

PLANNING COMMITTEE

NOTE OF VISITATIONS – 22 JUNE 2015

- Present:** Councillor Denis Agnew ((e) & (f) only)
- Attending:** Pamela Clifford, Planning & Building Standards Manager ((a) to (c))
Bernard Darroch, Lead Planner ((a) to (c))
Keith Bathgate, Development Management Team Leader ((d) to (f))
- Apologies:** Councillors Gail Casey, Jonathan McColl and John Mooney

SITE VISIT

Site visits were undertaken in connection with the undernoted planning applications:-

(a) Dumbarton Academy, Crosslet Road, Dumbarton

DC15/111 – use of external sports pitches by supervised groups of school aged children during school holidays (amendment of condition 30 of permission DC10/310) at Dumbarton Academy, Crosslet Road, Dumbarton, by West Dunbartonshire Council.

(b) 77-79 High Street, Dumbarton

DC15/053 – Change of use from shop (class 1) to coffee shop (class 3) including formation of outdoor seating area at 77-79 High Street, Dumbarton by Cuppacoff SC Ltd.

(c) Lomond Galleries, Main Street Alexandria

DC11/242: Extension to shopping centre to form foodstore, and associated alterations, including taking down and reconstruction of an existing stone façade to form new elevation and erection of a glazed entrance at Lomond Galleries, Main Street, Alexandria by Hermiston Securities; and

DC11/241 - Taking down and reconstruction of existing stone, free standing façade to form new elevation to extended listed building and the erection of a new glazed entrance (Listed Building Consent) at Lomond Galleries, Main Street, Alexandria by Hermiston Securities.

(d) Hardgate Hall, Glasgow Road, Hardgate

(e)/...

(e) 15A & 15B Glenhead Road, Clydebank

DC15/046 - Erection of One and a Half Storey Side Extension at 15A Glenhead Road, Clydebank by Mr Iain Wilson; and

DC15/049 - Erection of an Attached Side Garage at 15B Glenhead Road, Clydebank by Mr & Mrs O'Neill.

(f) Indoor Market, Clyde Shopping Centre, 26 Sylvania Way South Clydebank

DC15/041 - Change of use from class 1 retail to entertainment centre (retrospective) at Units 57-61, Indoor Market, Clyde Shopping Centre, 36 Sylvania Way South, Clydebank by H&H Entertainment

DRAFT

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 26 August 2015

**DC14/096 Erection of a 2½ Storey House and Installation of an
Associated Driveway at Land Adjacent to Stirling Road,
Glenpath, Dumbarton**

1. REASON FOR REPORT

- 1.1** This application has been subject to a significant body of objection and a representation from a community council. Under the terms of the approved Scheme of Delegation it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Grant** planning permission subject to the conditions set out in Section 9.

3. DEVELOPMENT DETAILS

- 3.1** The application relates to part of a strip of land between Stirling Road and Glenpath. Glenpath is a single-track private cul-de-sac which runs parallel to Stirling Road but is further up the hillside, and it currently contains seven houses along its north-east side, most of which are large houses with sizeable plots. On the south-west side of Glenpath is a belt of undeveloped land which slopes down towards Stirling Road, from which it is separated by a low stone retaining wall and palisade type railings. This land is now overgrown with trees and shrubs, although some clearance of trees and vegetation took place last year. The difference in levels across the site is significant, and there is a drop of around 12m from Glenpath to Stirling Road. The applicant owns all of the land to the south of Glenpath, however the proposed house and its curtilage would occupy only around a third of the ground, located toward the south-east of the land. The application site itself is approximately 0.205 hectares in area.

