles development. The removal of hedges coupled with provision of footpaths, street lighting and post and wire fencing has effectively incorporated the section from the community hall to the bridge within the village limit. Given the amount of development within the area its exclusion is illogical. Mr McGuckin has family members who require sites for dwellings and his objection site is suitable for this purpose.

**For the Department**

- 6.15.02 Village limits derive from the Countryside Assessment carried out as part of plan preparation. In Ballinderry the limit is specifically designed to restrict ribbon development, use the Ballinderry River to contain development and rationalise existing development that has taken place.
- 6.15.03 The settlement appraisal for Ballinderry recognises that the village is quite scattered and lacking in physical cohesion. In accordance with the objective of maintaining compact urban forms and avoiding urban sprawl the limit is drawn to rationalise existing development using well-defined natural boundaries as much as possible to provide firm definition.
- 6.15.04 The inclusion of the objection lands would result in unnecessary expansion of the village into open countryside compounded by lack of



definition. The depth of site 091 limits scope for in-depth development and past trends indicate a tendency for single dwellings along the road side resulting in pressure for ribboning and elongation of the settlement along Ballinderry Bridge Road.

- 6.15.05 Some 16ha of undeveloped land capable of accommodating a 54% expansion of the village has been included within the settlement limit. Development pressure has been moderate around the village in recent years. It is therefore anticipated that the proposed supply of land is adequate.
- 6.15.06 Land north and east of the objection sites is unspoilt open countryside presenting a pleasant rural landscape located in an area identified in the Development Pressure Analysis as being subject to development pressure. Therefore the CPA designation is justified. The CPA does not impose an outright ban on all development and in any case it is restricted to the depth of one field in most locations.

### **Consideration**

- 6.15.07 There is adequate land in the settlement limit to cater for village development during the plan period. Inclusion of the objection lands would be likely to lead to unnecessary expansion of Ballinderry along the Ballinderry Bridge Road. Furthermore it would result in the erosion of an area of open countryside that is subject to development pressure.

### **Advice**

- 6.15.08 The exclusion of Objection site 091 together with lands extending north to the AOH hall from the settlement limit for Ballinderry and their inclusion within the proposed Loughshore Countryside Policy Area should be confirmed.

### **6.16 Objection 095 by Mr Patrick McGuckin to the exclusion of land at Ballinderry Bridge from the settlement limit of Ballinderry**

**Site and location** The site comprises three plots of land identified as Areas A (3.36ha), B (0.9ha) and C (0.62ha) on the location plan (**Map 6.16**).

### **For the Objector**

- 6.16.01 The inclusion of the objection site within the settlement limit will link the separate nodes identified in the draft plan. The historic focus shaping the character of Ballinderry was for development around and north of the bridge. There is only a minuscule amount (2%) of the undeveloped land available within the node north of the river. Just

because a small portion of the site is subject to flooding should not rule out the rest. None of the objection lands are prominent and they lie in between the bridge and the northern node. Applying data in the Technical Supplement whereas Orritor (12ha) has been provided with 1ha of undeveloped land per 9 head of its population Ballinderry (16ha) has only 1ha per 15 people.

### **For the Department**

- 6.16.02 It is a strategy of the plan that development opportunities in villages should be in keeping with the scale and character of individual settlements. The 16ha of undeveloped land (54%) of the area within the settlement limit provide a range of opportunities for housing development over the plan period (See also 6.15.02-03 above).
- 6.16.03 Land adjacent to the Ballinderry River is protected to some extent by earth embankments. However, these structures are solely designed to protect agricultural land from flooding applying a standard of one flood in five years. To meet the standard for urban development the protection would have to be in excess of one flood in 100 years. However, this would result in loss of flood poundage increasing water displacement elsewhere and it is Rivers Agency policy that flood plains should not be infilled. For development to take place all the land above the bridge between the 19.7m (OD) contour and the river would have to be infilled. Because of head loss the corresponding contour down stream of the bridge is 19.6m and flooding to this level would not overtop the escarpment (above 19.8m) protecting Area C. The potential for flooding would effectively rule out development of a large section of Area A. The submitted aerial photographs were taken just after the peak of the 1987 flood, which would have an estimated return period of 33 years approximately.
- 6.16.04 Areas A and C are quite prominent approaching from Ballinderry Bridge and it would be difficult to define an area sufficiently contained for rounding off. There is some undeveloped backland in the northern node beside the football field. It is not an ideal environment for housing but there is an adequate supply of land within the node south of the river. The proportion of undeveloped land (54%) in Ballinderry is the same as that proposed for Orritor. Orritor is affected by rock quarrying and the actual yield in dwellings of the undeveloped land will be reduced correspondingly. The objector has exaggerated the issue of the proportion of undeveloped land north and south of the river. With a 54% increase in area it is not necessary to apportion land between one node and another.

### **Consideration**

6.16.05 As I have concluded earlier the Plan has included ample land within the rural settlement limits to accommodate the demand for development during the plan period. With sufficient land to increase its built up area by over 50% and one ha of undeveloped land per 15 members of its population Ballinderry is more than adequately provided with scope for additional development. I am not persuaded that the differential in potential growth between the settlement north and south of the river is a significant matter. I am satisfied that the historic "node" to the north of the bridge is now merely a satellite of the main settlement that includes not only the historic core south of the bridge but also the school, the shops and other services. Areas A and B are open countryside and the aerial photographs graphically illustrate how seriously the southern section of A is affected by the potential for flooding. Given the generosity of the settlement limit south of the river I see no grounds for the inclusion of Area C.

### ***Advice***

6.16.06 The settlement limit north of Ballinderry Bridge and west of Ballinderry Bridge Road that currently excludes objection site 095 should be confirmed.

## **6.17 Objection 096 by Mr Patrick McGuckin to the exclusion of land at Mullan Road from the settlement limit of Ballinderry**

**Site and location** The site (0.4ha) consists of the northern end of a large level field with a frontage to Mullan Road. Adjoining the eastern boundary of the site there is a ribbon of 5 bungalows. Continuing further east road frontage development occurs intermittently along both sides of the road. To the north and west dwellings are clustered along a laneway that intersects with Mullan Road. Farmland immediately to the west and south of the site is outside the proposed settlement limit. **(Map 6.17)**.

### **Objector's case**

6.17.01 The objector is at a loss as to why the objection site is excluded while the field marked "A" diagonally opposite is included within the village envelope. The objection site is closer to the settlement core, can be serviced by existing services, including gravity connection to the existing public sewer. The field marked "A" would require a pumping station and is further from the settlement. The inclusion of the objection site would provide an additional opportunity to meet the need for the increased housing identified in the RSF Public Examination.

6.17.02 The distinction in this case between ribboning from rounding off/infilling is a fine one. The situation at Mullan Road is a mirror image of Objection 119 E at Ardboe and undeveloped sites 9, 10 and 13 at Orritor. The dispersed linear pattern of development is a characteristic of the Loughshore area and planning should reflect the reality of the rural character. Ad hoc post and wire boundaries have been used to define the settlement limit elsewhere in the village (undeveloped area 5). The 1987 aerial photograph of objection site 95A illustrates that hedges are not permanent features of the landscape. Objection 119E was conceded subject to hedgerow and tree planting and that approach could also be applied at Mullan Road.

### **Department's case**

- 6.17.03 In Ballinderry the limit is specifically designed to restrict ribbon development, use the Ballinderry River to contain development and rationalise existing development that has taken place. The restricting of ribbon development and rationalising of existing development are particularly relevant in delineating the settlement limit along Mullan Road. Given its lack of depth it is likely that the site could only be developed in linear form along the road frontage.
- 6.17.04 The Ballinderry settlement limit has been defined using natural boundaries as far as possible to discourage ribbon development and to facilitate in-depth development at appropriate sites. The settlement limit along Mullan Road was drawn to :-
- Rationalise existing development by including the five bungalows east of the site
  - Include the field opposite these bungalows thus providing an opportunity for development in depth forming a natural extension to the settlement.
  - Exclude the field containing the objection site, as its inclusion would result in an excess of development land. Inclusion of the objection site alone would merely encourage the formation of ribbon development.
- 6.17.05 Field "A" is distinguishable from the objection site as it offers an opportunity for comprehensive development of an appropriate scale to the settlement. It visually relates to existing and adjoining development and is defined by established boundaries or buildings.
- 6.17.06 The hedgerow delineating the proposed settlement limit north-west of the site provides firm definition. The boundary along the suggested settlement limit south-west of the objection site is undefined.

6.17.07 The planning history of Objection site 119E at Ardboe was a major factor in the decision to depart from the approach consistently taken throughout the preparation of the plan. At Orritor the boundaries are reasonably well contained by natural boundaries. Site 13 is capable of in depth development. The objection site could be perceived as a "notch" in the settlement limit but on balance the Department judged that the gap was sufficiently wide to ensure its essentially rural character is retained.

### **Consideration**

6.17.08 In my opinion the decision whether or not to include the objection site is finely balanced. I can appreciate the Department's reluctance to encourage a replication of the existing ribbon development along the south side of Mullan Road. I also discern significance in the distinction from the objection site in that field "A" can be developed in depth. However, it seems to me that the proposed inclusion of "A" together with the ribbon of five bungalows has effectively reduced the objection site to a small notch in the village envelope. Such notches have been included elsewhere within rural settlements. I accept that the southwest boundary of the site lacks definition. However, as pointed out by the objector, absence of enclosure has not prevented the inclusion of lands elsewhere in the village envelope. Indeed, apart from a small farm building the eastern boundary of "A" is also undefined.

6.17.09 All in all, I consider that inclusion of the site would complement and rationalise the proposed envelope at Mullan Road.

### **Advice**

6.17.10 Objection site 096 be included within the settlement limit at Mullan Road, Ballinderry.

## **6.18 Objection 015 by Mr Eamon McGuckin to the exclusion of land at Moss Road from the settlement limit of Ballinderry**

**Site and location** The site (8.2ha) is located to the west of Ballinderry on both sides of Moss Road (**Map 6.18**). There is two storey dwelling and farm buildings in the centre of the site and a bungalow at the eastern end of it. Moss Road ends some 700m west of the site. Along Moss Road there is a concentration of several dwellings.

### **Objector's case**

6.18.01 Extension of the settlement limit west of Ballinderry is logical as it reflects the past pattern in the development of the village. It would be

similar to the Ardboe envelope at Kilmascally Road. An owner of property at Derrychrin cross roads is opposed to allowing the provision of sight splays necessary for the release of the undeveloped lands to the south east. In any case the owner of these undeveloped lands is opposed to their development.

- 6.18.02 Moss Road would have to be widened and provided with a footpath. This would be done at the developer's expense. It would enhance the area and accommodate the existing residents and users of the social club. Likewise an extension of the sewer would benefit the local community.

