We welcome the opportunity to respond to the House of Lords European Union Committee.

During the European referendum campaign in 2016 the Ulster Unionist Party took the view that the United Kingdom was, on balance, better staying in the European Union and campaigned for a remain vote.

Much of our concern was around the fact that Northern Ireland was the only region of the United Kingdom that shares a land border with another EU Member State and the effect a leave vote could have on political stability here and in Scotland.

Following the outcome of the vote on the 23 June 2016 we accepted that the majority in the UK-wide referendum had voted to leave.

For us, the days of remainers and brexiteers were over, and we set our focus on securing the best deal possible, still recognising many of the concerns we had raised about Northern Ireland during the referendum but respecting the outcome of the vote.

In September 2016 we produced a policy paper entitled “A Vision for Northern Ireland outside the EU” which outlined our initial thoughts on a way forward.

As a Party we have been critical of the UK Government for allowing the sequencing of the talks to be shaped as it has been. To allow the border to become a front and centre issue to be dealt with before future trade talks could begin was a mistake when the border is inextricably linked to what will be negotiated during those rounds of discussions.

When text from the December 2017 agreement was first leaked and subsequently when the joint report was published, the Ulster Unionist Party raised major concerns about the challenges it posed to the economic, constitutional and political integrity of the United Kingdom, as well as the principle of consent established under the Belfast Agreement.
On 7 December 2017, our Party Leader, Robin Swann MLA, Party Chairman Lord Empey and Jim Nicholson MEP sent a joint letter to the Prime Minister outlining our deep concerns, asking for clarity on “regulatory alignment” and making clear we viewed what had emerged from negotiations as being a clear breach of the Belfast Agreement.

We still firmly hold the view that it was the December 2017 text that paved the way for the backstop as it now stands being included within the Withdrawal Agreement.

The backstop remains at the heart of our opposition to the current Withdrawal Agreement, although other aspects of the Withdrawal Agreement are also devoid of any democratic accountability for the United Kingdom. The creation of a regulatory border between Northern Ireland and Great Britain stands to diminish Northern Ireland’s place within the United Kingdom’s Single Market – which is by far Northern Ireland’s biggest market.

This has been underlined by the opposition that has come from unionists across the United Kingdom, whether they voted Leave or Remain.

One of our greatest concerns is that the protocol could remain in place in perpetuity. This, coupled with the ability of Great Britain to leave the protocol while Northern Ireland remains, stands to totally undermine Northern Ireland’s place within the United Kingdom in the future.

The UK Government and the European Union have offered assurances on these areas, but without changes to the legal text, we cannot go forward in good faith. It remains the case that assurances are being offered by EU office bearers who may well be gone within a few months and may be replaced by persons with no investment in such assurances.

Today’s Government may say they will not seek to diverge from Northern Ireland, but a future government may take a different view. Letters of assurance will not persuade us to change our position.

There is also little trust left. While there have been repeated attempts to underline that the backstop is merely an insurance policy that no one wants to use, it is regularly referred to as the “best of both worlds”. In our view it cannot be both.

Political assurances will not cut it for the Ulster Unionist Party. The only text that will stand the test of time will be the Withdrawal Agreement, therefore any changes the UK Government seeks from the EU must be underlined with changes to the legal text of the Withdrawal Agreement.

We are also concerned at the democratic deficit that would be created. For the first time in our history, decisions on areas of law affecting Northern Ireland would be decided not by our Government at Westminster, nor by our locally elected representatives in the Northern Ireland Assembly, but by 27 other Governments, including the Republic of Ireland. The role of the Committees that would have a say in our affairs after Brexit, were the Backstop to be initiated, removes even the thinnest veneer of democratic accountability from our affairs.
Our form of governance in Northern Ireland acknowledges the need for cross-community legitimacy in decision making, therefore it is concerning that areas of law making could take place over our heads with no democratic scrutiny or accountability.

This all comes at a time when Northern Ireland has been without an Executive and Assembly for more than two years.

Before the collapse of devolution, we as a party, had been critical of the lack of action by the previous Executive. While other devolved regions produced white papers, Northern Ireland’s concerns were represented by a two-page letter.

The Ulster Unionist Party has advocated an all-islands solution, most recently suggesting that the Common Travel Area that is well established and a proven success in the free movement of people, be replicated for goods.

As it sits, the situation is fluid and it is impossible to predict what course events will take as we approach March the 29th.

One thing is clear though, leaving the European Union without a deal would be deeply damaging for Northern Ireland, economically and politically.

The Prime Minister must alter her approach as it is difficult to see who would prosper from a reckless attempt to make this a decision between a bad deal and no deal at all.