### **Department's case**

- 6.18.03 In accordance with plan objectives the Ballinderry settlement limit has been drawn to rationalise existing development whilst discouraging expansion into the open countryside. The land included within the proposed settlement limit lies within the natural confines of the existing built up area. The objection site, however, is in open countryside some distance from facilities. Ample land has been included within the settlement limit and inclusion of the objection site would result in unnecessary expansion of the village into open countryside.
- 6.18.04 The existing sporadic settlement along Moss Road is rural in character and is located too far from the village to merit inclusion within the limit. Development at Kilmascally Road in Ardboe is more concentrated and adjacent to the Business Park. Moss Road can cope with the existing development. Road improvements and the provision of a sewer would not justify the inclusion of the objection site. With or without the agreement of the owner of property at the Derrychrin crossroads satisfactory access is possible to the land south and east. Non-availability of this land is not an issue that can influence delineation of the village envelope. Undeveloped land within the limit in the vicinity of Ballinderry Bridge is further from the facilities at the crossroads but will consolidate the historic node of the village.

### **Consideration**

- 6.18.05 Adequate land has been included within the settlement limit. I agree with the Department that the situation in the vicinity of the objection site is readily distinguishable from that which led to the inclusion of the Kilmascally Road area within the envelope for Ardboe. I am satisfied that the inclusion of the objection lands either side of Moss Road would result in an unwarranted and extensive enlargement of the village envelope into sporadically developed open countryside.

### **Advice**

6. 18.06 The proposed settlement limit at Moss Road, Ballinderry should be confirmed.

**6.19 Objection 097 by Mrs E McGuckin to the exclusion of land at Ballinderry Bridge Road from the settlement limit of Ballinderry.**

**Site and location** The site (4.5ha) is located to the west of Ballinderry on both sides of Ballinderry Bridge Road (**Map 6.19**). It consists of three fields on the north side of the road and three bungalows with gap sites in between on the south side of the road.

**Objector's case**

- 6.19.01 There is already housing within the objection site. Extension of the envelope to include the objection lands would consolidate the important historic core of the village at Ballinderry Bridge.
- 6.19.02 There are parallels between the situation south of Ballinderry Bridge Road and objection 096 at Mullan Road and gap sites included within the envelope at Orritor.

**Department's case**

- 6.19.03 Adequate land has been included within the village envelope. The objection site is removed some distance from facilities and its inclusion within the settlement limit would result in the unnecessary extension of the village into open countryside contrary to the objectives of maintaining compact urban form.
- 6.19.04 There is scope for in-depth development on land to the north of the road. However, past development trends would indicate that pressure for development is likely to be for single dwellings along the side of the road. The land to the south of the road is one plot deep could only lend itself to ribbon development.
- 6.19.05 The situation at Orritor is not directly comparable. The depth of site is greater. The included lands are close to facilities and in a location where the rural character has already diminished. Unlike at Mullan Road where the objection site adjoins a suburban row of bungalows here at Ballinderry Bridge Road the existing three dwellings are dispersed along the road and the character is entirely rural.

**Consideration**

- 6.19.06 The objection lands north of the road are entirely rural in character. They could be developed in depth and their inclusion within the settlement limit would result in an unnecessary extension of the village into open countryside contrary to the principle of urban containment.
- 6.19.07 The situation south of the road is very different. There are three existing dwellings separated by two gap sites, each capable of accommodating a single dwelling. There is a third gap of similar dimensions separating the most easterly dwelling from the settlement limit that follows a minor watercourse. Within the settlement limit there is another gap and a road frontage dwelling. Currently, the three dwellings read as ribboning. This impression will be reinforced with the development of the gap site within the settlement limit. All in all, I consider that the inclusion of the three dwellings and the intervening gaps would be a sensible rationalisation of the village envelope acknowledging the reality of the situation at this particular location.

### **Advice**

- 6.19.08 (1) Objection site 097 north of Ballinderry Bridge Road should remain excluded from the settlement limit of Ballinderry.
- (2) Objection site 097 south of Ballinderry Bridge Road should be included within the settlement limit for Ballinderry.

### **BALLYLIFFORD**

#### **6.20 Objection 092 by Mr Liam McGuckin to the exclusion of land from the settlement limit of Ballifford.**

**Site and location** The site (0.8ha) is located to the south-east of Ballylifford (**Map 6.20**). The northern and western boundaries of the site extend along the back gardens of dwellings within the settlement limit. There is a hedgerow along the southern boundary and along part of the eastern boundary of the site.

### **Departmental concession**

- 6.20.01 While the Department considers that sufficient land has been made available for the needs of the District over the Plan period release of this site would permit small scale development. The site is not prominent in the local landscape and is well related to the south east portion of the proposed settlement limit in terms of both topography and settlement form. The conceded settlement limit is well defined by hedgerows and development could achieve an acceptable form in terms of both location and scale. There are no technical difficulties preventing development.



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**Advice**

6.20.02 In view of the Department's concession Objection 092 at Ballylifford need not engage the attention of the Commission.

**6.21 Objection 118 by Mr Liam Mitchell to the exclusion of land from the settlement limit of Ballylifford.**

**Site and location** The site (1.7ha) is located at the southern end of Ballylifford (**Map 6.21**). The site slopes down from a small group of farm buildings on Ballinderry Bridge Road towards the east and south. Field boundaries are well defined by mature hedgerows with the exception of the southern boundary, which cuts across the field at an angle and is undefined.

**Objector's case**

6.21.01 Ballylifford is essentially two communities and there is only a minimal area within the proposed limit at the southern end of the village. Much of the backland included within the limit at this southern end presents serious access difficulties. A significant area is effectively precluded from development because of the LLPA. The Lough Shore CPA restricts the potential for development locally and the village envelope should be extended to compensate for this restriction. Sewerage is already available. The site is suitable for housing close to the school, church, shop and public house.

**Department's case**

6.21.02 Based on the findings of the Countryside Assessment the limit for Ballylifford is specifically designed to restrict ribbon development, protect the open rising land west of the settlement and maintain a strong break with the surrounding countryside. Due to the dispersed nature of the existing settlement expansion into open countryside is to be discouraged and land for new development should be confined within the existing form.

6.21.03 Following the conceding of objection 092 some 8.4ha of undeveloped land (approximately 40% of the total area within the settlement limit) will provide a range of opportunities for housing development over the plan period. This amount of potential development land accords with the plan strategy of keeping development in keeping with the scale and character of the settlement and the objective of maintaining compact urban forms. The allocation of land north and south in Ballylifford is reasonably well balanced. The conceding of 092 will further increase the area of undeveloped land in the south of the village.

- 6.21.04 Since there is an adequate supply of undeveloped land within the village the inclusion of the objection site would represent an unnecessary extension of the village envelope into the surrounding countryside. Part of the site is prominent approaching from the south. It can be distinguished from Site 092 due to this prominence and the effect that its inclusion would have in elongating the settlement.

### **Consideration**

- 6.21.05 Development of the objection site would appear unduly prominent approaching Ballylifford from Ballinderry. Adequate land has been included in the settlement limit and any imbalance that there may have been between the two communities has been addressed with the concession of objection 092. Having regard to the strategic requirement of maintaining compact form and the plan objective of maintaining and enhancing visual amenity I consider that the Department is correct in excluding the objection site.

### **Advice**

- 6.21.06 The proposed settlement limit at the southern end of Ballylifford should be confirmed.

## **BALLYRONAN**

### **6.22 Objections 027 and 135 by Desmond and Mary Ryan to the exclusion of lands from the settlement limit of Ballyronan.**

**Site, location and background** The objection originally included all sites 1-11 on either side of Shore Road south of Ballyronan as indicated on **Map 6.22**. On Day 14 sites 9, 10 and 11 were withdrawn from the objection.

### **Objectors' case**

- 6.22.01 The village should be rounded off to include objection sites 1-8 (**Map 6.22A**). The area is logically and historically part of Ballyronan, with a tradition of planning approvals on sites 1-5 in particular. The rounding off would not compromise the scale and character of the village. It would equate to the limit at Preliminary Proposals stage plus an extension to include sites 6, 7 and 8. (See also 6.01.02). Sites 1-5 and the objectors' dwelling equate with the grounds of the former large house Lake Lodge, which together with the Masonic Lodge on the east side of the road have always lain within the locally definable limit of Ballyronan. This is reinforced by planning permission I/1999/0804 for four town houses within the former grounds of Lake Lodge, which breaches the proposed settlement limit (**Map 6.22B**).

6.22.02 The restrictive attitude to ribboning on the Shore Road is inconsistent with the inclusion of the very open fields on the approaches from Loup and Magherafelt. The proposed scheme for sites 1-8 would actually prevent the build up of ribbon development along the Shore Road. The Divisional Planning Manager recently gave an indication that a scheme such as the layout shown on drawing M 932/1 that included planting would be well received. Development pressure in Ballyronan is mainly in the Shore Road area and the limit of development should accommodate this. Inclusion of sites 1-8 will have no impact on the important views from Shore Road towards the Lough. An in-depth layout would overcome the issue of ribbon development. The limit is illogical as it is staggered on either side of the road.

### Department's case

- 6.22.03 In Ballyronan the limit has been drawn to ensure that there is reasonable scope for development in the light of likely demand and the opportunities and constraints arising from the village and its landscape features. The planning record shows that development pressure is high but the supply of land - 17ha (52% of the total area within the village envelope) is adequate (**Map 6.22C**). An indication of high development pressure is not justification to disregard the plan objectives and strategies aimed at protecting amenity, maintaining compact urban forms and consolidation of villages in keeping with their scale and character.
- 6.22.04 The settlement limit has been reduced along Shore Road compared to the Preliminary Proposals in order to restrict ribbon development and maintain a clear break between town and country. The excluded land has also been designated part of the Lough Shore CPA in order to protect visual amenity and rural character.
- 6.22.05 The planning record shows that there is intense development pressure on the southern approach to Ballyronan. Also the existing development pattern demonstrates a strong tendency towards ribbon development. There is therefore a need to protect the landscape and the setting of the village. The objectors' proposals conflict with these objectives and would be wholly unacceptable in visual amenity terms. The objectors' layout shows a preference for ribboning which the plan seeks to avoid.
- 6.22.06 The settlement limits approaching the village either from the north or the south are consistent in being drawn tightly to protect the swathe between the shore road and the Lough. The former Lake Lodge was similar to other large dwellings in open parkland often situated at the edge of villages but standing apart. Lake Lodge and its small gatehouse would have maintained a strong wooded appearance with the period dwelling set back in its grounds overlooking the Lough.

- 6.22.07 The submitted layout for sites 1-4 is in keeping with the character of the settlement. However, the proposed development would detract from an area that is rural in character and which provides a clear break between village and countryside. The trees emphasise the value of the site. The dwellings together with the visibility splays would result in loss of much of the vegetation. Development of up to 4 dwellings requires splays of 2.4m x 70m. The submitted scheme, which shows an access serving both the 4 approved town houses and sites 1-4 would require 4.5m x 90m. Development of sites 6, 7 and 8 would constitute ribboning. A dwelling on site 5 would not be prominent either from Shore Road or the Lough. However, it would detract from an important view of the Lough and read with the objectors' dwelling would represent a tendency to ribboning. Apart from a small section of Moortown, Ballyronan is the only village that reaches the water's edge. There is only limited scope for water edge development but tourist development does not need to be beside the Lough shore. Subject to environmental considerations PRSNI tourism policies would allow tourist developments in the Lough Shore CPA and the rural remainder.
- 6.22.08 Permission I/1999/0804F for 4 townhouses is discretely located immediately adjacent to the built form of the village. Any other permissions on the objectors' land are historic and include an outline permission, reserved matters approval and subsequent full permission for Mr and Mrs Ryan's existing replacement dwelling. There was no commitment made by Planning Service to the layout shown on drawing M932/1, merely the suggestion that a sketch proposal could assist in arguing the objector's case at the Inquiry. There are no servicing problems affecting sites 1-8.

### **Consideration**

- 6.22.09 The Shore Road approach to Ballyronan has been marred in recent times by road frontage development. Fortunately, this development is mainly confined to the western side of the road and the attractive views out over the Lough are unaffected. Sites 6, 7 and 8 would extend linear development south of the village and would add to the impression of ribboning. Site 5 would intrude into an important view towards the Lough highlighted in the Plan. I am satisfied therefore that the Department is correct in excluding sites 5-8 from the settlement limit.
- 6.22.10 Sites 1-4 and the objector's dwelling, which comprise the former grounds of Lake Lodge, were included within the settlement limit in the Preliminary Proposals. The inclusion of the demesne together with the Masonic Lodge on the opposite side of Shore Road had the effect of squaring off the limit at the southern entrance to the village. The impression that the Department sought to convey of Lake Lodge

standing apart at the edge of the village is questionable and at best only of historical relevance. I agree with the objectors that, compared with the open lands included within the settlement limit either side of the Loup and Magherafelt Roads sites 1-4 lie much more naturally into the village. Moreover, they are only 100-200 m from the shops, public houses and other facilities in the village core. Viewed in terms of sequential development outwards from the settlement centre the objection site has obvious merit.

- 6.22.11 Whilst I accept that Ballyronan has one of the most generous of settlement limits in the Plan, it seems to me therefore that the inclusion of the former grounds of Lake Lodge would make for a much more rational village envelope. The existing trees along the frontage and within the site make a significant contribution to the visual quality and character of this part of the village. However, I have not been persuaded that a low-density development such as that illustrated in the layout submitted by the objectors would have a significant impact on the existing trees. In so concluding I have balanced the highway considerations with the environmental benefits of tree retention. In weighing these issues I have taken into account the 30mph-speed restriction on this section of Shore Road, its favourable alignment for visibility and the scope within DCAN 15 for reducing visibility requirements where danger is unlikely to be caused.

### ***Advice***

- 6.22.12 (1) The proposed settlement limit west of Shore Road, south of Ballyronan should be confirmed.
- (2) The proposed settlement limit east of Shore Road, Ballyronan should be extended to include Sites 1, 2, 3 and 4 and the existing dwelling immediately to the south of Site 4 as indicated on PAC Map 6.22.

### **COAGH**

- 6.23 **Objection 033 by Mr Eugene Carson to the designation of land as an area constrained by sewage infrastructure on the settlement map for Coagh.**

**Site and location** The site (2.3ha) is north of Ballinderry Bridge Road and lies within the proposed settlement limit for Coagh (**Map 6.23**).

### **Departmental concession**

- 6.23.01 The Department has reviewed the designation in the light of the latest advice from Water Service and considers that it would be appropriate to delete this constraint.

### ***Advice***

- 6.23.02 Since the Department is prepared to delete the contested designation of Objection site 033 in Coagh as an area constrained by sewage infrastructure this objection need not engage the attention of the Commission.

## **DRUMULLAN**

### **6.24 Objections 087 by Mr Fergus Bell to the exclusion of land north of number 74 Moneyhaw Road from the settlement limit of Drumullan.**

**Site and location** The objection site (0.35ha) is located at the junction of Moneyhaw Road and Drumullan Road to the north of the settlement limit of Drumullan (**Maps 6.24 and 6.24A**). The site slopes down towards Drumullan Road from the direction of a local crest south of no. 74. The site is bounded to the west by Moneyhaw Road, to the north by Drumullan Road, to the east by a confer lined access drive and to the south by a continuation of this driveway leading to no. 74 Moneyhaw Road. There are several dwellings with frontages to Drumullan Road a short distance away to the east of the site.

### **Objector's case**

- 6.24.01 This relatively small site could accommodate up to five dwellings as illustrated on **Map 6.24A**. This would be an insignificant increase of village development. Inexplicably, the objector's dwelling, 74 Moneyhaw Road, has also been excluded from the development limit. This is despite the fact that the Department relies on it to delineate the limit of development. Drumullan Road is a better stop line than the proposed boundary. It is also far superior to many other examples of settlement delineation elsewhere in the plan. Roads Service has no objection and all services are available. The site is within the speed limit and site is linked to community facilities by footpath along Moneyhaw Road.
- 6.24.02 The village plan singles out the view to the north for protection leaving Drumullan. However, there is only an oblique view of the site approaching the junction from the south. The dominant feature in the landscape is a wide double gabled dwelling directly ahead.
- 6.24.03 The exclusion of the objection site contrasts sharply with the inclusion of site 1 south of No. 74 (**Map 6.24B**). This field is considerably

higher than the subject site and development will be far more prominent. It will breach the skyline when viewed from Drumullan Road and other view points to the north-east. If Site 1 is satisfactory then the objection land that creates a much more definable and physical boundary must also be included. Also, development of the objection site will have considerably less impact on the countryside. It will have a backdrop of mature vegetation that will facilitate integration and it will not affect the setting of the village. The roads and strong boundaries contain the site preventing any impression of urban sprawl.

- 6.24.04 It is proposed to develop the site in depth with an access from Drumullan Road (**see Map 6.24A**). Consequently, there is no question that the development will represent ribboning, which is far more likely on other lands within the settlement limit where there is a lack of depth to the site. Sites 1 and 2 with only half the depth can only be developed in the ribbon format. Inclusion of the objection site would not lead to the next field to the east becoming part of Drumullan. Site 1 having been included Drumullan Road is now the logical stop line.

#### **Department's case**

- 6.24.05 In Drumullan the limit is specifically designed to restrict ribbon development along all roads leading out of the settlement, exclude elevated land at various locations adjacent to the village and maintain a strong break between town and country. The crest line and no. 74 provide a good distinguishing limit. As a boundary for the settlement Drumullan Road is featureless and would be an inferior limit.
- 6.24.06 There is an adequate supply of undeveloped land within the proposed settlement limit. Approximately 7ha of undeveloped land (41% of the total within the settlement limit) will provide a range of opportunities for housing over the plan period.
- 6.24.07 The objection site is elevated and prominent. Development would break the crest, which is a defining line for the limit and would result in an unnecessary expansion into open countryside. Also it would make it difficult to resist coalescence of the settlement and with existing linear development along Drumullan Road. Whilst deeper than site 1, the objection site is close to this area where there is a tendency towards suburban size road frontage plots. Its inclusion within the limit would increase pressure for further suburbanising development affecting the rural character of Drumullan Road.
- 6.24.08 Any development of the site, not just suburban development like that proposed on Map 6.24A, would be prominent viewed from Moneyhaw Road approaching the village from the north and from Drumullan Road along the site frontage. The view from the junction is of particular

significance. No 74 was removed from the limit following Preliminary Proposals stage because the settlement limit in the Draft Plan more accurately reflects the location of the crestline along Moneyhaw Road.

- 6.24.09 Site 1 enclosed by No.74 and Church View, an in-depth development on a plot of similar depth to the south, lies within the confines of the settlement. A crest defines its north-west boundary. Unlike the objection site beyond the crest, site 1 is not prominent in the landscape. The crest associated with No.74 is a pronounced change of level that appears as a crest from Moneyhaw Road approaching from the north.

### **Consideration**

- 6.24.10 When viewed in two dimensions on the map Drumullan Road appears to be an obvious stop line for development. However, on the ground two additional factors come to play. These are (1) the prominence of the objection site from the critical view from Moneyhaw Road approaching the junction from the north and (2) its close visual relationship with road frontage development further to the east on Drumullan Road.
- 6.24.11 Whilst the land south of No. 74 is more elevated than the objection site and development would be skylined seen from Drumullan Road, views are more oblique and more middle distance in nature than that of the subject site. Consequently, development would have less immediate visual impact than that caused by development of the objector's land on the critical view approaching the junction.
- 6.24.12 Inclusion of the objection site within the village envelope would place irresistible pressure on the next plot of land between the access to No. 74 and the pair of single storey dwellings to the east. Likewise pressure would mount for development in the gap immediately beyond these dwellings and the probable outcome would be a continuous line of road frontage development over a 400 m section of Drumullan Road.

### **Advice**

- 6.24.13 The proposed settlement limit at Moneyhaw Road, Drumullan should be confirmed.

### **GORTACLADDY**

- 6.25 **Objections 049 by Mr Sean Quinn to the failure to designate Gortacladdy a village and the exclusion of his land from the settlement limit.**



**Objector's case**

6.25.01 Gortacladdy is a focal point for the local community and has Gaelic Athletic Association facilities and street lighting. Two neighbouring areas, Killeenan and Dunamore, are designated villages.

**Departmental Concession**

6.25.02 Plan Policy SETT 1 designates 23 villages in Cookstown District. These settlements vary considerably in size and function.

6.25.03 Gortacladdy is made up of 10 nucleated dwellings and a GAA pitch and clubhouse and has a strong community identity based on its GAA facilities. The settlement is therefore comparable to the smaller designated villages in terms of size and the range facilities available to the local community.

6.25.04 The Department has reviewed the appropriateness of village designation for Gortacladdy and is willing to concede village status. The Department will propose a modification to the Plan including the delineation of a settlement limit that will include some of the objector's land.

**Advice**

6.25.05 In view of the concession of village status for Gortacladdy and the intention to process a proposed delineation of the settlement limit as a modification of the Plan this objection need not engage the attention of the Commission.

**GRANGE**

6.26 **Objections 029 and 104 by Ms Bridie Donaghey and Cookstown and Western Shores Area Network (CWSAN) to the failure to designate Grange a village and the inclusion of the settlement limit in the Cookstown Green Belt.**

**Objectors' case**

6.26.01 Ms Donaghey highlights the long history of the settlement, its archaeological heritage and proximity to Tullyhogue Fort, the presence of a village pub as a community focus and the existence of street lighting. She also asserts that inclusion within the greenbelt will reduce the development potential of land in the area at a time of crisis in farming.

6.26.02 The objection is made on the foot of a questionnaire survey of 26 residents of the Grange organised by Cookstown & Western Shores

Area Network. The survey indicated that 24 respondents were in favour of village designation and 2 were opposed.

### **Departmental concession**

- 6.26.03 Located four kilometres to the south east of Cookstown, Grange is made up of a small cluster of dwellings and farm buildings, a cemetery, a telephone and post box and a public house. The settlement is therefore comparable to the smaller designated villages in terms of size and the range facilities available to the local community.
- 6.26.04 The Department has reviewed the appropriateness of village designation for Grange in the light of the objection and the provisions of Plan Policy SETT 1 and considers that designation would be acceptable in principle. The effect of designation would be to remove the settlement from the Greenbelt.

### **Advice**

- 6.26.05 In view of the concession of village status for Grange and the intention to process a proposed delineation of the settlement limit as a modification of the Plan this objection need not engage the attention of the Commission.

## **MONEYMORE**

- 6.27 **Objections 018 by Mr Brendan McDonnell and 040 by the Executors of the late Mr Patrick O' Brien to the exclusion of lands from the settlement limit of Moneymore.**

**Site and location** Site 40, which includes site 018 is 2.3ha and comprises two fields situated between housing development accessed off Magherafelt Road and the lower slopes of a large hill that dominates the landscape east of Moneymore (**Map 6.27**). Site 018 (1.05ha) is the northernmost of the two fields. Boundaries are well defined by mature hedgerows with many mature trees throughout. The objection sites are approached via Farlea Heights, an area of private housing to the north.

### **Department's case**

- 6.27.01 Development pressure in Moneymore in recent years has been high. However, there is an adequate supply of undeveloped land within the settlement limit. 29.8ha of undeveloped land (27% of the total area) will provide a range of opportunities for housing development over the plan period. Inclusion of the objection lands would result in visual intrusion into the countryside and would conflict with the plan strategy to keep development opportunities in keeping with scale and character of the settlement. It would also run counter to the objective aimed at maintaining compact urban form. It would also provide a precedent that could reduce the prospect of achieving these plan objectives. It is not contended that the inclusion of the objection lands will distort the settlement limit.
- 6.27.02 Inter alia, the settlement limit for Moneymore is specifically designed to exclude elevated land to the east, north and south-west of the village. The hillside east of Moneymore dominates the local landscape and contributes positively to the setting of the village. This contribution has been recognised and firmly protected by maintaining the settlement limit along the bottom of the slopes. The existing quarry illustrates the impact that new development would have if allowed to encroach on the hillside. The hedgerows immediately below the woodland are a very attractive and distinctive feature in the landscape. Development of the sites would affect the corridor setting of Moneymore and would be visible from the A29 Cookstown Road approaching the village from the south. The viewpoint is notated on the settlement map plan as an important vista that should be protected. During plan preparation consideration was given to how the hillside might be protected including designating it an LLPA. The LLPA option poses problems. The area is extensive and to be effective the LLPA must include the top of the hill.
- 6.27.03 The lower part of Site 18 is at a similar height to Farlea Heights but the land is part of the slope that rises to a wooded hillside. The site should be viewed in winter and summer. The development approved under reference I/95/0271 south-west of site 040 (**Map 6.27A**) accords with the ETAP limit. It illustrates that development although at a low elevation can be quite prominent.
- 6.27.04 When including site 13 (**Map 6.27B**) on Springhill Road the Department felt that it should honour the ETAP limit, which included this site. The incline on Site 13 is less pronounced than the rest of the hill. Because of dust and other nuisances associated with Glover's rock quarrying business a large area within the settlement limit has been designated as land unsuitable for housing due to adjacent industrial process. This land is suitable for industry or other non-residential uses subject to application of the normal development control policies. The visual impact of such development on the landscape is not comparable

with the objection sites because the rock quarry already despoils views of the hillside.

### **Objectors' case**

6.27.05 The two objections should be read as one. The sites are only momentarily visible from three quarters of a mile away from a very short section of A29 where the speed of traffic is high. The visual impact of the development of the sites would be minimal. If the hedges are retained and the trees just beyond the lower boundary of the site are protected with a tree preservation order development would be satisfactorily assimilated into the landscape. Most of the site would be hidden from public view. The floor level of the most elevated building on this site would be similar to the Farlea Heights. Access can be provided without removing hedgerow vegetation. Development of Site 13 would have a much greater impact on views of the wooded hill from both A29 and Drumullan Road. Development would not amount to urban sprawl.

### **Consideration**

6.27.06 At 6.01.06 I concluded, *inter alia*, that the settlement limit for Moneymore is not unduly restrictive. On the other hand at 27% the proportion of undeveloped land within the village envelope is not generous in comparison with other settlements, some of which are significantly less urbanised than Moneymore. The range of its retailing and services together with the quality of its townscape give Moneymore the atmosphere of a small town, an attribute that it shares with Stewartstown and Pomeroy. It is also a settlement whose growth is variously constrained by topography, infrastructure and quarrying. In short, whilst viewed in isolation it is not essential that the subject lands are included, their inclusion would nevertheless provide an enhanced degree of flexibility that could be helpful to this the largest rural settlement during the plan period.

6.27.07 Apart from the issue of need, the Department's objection to the inclusion of these lands was based essentially on visual intrusion into the countryside, conflict with the scale and character of the settlement, urban sprawl and precedent. It is not contended that development will distort the urban form.

6.27.08 The Department is anxious to protect the important vista from a short section of A29 entering the town from the south. From this section, just north of the Coltrim Picnic Area, there is a fine panoramic view of Moneymore and its backdrop of the hill to the east. The objection sites are visible below two very prominent large fields just to the right of the clock tower and left of the conspicuous dwelling approved in 1996 (I/95/0271). The boundaries of the subject lands are well endowed

with mature vegetation that I judge would provide a foil to development throughout the year. Sites 4 and 13 (**Map 6.27B**) are more open and prominent than the objection sites, which are viewed more obliquely. Site 4 is viewed face on to the slope and development will have much more impact than the subject lands, both from the port of entry and from the village centre. Judged in this context in my opinion development of the objectors' lands would not significantly affect either the corridor setting of the village or encroach unacceptably up the lower slopes of the hill.

- 6.27.09 I do not accept that including the 2.3ha comprised in the objectors' land would conflict with the scale and character of Moneymore. As outlined earlier, the village has a small town ambience and judged in terms of scale and character the addition of 2.3ha to the 30ha already identified within the envelope is not a significant increase. I accept the importance of compact urban form but in the circumstances of this case I do not judge the degree of encroachment into the countryside unacceptable. Finally, given the mature vegetation and the oblique angle of view I do not discern a basis for concern that including these lands will set a precedent for further encroachment higher up the hill.
- 6.27.10 In weighing these various issues I find the balance in favour of including the objection lands within the village envelope.

### ***Advice***

- 6.27.11 Objection site 018 and 040 south of Farlea Heights should be included within the settlement limit of Moneymore.

### **POMEROY**

- 6.28 **Objection 122 by Mr M McDonald to the exclusion of lands either side of Limehill Road from the settlement limit of Pomeroy.**

**Site and location** The site (2.3ha) is located to the north of Pomeroy and includes land on both sides of Limehill Road. Limehill Road descends through steep bends north from the centre of the village through the objection site before levelling out and rising again to ascend a ridge, the crest of which runs east to west. Pomeroy is built on a ridge and there are steep escarpments to the north and south of the settlement, which is linear in pattern and focused on the long east/west axis of Main Street. There is a graveyard within the settlement limit to the west of the site. St Mary's Church and Primary School are close by to the south. The countryside to the north of objection site is undulating with dwellings dispersed throughout. The objection land west of Limehill Road has been the subject of extensive earthworks. (**Map 6.28**).

### Department's case

- 6.28.01 Development pressure in Pomeroy has been high in recent years but the land supply within the village envelope is adequate. Undeveloped land identified in the village (26ha) equates with 36% of the total area within the settlement limit and offers a reasonable degree of choice and flexibility. The land is evenly dispersed and the objector's assertion that it only caters for one side of the community is incorrect. There appear to be no physical restrictions preventing the "band field" (**Site 8 Map 6.28A**) being developed. The East Tyrone Area Plan proposals included population projections for the villages. The approach in the current plan is to rely on regular monitoring of undeveloped land in the settlements.
- 6.28.02 Inter alia, the settlement limit for Pomeroy is specifically designed to exclude elevated land. Approaching Pomeroy on Limehill Road the objection site is elevated and prominent. Development would be prominent and would distort the unusual landform in this location. Ground remodelling to reduce the prominence of the site would appear contrived and out of keeping with the setting of the settlement. It would produce conspicuous embankments flanking the graveyard and the elevated portion of the site above Limehill Road. At the right-angled bend on Limehill Road development would breach the skyline. The vegetation around the graveyard would do little to ameliorate the visual impact.
- 6.28.03 Unauthorised extraction of minerals has recently taken place substantially altering the physical characteristics of the land. The objector claims that these works are merely the latest manifestation of a long established use. However, the Courts have held that the removal of every shovel of extracted mineral is a separate operation. Thus in the absence of planning permission the recent operations at the objection site are unauthorised. Options for potential enforcement are under consideration. The Objector cannot benefit from any wrongdoing and the Department's case is based on the original characteristics of the site.
- 6.28.04 There would be some gain in road safety if Limehill Road were re-aligned as suggested by the Objector. However, the benefits would not outweigh the environmental reasons for excluding the site. In any case the road improvements could be achieved without including the objection lands within the village envelope. Funds for minor works are limited and there is no scheme for improving Limehill Road in the current programme.

### Objector's case

- 6.28.05 Insufficient land has been included within the settlement limit for Pomeroy. The size of the envelope has been driven by the draft RSF. Unlike the proposals for the village in the East Tyrone Area Plan it is not derived from a projected housing need based on census data. Much of the undeveloped land identified in the Update document is not available. Much of it is also remote from village facilities. The "band field", which comprises a large part of Area 8 is used for weekly meetings and band parades. There is no way that it will be made available for housing. Elsewhere archaeological considerations will reduce the land supply.
- 6.28.06 The settlement limit should be rounded and compact instead of linear thus improving accessibility to facilities.
- 6.28.07 The draft Plan is only facilitating one side of the population.
- 6.28.08 The Objector would make the land available for a suggested re-alignment of Limehill Road. Currently, the road is narrow and dangerous. A heavy flow of large vehicles negotiates the steep bends. There is no footpath or grass verge for pedestrians. The Objector has received numerous letters and expressions of support from the haulage operators who are keen to have the road widened and straightened.
- 6.28.09 There have been sand and gravel workings at the objection site for many years and therefore planning permission is not required for the use to continue. Recent heavy rains have made a mess of the northern slope.

### **Consideration**

- 6.28.10 Revisiting the objection site in early June 2001 I found a striking physical change in the site compared with my previous visit in late October 2000. Sand extraction has continued apace west of Limehill Road and ground level relative to the graveyard has been lowered by several metres. The western side of the quarry consists of a 6-7 m high excavation beyond which is a field access and then the graveyard. Viewed face on from Limehill Road the steep northern slope has been transformed into the working face of a sand quarry. Whether judged against the original contours or those now pertaining at the site I judge that development would appear unduly prominent when viewed from this critical viewpoint approaching the village from the north.
- 6.28.11 I accept that the objection site is very close to the church and primary school. In comparison to the extremities of the village it is much more conveniently located close to shopping, services and other facilities centred on the Diamond. It may be that not all the undeveloped lands

will become available during the plan period. I also accept that the improved alignment of Limehill Road proposed by the objector would have significant advantages for road safety and the convenience of road users. Nevertheless, I judge the degree of adverse visual impact that would be incurred by locating development on the objection site heavily outweighs the combination of all these considerations.

### ***Advice***

- 6.28.12 The proposed settlement limit at Limehill Road, Pomeroy should be confirmed.

## **SANDHOLES**

**6.29 Objections 005 by Mr W Cuddy and 007 by Rev. Dr. W McCrea MP MLA to the exclusion of land at Tullyard Road from the settlement limit of Sandholes.**

**Site and location** The site (2.1ha) is a field between Tullyard Road and Sandholes Road adjoining the settlement limit. A NIHE housing estate within the settlement limit adjoins the site. It is contained on the other boundaries by hawthorn hedges. The site slopes up from Sandholes Road to a crest along the eastern site boundary.

### **Department's Case**

- 6.29.01 Sandholes is merely 3.5km from Cookstown and is likely to be under pressure for development over the plan period. The limit is specifically designed to contain ribbon development, to exclude elevated land, to omit low-lying land to the south of Tullylagan Road and to prevent urban sprawl. The proposed envelope contains some 7ha of undeveloped land sufficient to accommodate a 43% expansion of the village, which is considered adequate. The Plan requires development to be in scale with the village. Normally, only developments of up to 5 dwellings will be permitted. The inclusion of the site would lead to the unnecessary expansion of the village on a prominent site in the Green Belt.
- 6.29.02 The inclusion of the objection site would encourage ribbon development along Sandholes Road. The site is exposed and prominent when viewed approaching the village on Sandholes Road, Tullyard Road and Kiltyclogher Road. Once the prominent land is excluded the balance of the site is insufficient for development in depth. The NIHE estate demonstrates how prominent development would be. The decision to allow the NIHE development predated the PRSNI countryside assessment requirements.



- 6.29.03 Records for 1990 –1998 indicate that development pressure in the vicinity has been low. Possibly, this may be the unwillingness of owners to sell land in Sandholes. However, market forces and changes in ownership can influence the availability of land.
- 6.29.04 The Sandholes Waste Water Treatment Works with a design capacity for a population of 200 has to treat a volume of sewage equivalent to a population of 510. Developers will be required to provide pre-treatment as an interim measure until the WWTW is upgraded. Otherwise only individual dwelling units and schemes of up to 5 dwellings can be accepted. The upgrading of the WWTW is in the capital works programme for 2005.

### **Objector's case**

- 6.29.05 There is unwillingness amongst landowners to release land in Sandholes for development. This leaves a shortage of land with actual development potential. Because of steep slopes only 30% of the undeveloped land in the village is capable of development. Employment at Turkington's Steel Works is growing and there is little prospect of employees obtaining homes in the village. The primary school is under threat of closure. Housing provides the lifeblood of the school and the lack of opportunities for development makes the situation more critical.
- 6.29.06 Local people already perceive the objection land as part of the village. Development would round off the settlement limit taking account of the NIHE estate and the houses on the opposite side of Tullyard Road. If necessary the developer would install a wastewater pre-treatment plant. It is left to the Commission's discretion whether part of the site should be excluded. Access is obtainable from either of the road frontages.

### **Consideration**

- 6.29.07 Having carefully examined the identified sites in Sandholes (**Map 6.29A**) I cannot agree with the objectors that only 30% of the undeveloped land in the village is capable of development. I found the topography of sites generally to be reasonable and the slopes unexceptionable. One of the steepest sites immediately to the rear of the Turkington Steel Works has already been developed with an extension to the factory (Site 6). Both prior to and following the upgrading of the WWTW the balance of the 7ha (43%) should provide an adequate supply of development land for this comparatively small village.
- 6.29.08 I found the eastern portion of the site very elevated in relation to surrounding viewpoints. I agree with the Department that

development would be unacceptably prominent, particularly when viewed from Kiltyclogher Road north-west of Site 1 (**See Map 6.29A**) and from Tullyard Road approaching from the east. I consider that it would be possible to design a layout of in-depth housing on the balance of the site so as to avoid ribboning. However, the ground is still elevated and exposed. Therefore, given that there is adequate land elsewhere in the settlement I agree with the Department that, whilst not unduly prominent, this land also should be excluded from the village envelope.

### **Advice**

- 6.29.09 The settlement limit at Sandholes Road and Tullyard Road, Sandholes should be confirmed.

## **STEWARTSTOWN**

- 6.30 **Stewartstown: General objections by Stewartstown Development Association (094) CWSAN (104) and Sinn Féin (99).**

### **For the Objectors**

- 6.30.01 Stewartstown (**PAC Map 6.30**) is being left to stagnate and is being treated unfairly compared to other settlements. As a small town it needs more housing and industry to survive. Yet there is less land available for development than provided for by the ETAP. Land that has been included is of questionable feasibility. There is an established Development Association with cross-community support seeking much greater scope for development in the town. Robson found Stewartstown to be the 133<sup>rd</sup> most deprived ward in Northern Ireland and TSN considerations apply.
- 6.30.02 The Development Association specifically objects to the Stewartstown Lough LLPA and the inadequate land supply within the proposed limit especially at Cookstown Road, Castlefarm Road and Coagh Road.
- 6.30.03 Stewartstown is the only settlement in the Cookstown District with a settlement limit tighter than that shown in the ETAP. Of the four villages identified in the ETAP (Coagh, Moneymore, Pomeroy and Stewartstown) Stewartstown has the least undeveloped land within the proposed settlement limit. It also has by far the lowest proportion of undeveloped land per head of population. Coagh has 1ha per 42

persons, Pomeroy has 1ha per 31 persons and Moneymore has 1ha per 63 persons. Stewartstown has only 1ha for every 72 persons.

### **For the Department**

- 6.30.04 Established in the seventeenth century, Stewartstown retains considerable character. In response to the quality of the built heritage an Area of Townscape Character has been identified in the centre of the village. In accordance with policies in PPS 6 three Local Landscape Policy Areas (LLPAs) have also been identified. LLPA 1 has been delineated to protect archaeological and nature conservation interests at Crew Hill. LLPA 2 provides protection for the surroundings of Stewartstown Lough, which is of historical importance and nature conservation interest. LLPA 3 is intended to protect the former railway line, an area of mature tree cover that has recreational potential. LLPAs 1 and 2 contain several archaeological monuments. These include a rath of local historical importance on Crew Hill and two scheduled monuments and a crannog in LLPA 2. LLPA 2 will protect the setting of these monuments. It also contains a variety of habitats including water, wet land, woodland and treed avenues, which are of landscape and wild life importance. The LLPAs are a development constraint that was not present in the ETAP. When that plan was adopted PPS 6 was not available and there was not the current knowledge of the archaeological assets.
- 6.30.05 The proposed envelope represents a significant reduction compared to the ETAP limit of development. As well as avoiding the LLPAs, restricting ribbon development and urban sprawl, the settlement limit is designed to exclude low-lying and elevated land. Consolidation is essential to maintain a compact urban form.
- 6.30.06 Records during 1990-1998 indicate that recent development pressure in the village has been moderate. Some 13.8ha of undeveloped land is included within the village envelope (**see Map 6.30A**). This would represent a 34% expansion and is considered adequate.
- 6.30.07 Stewartstown is identified in the Robson report as being a deprived community. TSN is a material but not overriding consideration.

### **Consideration**

- 6.30.08 Follows on at 6.31.13 in combination with consideration of Objection 122.
- 6.31 Objection 122 by Mr Michael Quinn to the exclusion of land south of Castlefarm Road from the settlement limit of Stewartstown.**

**Site and location** This 2.5 ha site consists of a field fronting Castlefarm Road and two fields to the south in the direction of Stewartstown Lough. It also includes Quinn's public house fronting North Street together with a dwelling and outbuildings to the rear. All these buildings are located within the settlement limit. There is a large group of farm buildings south-east of the site known as Castle Farm. **(Map 6.31).**

### Department's case

- 6.31.01 Inclusion of the objection site within the settlement limit would result in the unnecessary expansion of the village into open countryside contrary to Plan objectives aimed at securing compact urban form and avoiding urban sprawl. The lack of definition at the north and north-eastern boundary of the site would accentuate the impact of the suggested extension of the limit.
- 6.31.02 Roads Service advises that subject to various improvements Sites SN03, SN06 and SN07 **(Map 6.30A)** are all capable of being accessed satisfactorily. There could be more than one access to SN06 and this could affect the sight line requirements. Due to a combination of sight line and heritage constraints the yield of site SN07 will be restricted to six dwellings, 12 less than estimated prior to the Inquiry. However, there is still sufficient land available within the limit to provide a reasonable degree of choice and flexibility. In a village of this scale it is not necessary to strike a balance between the supply of land in the north and the remainder of the settlement. Development will not impinge unacceptably on the listed churches.
- 6.31.03 Stewartstown Lough LLPA includes the two southern fields within the site. To include this part of the objection site within the settlement limit would conflict with the LLPA. (See 6.30.4.) Safeguarding the monuments is not simply a matter of distance from the development limit. It must also have regard to the likelihood of remains and the protection of their settings. The objection site lies beyond the ancient settlement limit of Stewartstown and close to Castle Farm where there are documentary references to the existence of a castle. Vegetation on the objection site makes a significant contribution to the Lough. Whilst the vegetation also screens the northern field from the lough, housing in this location would disrupt the relationships between the scheduled and non-scheduled monuments of LLPA 1 and 2 and between these monuments and the historic settlement.
- 6.31.04 The dwelling recently approved on the site was permitted under the policy applicable to single dwellings in the countryside in consultation with the Area Plan team. There was no consultation with Environment

and Heritage Service. This is a reflection of the fact that a previous permission has until recently been extant on the site.

- 6.31.05 South of the Lough the limits of the historic plantation settlement have been breached by modern development in a location where it makes sense to consolidate the settlement form. The lands included within the limit are much closer to shops and community facilities.

### **Objector's case**

- 6.31.06 According to the Plan Stewartstown remains essentially linear in form and in-depth development is severely restricted by topography. However, at North Street the linear development is a creation of the Plan. Better use can be made of the backlands and use of the existing streets should be encouraged rather than restricted. Access is available from both North Street and Castlefarm Road to access the objector's lands. Inclusion of the objection site would provide an opportunity for sympathetic development, which would screen the view of partially derelict farm buildings and the rear of properties fronting North Street from the Castlefarm Road approach. The depth of site is not conducive to ribboning. Quality development in line with Creating Places and using traditional materials would enhance the area and help to protect Stewartstown Lough. The Lough and its archaeological features are presently concealed behind the rear of properties and access is limited.
- 6.31.07 Undeveloped land within the proposed settlement limit is confined to three locations in the south-east and south-west of the town. No counter balance to address the varying needs of the community have been taken into consideration. The unduly restrictive settlement limit will stifle the enhancement and economic regeneration of North Street. The emphasis given to the historic settlement in North Street is surprising given that it has no listed buildings.
- 6.31.08 Built heritage problems and the difficulties with sight lines inevitably will reduce the housing yield within the town and it would be sensible to include the objection site within the settlement limit. Demand for housing in the town is already being suppressed through the lack of suitably located land and is likely to increase as housing prices in Dungannon and Cookstown become increasingly unaffordable for first time buyers.
- 6.31.09 Recently full permission has been granted for a 3000sq ft 2-storey dwelling in the field abutting Castlefarm Road included within the objection site (**Map 6.31A**). Notwithstanding the attention given to local archaeology at the Inquiry this permission does not even have a condition requiring archaeological surveillance.

6.31.10 The objection site is protected on its southern boundary by well-defined and mature hedges and trees. The Plan merely states that the Lough and crannog including their settings should be protected from unsympathetic development. The settlement limit directly west of the Lough encroaches much closer to the Lough than the objection lands. It is puzzling how the Department can argue that these lands within the limit can be developed sympathetically, whilst opposing the inclusion of the objection lands, which it acknowledges are bounded by mature vegetation.

### **Consideration**

6.31.11 Like Moneymore, Stewartstown has more of the ambience of a small town than a village. The settlements are also similar in that their growth is constrained; Moneymore due to its topography, infrastructure and quarrying; Stewartstown due to the quality of its landscape features, archaeology and natural assets. The enhanced weight given to these latter three factors on the foot of PPS 6 has led to a reduced village envelope compared to the village diagram in the East Tyrone Area Plan. The draft Plan also recognises the quality of buildings in the village centre by designating an Area of Townscape Character. This too represents a tightening of control policies since the last adopted plan.

6.31.12 However, apart from size the two settlements are different in one significant respect. As noted in the Settlement Appraisal, Moneymore has maintained a reasonably compact form with most of the recent developments taking place in depth. Stewartstown, on the other hand remains essentially linear in form because of restrictions imposed by the topography. The Department has addressed the linearity of Stewartstown in the plan by identifying three areas of undeveloped land, SNO3, 6 and 7 where development is possible in depth. It has been conceded that the yield of SNO7 is less than originally envisaged because of access difficulties.

6.31.13 The objectors represent the plan as stagnation and highlight the comparatively low proportion of undeveloped land per capita compared with other large villages. Whilst having regard to these and the other arguments advanced by the objectors in the final balance I attach greater weight to the plan strategy aimed at maintaining compact urban form. I agree with the Department that consolidation of urban form is essential in Stewartstown. If tension is relaxed with a generous delineation of the village envelope the probability is that peripheral sites will be cherry picked thereby exaggerating further the linearity of the settlement form. In these circumstances the moderate development pressure combined with the difficulties with access involving third party lands are likely to retard the release of SNO 6 and 7. These sites comprise the bulk of the undeveloped lands in the

village. More significantly, they also offer the best opportunities for consolidation of urban form.

- 6.31.14 Based on my observations I judge the landscape quality of Stewartstown Lough, its margins and its wider setting to be impressive and meriting protection as a Local Landscape Policy Area. The archaeological and nature conservation interests identified at the Inquiry reinforce the case for designation as an LLPA.
- 6.31.15 Turning to Mr Quinn's site, I consider that the two southern fields lie into the setting of Stewartstown Lough and development there would devalue this important landscape asset. Development of the field fronting Castlefarm Road would not impinge upon LLPA 2. Comparison of this part of the objection site with the approved development south of LLPA 2 is helpful to the objector. I discern little merit in adhering to the ancient settlement limit simply in order to preserve an archaeological relationship with monuments within the LLPA and on Crew Hill. Well-designed development could help to screen off and enhance views of the rear of properties in North Street. Finally, the integrity of the field has already been compromised by the approval of a large dwelling. Nevertheless, for the reasons outlined in 6.31.13 I consider that development at this location at this time would conflict with the need for consolidation of the urban form and conclude that this must be the overriding consideration in determining this particular objection.
- 6.31.16 In formulating my advice to the Commission I have attached weight to the principles promulgated in New TSN. However, I have found the arguments are balanced in favour of seeking to ensure a compact settlement form, which itself is an important element in the Government's strategy of sustainable development.

### ***Advice***

- 6.31.17 (1) The objections aimed at enlarging the village envelope for Stewartstown are not sustained.
- (2) Local Landscape Policy Area 2 Stewartstown Lough should be confirmed.
- (3) The settlement limit south of Castlefarm Road and east of North Street, Stewartstown should be confirmed.

- 6.32 **Objections 034, 60, 088, 093, 094, 099, 100 and 104 by Cookstown and Western Shores Area Network, Kestrel Hydraulics, Reverend G Watson, Reverend T Buick, Stewartstown Development Association, Sinn Féin, and Mr William Armstrong MLA seeking the designation of a Business Park at Gortatray near Stewartstown.**

**Site and location** The site is located in open countryside on the west side of the B520 Coalisland to Cookstown road approximately 1.6 km south of Stewartstown. Its southern boundary is coterminous with the administrative boundary demarcating Cookstown and Dungannon District Council areas. The site is mainly flat but contains a section of railway embankment at its northern end. The embankment is well wooded and is quite prominent in the landscape.

### **Department's case**

- 6.32.01 The proposed Business Park at Gortatray falls partly within Cookstown District (4.4ha) and partly in Dungannon District (5.5ha). The failure to designate the Business Park is also the subject of objection to the draft Dungannon Area Plan. The Commission's remit in the current Inquiry does not extend to that part of the Business Park site located within Dungannon District. Access would have to be obtained from the Cookstown part of the site as the balance in Dungannon has no road frontage.
- 6.32.02 Under the regional planning policies set out in PPS 4 most industrial development is expected to locate within settlements because of the advantages of accessibility and infrastructure normally available in urban locations. In recognition of these advantages development plans zone land for industry in the larger settlements and make general provision within the limits of smaller settlements. Provision is not normally made for major industrial development in the countryside.
- 6.32.03 The site for the proposed Business Park at Gortatray is not acceptable in terms of regional planning policy. It is physically divorced from Stewartstown and is located in the open countryside. It also conflicts with the draft Regional Strategy Framework, which has identified Cookstown as a key service centre, and with the Northern Ireland Transport Statement "Moving Forward", which seeks to integrate land use and transportation.
- 6.32.04 The site is poorly drained and subject to water logging and marginal flooding. No main sewer is available and there are no public footpaths to link with housing areas in Stewartstown.
- 6.32.05 IDB personnel accompanied by a civil engineer have visited the site. Gortatray has good road accessibility to M1 5 miles away. However, the low-lying topography and site access may present difficulties and this could have cost implications. This view is based only on a roadside inspection and is not the most robust assessment. IDB has no strategic interest in this site, which it does not find attractive.



LEDU sees no justification for a Business Park arising out of its outreach activities in Cookstown.

- 6.32.06 Although not of ASSI quality the site is of local nature conservation interest with a diverse range of habitats and good bird life. The railway embankment and associated hedgerows provide a corridor for wild life.
- 6.32.07 The project has cross-community support but this TSN consideration fails to outweigh the strategic policy objections and servicing difficulties.
- 6.32.08 Cookstown Enterprise Centre is fully let. Dungannon Enterprise Centre is 90% let. The Environmental Health Officer has commented that the scope for industrial development is severely restricted within the village envelope. Nevertheless, there will still be some opportunities for some small scale industrial and business uses within the settlement limit of Stewartstown. Paragraph 28 of PPS 4 allows some uses to be conducted in close proximity to residential development and other sensitive land uses.

### **Objectors' case**

- 6.32.09 PPS 4 only requires most industrial development to locate within settlements. The failure to allocate land for industry and enterprise within the settlement limits results in inflexibility and the stifling of enterprise. An industrial park anywhere in Stewartstown would result in unacceptable traffic in the village. The site at Gortatray would address the severe environmental constraints in seeking to accommodate industry in the village. It would provide ready access to the road network and particularly to M1 Junction 14. A location in the open countryside is dictated by local circumstances. A separation of 800 m from the settlement is not far. Moreover, the objective of achieving compact urban form has to be balanced with the need to protect the natural and built heritage of the village. Frequently, such as in the case of heavy industry or an abattoir a location well removed from a settlement is a necessity. Regional policy should not be set in "tablets of stone" but should be sufficiently flexible to accommodate the needs of a particular community.
- 6.32.10 The Statistics and Research Agency foresees an increase in the working population of mid-Ulster of 11.5% by year 2013. With so many additional working people it will be important to spread the employment opportunities and the associated traffic geographically. Agricultural employment, which formerly provided the main source of income in the area, has declined. The Business Park will play a vital role in providing alternative employment. Also it may assist the farming community by providing part-time work outside of agriculture.

- 6.32.11 In order to maintain the fabric of the local community all other avenues must be explored. The attitudes of IDB and LEDU are disappointing. The exporting of young people to work in Cookstown and Dungannon will lead to their departure and a further decline in the local community.
- 6.32.12 In 1999 the Development Association commissioned a soil investigation and structural engineer's report that confirmed that the site is not a bog but is comprised of stiff clays ideally suited for foundation construction. The Business Park would only affect a small portion of the railway embankment, much of which has been reclaimed.
- 6.32.13 The latest information from Water Service is that spare capacity exists for the STW to cope with the development. A sewer link of 1.2 km will be required. However, potential developers would address the problem. There is a water main in Stewartstown Road. The cost of providing a footpath link between the site and Stewartstown would be more than justified given the contribution of the development to the local economy. Rivers Agency does not anticipate any problems with storm water drainage. The proposed Business Park would reduce the travel to work for local people in keeping with regional policies.
- 6.32.14 Stewartstown has been neglected compared with other villages. Other villages have much more industry. Stewartstown has an insignificant amount. Yet it is perceived as being a neutral territory and therefore it would be of great benefit to community relations if a Business Park were established that would allow everyone to work together in harmony. Given the degree of rural deprivation in the Stewartstown area New TSN is a most important issue.
- 6.32.15 Cookstown and Western Shores Area Network supports the Stewartstown Development Association's efforts to establish a Business Park at Gortaray, and suggests that the delineation could take the form of a separate node distinct from the village of Stewartstown. Too much significance is attached to the lack of a footpath, especially since the existence of a footpath has been discounted at Ardboe (see 6.02).

### **Consideration**

- 6.32.16 The term Business Park can have a somewhat broad connotation embracing various forms of commercial activity as well as industry. However, the objectors' representations are generally aimed at establishing an industrial park at Gortatray and it is in this context that I address these objections particularly having regard to relevant policies in PPS 4.

- 6.32.17 PPS 4 states that development plans will not normally make provision for industrial development outside the development limits of settlements (paragraph 13). Whilst clearly this policy allows for exceptions, it is an important yardstick to which significant weight must be attached.
- 6.32.18 There is unchallenged evidence that the settlement limit proposed for Stewartstown is more restrictive than other villages of its size. Furthermore environmental health and heritage constraints make it difficult to accommodate industry within the village envelope. It is clear from the Settlement Appraisal that the envelope itself is a product of the surrounding topography that places severe restrictions on development in depth. The case for a free-standing designated industrial park is further reinforced by the decline in agricultural employment and the comparatively high level of rural deprivation in the Stewartstown area. PPS 4 highlights TSN as being a Government priority and the belief that greater equality and equity can be achieved by improving the social and economic conditions of the most disadvantaged areas in Northern Ireland, in turn contributing to the healing of community divisions. The Development Association has highlighted the significance of this last aspect.
- 6.32.19 On the other hand, if the objection is sustained the outcome will be an industrial park in a conspicuous roadside location in attractive rolling countryside. Apart from a water main the site is devoid of services and is over a kilometre from a suitable sewer connection. The objectors are convinced that industrial developers would be willing to meet the cost of extending the sewer to the site. However, this may be unduly optimistic given that there may be serviced designated land available elsewhere in the mid-Ulster area. Moreover, the public agencies most involved in promoting and targeting public expenditure into industrial enterprise are unenthusiastic about the project. Given the additional cost of services, the feasibility of the Gortatray proposal may depend on savings obtained elsewhere that could reflect in the quality of buildings and landscaping. Unlike the Ardboe Business Park, which is an existing enterprise located on land previously used as an airfield, the Gortatray proposal involves the loss of a green field site.
- 6.32.20 Having weighed up all the arguments I am not persuaded that a case has been made at Gortatray for an exception to the PPS 4 yardstick that provision should not normally be made for industrial development outside settlement limits.

### ***Advice***

- 6.32.21 The Plan should not designate a Business Park at Gortatray.

### **THE LOUP**

**6.33 Objection 036 by Mr William Scullion to the exclusion of land from the settlement limit of The Loup.**

**Site and location** The site (1.5ha) consists of three fields on the south facing slope of a small hill immediately north of The Loup. Boundaries are defined by hawthorn hedges 1.0-1.5m high with occasional mature ash and beech trees dispersed throughout. **(Map 6.33).**

**Objector's case**

- 6.33.01 Contrary to appearances there is insufficient land within the village limits proposed in the Plan. Some of the land along Rusky and Loup Roads that appears available because it is shown blank on the map has already been developed **(Map 6.33A)**. It is impractical to develop other lands, e.g. one of the fields has a massive pylon in it.
- 6.33.02 The housing projections have been increased by almost 50% since the publication of the Plan. In the light of this and the factors outlined in 6.33.01 the Plan should be revised to provide adequate housing for the local community, a substantial proportion of which is young and in need of affordable housing.

**Department's case**

- 6.33.03 Inter alia, the settlement limit for the Loup is designed to exclude elevated land north of the village. Positioned between Dunronan Road and Ballymaguire Road the north-west boundary of the site defines the ridgeline on the approach to The Loup along Ruskey Road. The site commands a prominent position overlooking the village with extensive views toward Lough Neagh. Development would appear exposed and prominent viewed from various points in the surrounding area south and east of the site. In order to maintain the setting of the village the objection site should be protected from development.
- 6.33.04 The existing settlement is reasonably compact. Inclusion of the objection site would result in an unnecessary extension of the village into surrounding countryside contrary to the plan objective seeking compact urban forms and avoiding urban sprawl.
- 6.33.05 The settlement limit for the Loup does not need to be revised to address an increase in the overall regional allocation of housing stemming from the emerging Regional Strategy Framework (see Section 3.01 above). There are almost 11ha of undeveloped land at

various locations within the settlement limit. This will provide a range of opportunities for new development over the plan period. Development pressure has been moderate in recent years. Pockets of land may have been developed since survey work on the plan commenced and there may be constraints on small areas of the remaining land. However, the supply of land in the village, which could accommodate a 42% increase, is adequate. Inclusion of the objection site would result in an oversupply of potential development land expanding into the open countryside.

### **Consideration**

- 6.33.06 There has been a 0.62ha decrease in amount of undeveloped land in The Loup since the initial survey in 1997 (**Appendix 3**). This is hardly a significant amount given that undeveloped land in the village is 42% of the total land within the envelope. There will be factors precluding building in various places. However, this is only likely to affect a small proportion of the undeveloped land and should not detract significantly from the general generosity of the village envelope. I have already concluded that viewed in the round and individually the rural settlement limits are not overly restrictive and that most are generously drawn (see 6.01.05). I would include The Loup in the latter category and agree with the Department that the inclusion of the objection site within the settlement limit would result in unnecessary urban expansion into open countryside.
- 6.33.07 In addition I agree with the Department that development of the subject lands would be unduly prominent and prejudicial to the attractive setting of the village. The settlement limit proposed in the Plan traverses the flank of a drumlin at a natural break in the slope with easier gradients within the envelope and steeper ground rising to a crest outside the limit. Development of the objection site would be very prominent and in breach of the skyline when viewed from Dunronan Road and Ballymaguire Road.

### **Advice**

- 6.33.08 Objection site 036 north of The Loup should remain excluded from the settlement limit.

### **THE ROCK**

- 6.34 **Objection 051 and Objection 099 by McKeown and Shields on behalf of the Parish and by Sinn Féin to the exclusion of lands from the settlement limit of The Rock.**

**Subject lands and location** Objection Site 051 (7.1ha) is located either side of Tullydonnell Road 600m north of the proposed settlement limit for the Rock (**Map 6.34**). Within the site boundary there is a football field, a school, a church, a dwelling and four fields. There is street lighting opposite the church and school and footpath provision along the eastern side of Tullydonnell Road extending south to the settlement limit delineated in the plan.

### **Objectors' case**

6.34.01 The Parish objects to the exclusion of objection site 051 listing the existing facilities within the site and suggesting that there is a strong and traditional community in this location. Sinn Féin argues that The Rock should be extended out as far as the football field and the church and maintains that the extension would not interfere with the overall character of the village. Sinn Féin's objection does not include a map delineating the actual area.

### **Departmental concession**

6.34.02 While the Department considers that sufficient land has been made available for the needs of the District over the Plan period, it is recognised that release of the subject lands would permit limited small-scale development linking the two nuclei that comprise the village. Undeveloped land within Objection site 051 is not prominent in the local landscape and is well related to the existing nucleus of development in this location in terms of both topography and settlement form. The construction of a new foul sewer and a pumping station would overcome sewerage difficulties initially anticipated. An amended settlement limit including designation of the football field as Existing Recreation/Open Space (**See Map 6.34A**) was tabled at the Inquiry.

### **Advice**

6.34.03 (1) Objection site 051 should be included within the settlement limit for The Rock.  
(2) The balance of the amended settlement proposals as tabled at the Inquiry is to be processed as a proposed modification of the Plan and need not engage the attention of the Commission.

## **7.0 SUMMARY OF ADVICE**

### **7.1 Summary of Advice**

#### **Section number**

#### **General Objections**

- 3.01** (1) The objections alleging that insufficient land has been allocated to meet the needs of the District during the plan period have not been substantiated.
- (2) The objections criticising the distribution of housing land between Cookstown and the rest of the District have not been sustained.
- 3.02** (1) The phasing concept proposed in the Draft Plan is an essential controlling mechanism in meeting the requirements of the emerging Regional Strategy and a vital component in the drive towards compact urban form.
- (2) The objections to the distribution of housing land in Cookstown on grounds of religious discrimination against the Catholic and Nationalist population have not been sustained.
- 3.03** (1) The objection regarding the reliance of the Plan on the Planning Strategy for Rural Northern Ireland should fail.
- (2) The objection that the Plan fails to complement the Draft Regional Strategic Framework by failing to reflect strategic planning guidelines SPG 8, 9, 18 and 19 has not been sustained.
- (3) The fostering of sustainable rural regeneration should be included as a Plan Objective and as a Plan Strategy and that the text on page 63 should highlight the need for regeneration of the most disadvantaged rural areas in the District.
- 3.04** The objectors' representations challenging the legality of the equality assessment and criticising the PAFT/TSN analysis in the preparation of the draft Plan lie outside the scope of the Inquiry.
- 3.05** There is no need for any recommendations in relation to objections to various plan policies by Brennen Associates (Objection 107).

- 3.06** Mr Devlin's representation is a comment on the planning blight caused by the low level of priority for the Eastern Distributor in the Roads Building Programme. It is not a specific objection that requires the Commission to make a specific recommendation. (Objection 003).
- 3.07** The views of Sinn Féin on these general issues are comments rather than specific objections and need not engage the attention of the Commission. (Objection 99).
- 3.08** General issues raised by Cookstown and Western Shores Area Network (Objection 104).
- (1) The Commission notes the proposed addition of Policy CON 8 relating to the protection of trees.
- (2) The other general objections submitted by Cookstown and Western Shores Area Network have not been sustained.
- 3.09** The General Aviation Awareness Council has not sustained the need for a plan policy for small landing strips.

### **Rural Policy Areas**

- 4.01** A Loughshore Study is not necessary for deciding future planning policy in the Loughshore area.
- 4.02** The proposed Lough Shore Countryside Policy Area should be confirmed.
- 4.03** (1) The proposed Green Belt Boundary south of Killybearn Road should be confirmed.
- (2) The proposed realignment of the Green Belt boundary excluding lands delineated in the East Tyrone and Draft Cookstown Area Plans should be processed as a modification of the Plan.
- 4.04** (1) The lands identified by Broughderg Development Association should be included within the proposed Broughderg Dispersed Rural Community and excluded from the Sperrins Countryside Policy Area and the Sperrins Tourism Conservation Zone.
- (2) Attention should be drawn to PPS 6 policy BH 1 in the text on page 147 of the Plan.

### **Cookstown**



- 5.01** The exclusion of objection site 013 fronting Sandholes and Dungannon Roads from the settlement limit should be confirmed (Euroframe Construction).
- 5.02** The proposed settlement limit south of Drum Road be confirmed (Objection 103 Mr S McAleer).
- 5.03** The settlement limit north of Drum Road (A505) at Black Hill should be confirmed (Objection 046 by Mr and Mrs Mulgrew).
- 5.04** The settlement limit south of Tullagh Road should be confirmed (Objection 030 by Messrs D McNeil, A Moffett and S Rutledge).
- 5.05** The settlement limit north of Tullagh Road be confirmed (Objection 121 by Mr L Loughran).
- 5.06** (1) The Department should review the programming of the improvements required for the Westland Road/Tullagh Road junction with a view to securing their implementation consistent with the development of Phase 1/Housing in the area.
- (2) The developer of Housing Site 17 should only be held responsible for footpath provision along the frontage of the site.
- 5.07** The subject lands south of Orritor Road the subject of Objections 001 and 004/127 should be re-zoned Housing – Phase 1 (Mr A Hegarty and Mr & Mrs P Cosgrove/ Mr J J McMahan).
- 5.08** Objection 132 by Ferson Brothers to the exclusion of part of H28 from Phase 1 Housing.
- (1) The area within the East Tyrone Area Plan settlement limit and subject to permission I/95/0343 (edged red on plan 5.08B) should be re-zoned Phase 1 Housing.
- (2) The Phase 2 zoning of the area of the objection site outside the East Tyrone Area Plan settlement limit (shaded blue on PAC Map 5.08B) should be confirmed.
- 5.09** Objection 131 by Mr L Donaghy to the exclusion of part of H20 from Phase 1 Housing.

- (1) The objection site should be advanced to Phase 1 housing allocation.
- (2) Subject to the modification procedure, consideration should be given to also advancing the balance of H20 housing zoning to Phase 1.
- 5.10** The development limit between Lissan Road and Coolreaghs Road be confirmed (Objection 129 by Mr L Donaghy).
- 5.11** The proposed settlement limit at Moneymore Road be confirmed (Objections 006, 014 and 045).
- 5.12** The settlement limit north and south of Coagh Road should be confirmed (Objection 134 by Mr J Doris).
- 5.13** The proposed Phase 2 zoning of part of zoning H23 south of Fountain Road should be confirmed (Objection 043 by Mr P Cosgrove).
- 5.14** The settlement limit at Ballyreagh be extended to incorporate objection site 042 and the land be allocated for industry and mixed business use (Blue Circle Industries).
- 5.15** The proposed zoning of I1 and I2 be confirmed (Objections 085 by Mr J Harris).
- 5.16** (1) The I3 zoning for industry and mixed business use should be deleted and the land redesignated for Phase 2 Housing.
- (2) The I4 zoning for industry and mixed business use should be confirmed. (Objection 010 by Ms D Duncan)
- 5.17** The settlement limit south of Coagh Road should be confirmed (Objection 021 by Mr R Greer).
- 5.18** Whilst these objections have been formally conceded the Department may need to take into account the outcome of the Objections 047, 048 and 066. If these objections are ultimately successful the Department may wish to consider the rationality of the conceded extension of the settlement limit to include Clare Market Garden.
- 5.19** (1) The totality of objection sites 047, 048 and 066 sites should be deleted from the I5 zoning for industry and mixed business use.

(2) Objection sites 047, 048 and 066 should be excluded from the settlement limit for Cookstown and included within the Cookstown Green Belt.

**5.20** I advise the Commission to recommend to the Department that it carries out a review of the draft Plan specifically aimed at identifying adequate land zoned for Industry and Mixed Business Use to meet the needs of the District over the plan period.

**5.21** Objections 102 and 130 by Messrs McAleer and Rushe and Mr J Wylie to the inclusion of lands within various amenity designations.

(1) The Department has conceded that the R2 zoning should be lifted from Area 1 and that the R4 zoning be removed from Area 3. These objections therefore need not engage the attention of the Commission.

(2) The Commission should recommend to the Department that Area 4 be excluded from LLPA 1.

**5.22** Objection 044 by Mr M Rea to the inclusion within R2 and LLPA 1 of land at Sweep Road.

(1) The R2 designation be removed from the objection site 044.

(2) The LLPA 1 designation be confirmed.

**5.23** Objection 025 by Heron Properties to the proposed recreation/open space zoning R1 west of Westbury Drive has been conceded and need not engage the attention of the Commission.

**5.24** LLPA 3 should be confirmed (Objection 083 by James Street Residents).

**5.25** Objections 08 (Coulter Brothers), 026 (Mr G Crooks), 089 (Mr J Doris) and 126 (Killymoon Golf Club) to the designation of the Sustrans Cycle Route and the walkways and cycle routes on the eastern side of Cookstown.

The proposed walkway and cycle route should be confirmed.

**5.26** Objection 084 by Brennen Associates concerning access to Opportunity Site OS 2 need not engage the attention of the Commission.

- 5.27** Objection 110 by Unipork to the proposed alignments of the Eastern Distributor Road and the Walkway/Cycle Route through I4 and I5 and issues related to the development of H23, I5 and I6.
- (1) The route of the walkway/cycle route north of Cloghog Road should be reviewed by the Department in consultation with the District Council.
  - (2) The alignment of the Eastern Distributor Road between Coagh Road and Fountain Road should be confirmed.
  - (3) The balance of the Unipork objection need not engage the attention of the Commission.

### **Villages**

- 6.01** The objectors' criticisms that the settlement limits are too restrictive have not been sustained.
- 6.02** Ardboe: General Objections by Sinn Féin (99), Father B McHugh PP (101) and Ardboe Community (120). These are overarching objections that have relevance to the site-specific objections the advice on which is set out at 6.03-6.14 below. In broad terms the objection that the limit of development for Ardboe is too tight and rigid for the developing community has not been sustained.
- 6.03** Objections 052, 053, 054 and 119 (areas A, B and C) to the exclusion of lands north of Lakeview Cottages, Mullinahoe Road from the settlement limit of Ardboe have been conceded and need not engage the attention of the Commission.
- 6.04** Objection site 055/Objection 119 Area "D" east of Lakeview Cottages, Mullinahoe Road be included within the settlement limit of Ardboe.
- 6.05** Objections 116 and 117 east of the junction of Mullinahoe Road and Kilmascally Road from the settlement limit of Ardboe.
- The issue of the exclusion of the conceded lands need not engage the attention of the Commission. The balance of objection site 117 should remain excluded from the settlement limit.
- 6.06** The exclusion of objection site 056 east of Mullinahoe Road from the settlement limit for Ardboe should be confirmed.
- 6.07** Objections 058 and 119 (areas E and F) to the exclusion of lands west of Mullinahoe Road from the settlement limit of Ardboe.

The issue of the exclusion of the conceded Area E need not engage the attention of the Commission. The balance of objections sites 58 and 119 should remain excluded from the settlement limit.

- 6.08** The exclusion of Objection site 090 west of Mullinahoe Road from the proposed settlement limit for Ardboe should be confirmed.
- 6.09** The Ardboe settlement limit and the delineation of the Lough Shore CPA in the vicinity of the Diamond should be confirmed (Objections 113, 114, 115 and 019A).
- 6.10** Objection site 019 Area B should remain excluded from the proposed settlement limit at Kilmasally Road, Ardboe.
- 6.11** The settlement limit at Cave Hill, Ardboe should be confirmed (Objection 101).
- 6.12** The zoning of Mr Quinn's land for industry and mixed business use north of Kilmasally Road, Ardboe should be confirmed (Objections 059).
- 6.13** The extension of the Ardboe Business Park to include objection site 057 and the land to the south-west enclosed by the former airfield perimeter road should be considered as part of a review of the District industrial land supply through to 2010.
- 6.14** The Existing Recreation/Open Space zoning should be removed from the objection site 082 at Cave Hill, Kilmasally Road, Ardboe.
- 6.15** The exclusion of Objection site 091 together with lands extending north to the AOH Hall from the settlement limit for Ballinderry and their inclusion within the proposed Loughshore Countryside Policy Area should be confirmed.
- 6.16** The settlement limit north of Ballinderry Bridge and west of Ballinderry Bridge Road that currently excludes objection site 095 should be confirmed.
- 6.17** Objection 096 should be included within the settlement limit at Mullan Road, Ballinderry.
- 6.18** The proposed settlement limit at Moss Road, Ballinderry Road should be confirmed (Objection 015).
- 6.19** (1) Objection site 097 north of Ballinderry Bridge Road should remain excluded from the settlement limit of Ballinderry.
- (2) Objection site 097 south of Ballinderry Bridge Road should be included within the settlement limit for Ballinderry.

- 6.20** Objection 092 by Mr Liam McGuckin to the exclusion of land from the settlement limit of Ballylifford. In view of the Department's concession Objection 092 not engage the attention of the Commission.
- 6.21** The proposed settlement limit at the southern end of Ballylifford excluding Objection site 118 should be confirmed.
- 6.22** Objections 027 and 135 to the exclusion of lands from the settlement limit of Ballyronan.
- (1) The proposed settlement limit west of Shore Road, south of Ballyronan should be confirmed.
- (2) The proposed settlement limit east of Shore Road, Ballyronan should be extended to include Sites 1, 2, 3 and 4 and the existing dwelling immediately to the south of Site 4 as indicated on PAC Map 6.22.
- 6.23** Objection 033 to the designation of land as an area constrained by sewage infrastructure on the settlement map for Coagh.
- Since the Department is prepared to delete the contested designation this objection need not engage the attention of the Commission.
- 6.24** The proposed settlement limit at Moneyhaw Road, Drumullan should be confirmed (Objections 087).
- 6.25** Objections 049 to the failure to designate Gortacladdy a village and to the exclusion of land from the settlement limit.
- In view of the concession of village status for Gortacladdy and the intention to process a proposed delineation of the settlement limit as a modification of the Plan this objection need not engage the attention of the Commission.
- 6.26** Objections 029 to the failure to designate Grange a village and the inclusion of the settlement limit in the Cookstown Green Belt.
- In view of the concession of village status for Grange and the intention to process a proposed delineation of the settlement as a modification of the Plan this objection need not engage the attention of the Commission.
- 6.27** Objection site 018 and 040 south of Farlea Heights should be included within the settlement limit of Moneymore.

- 6.28** The proposed settlement limit at Limehill Road, Pomeroy should be confirmed (Objection 122).
- 6.29** The settlement limit at Sandholes Road and Tullyard Road, Sandholes should be confirmed (Objections 005 and 007).
- 6.30-31** Stewartstown: General objections by Stewartstown Development Association (094) Sinn Féin (99) and CWSAN (104). Objection 122 by Mr Michael Quinn to the exclusion of land south of Castlefarm Road from the settlement limit of Stewartstown.
- (1) The objections aimed at enlarging the village envelope for Stewartstown are not sustained.
  - (2) Local Landscape Policy Area 2 Stewartstown Lough should be confirmed.
  - (3) The settlement limit south of Castlefarm Road and east of North Street, Stewartstown should be confirmed.
- 6.32** The Plan should not designate a Business Park at Gortatray.
- 6.33** Objection site 036 north of The Loup should remain excluded from the settlement limit.
- 6.34** (1) Objection site 051 should be included within the settlement limit for The Rock.
- (2) The balance of the amended settlement proposals as tabled at the Inquiry should be processed as a proposed modification to the Plan.