- 3.2** The proposed development would consist of one very large detached house. The main part of the house would be 2½ storeys in heights and would contain 8 bedrooms. A single storey wing on the south-eastern side of this would contain a swimming pool, while a 1½ storey wing on the north-western side would contain a twin garage and self-contained “granny annexe” type subsidiary dwelling with 3 more bedrooms. The applicant has indicated that the house and annexe are to be a family home for several generation of his family. The house would be of significant size and would be of traditional

design, making use of features such as windows with vertical emphasis, window banding, tabling on gables and chimneys and dormers of traditional proportions. It would be finished in a white wetdash finish but with some reconstituted stone feature details, and a natural slate roof. Access to the site would be from Glenpath, where a new entrance would be formed some distance north west of the house itself, to allow the driveway to drop down to the level of the house. Ground levels would be altered by cutting into the hillside to create a level area for the dwellinghouse approximately mid-way between the levels of Stirling Road and Glenpath.

- 3.3** The site contains a number of trees, which screen the existing houses at Glenpath from view from Stirling Road. However, the site is not covered by a Tree Preservation Order, and several trees were removed and partial areas of the site cleared of bushes prior to the application being submitted, mainly in the footprint of the proposed house and its driveway. The remaining trees on the site are mainly along the Stirling Road edge and are shown as being retained to provide privacy and noise screening for the new house, although some thinning and replanting is likely to be necessary.

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Roads Service and the Trunk Roads Authority have no objections. There should be no pedestrian or vehicular access onto Stirling Road, and suitable boundary treatment and screening should be maintained along this edge of the site. Access from Glenpath is acceptable in road safety and traffic management terms, but as this street is private any issues relating to rights of access and maintenance are private legal matters for the applicant and other owners to resolve.
- 4.2** West Dunbartonshire Council Access Officer, Greenspace and Environmental Health Services and SNH have no objections, subject to conditions.
- 4.3** Scottish Water had not responded at the time of writing this report.

5. REPRESENTATIONS

- 5.1** Eleven representations have been received in relation to the proposal, from ten individuals/households and Silverton and Overtoun Community Council. All object to the proposal, for the following reasons:
- Over-development of the site;
 - Size, scale, height and design of proposed house out of character with surrounding area;
 - Concerns that building is intended as a hotel;
 - Glenpath's condition unsuitable for additional traffic;
 - Applicant's right to access the site from Glenpath private road is disputed;
 - Loss of view / outlook from nearby homes;

- Noise from construction work will affect neighbouring houses;
- Trees provide noise buffer for A82 and further loss will increase traffic noise for neighbours;
- May increase risk of flooding of A82, and proposal should incorporate Sustainable Urban Drainage Systems
- Proximity to A82 an unsatisfactory environment for a new house due to traffic noise and poor air quality;
- Loss of trees from the site, both prior to the application and as a result of it;
- Impact on wildlife on the site, including bats, deer and birds;
- Building would prevent wildlife movement through the site;
- Possibility of a right of way on the site; and
- Contrary to policies H5, E1 and F2 of adopted local plan

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Local Plan 2010

- 6.1** The application site is within an Existing Residential Area, where Policy H5 indicates that character and amenity will be safeguarded and where possible enhanced. Development within existing residential areas will be considered against the following criteria:-
- Need to reflect the character of the surrounding area in terms of scale, density, design and materials;
 - Requirement to avoid overdevelopment which adversely affect local amenity, access or parking, or would be out of scale with surrounding buildings;
 - Need to retain trees, hedgerows, open space and other natural features.
- 6.2** Policy GD1 contains general requirements for all development, which in addition to these criteria also include matters such as appropriate massing, height, aspect, privacy, natural environment, access and drainage. Detailed consideration of the design, scale, form, layout and materials are contained in Section 7 below, and it is concluded that despite the size of the proposed house and some loss of trees, overall the proposal would be in keeping with Policies H5 and GD1.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan (WDLDP) Proposed Plan

- 7.1** The site is within an Existing Neighbourhood where Policy BC3 seeks to protect the residential amenity, character and appearance of existing neighbourhoods. New residential development on gap sites within such areas is acceptable subject to the design and impact on the local area being appropriate.

Residential Development: Principles for Good Design

- 7.2** The Council's supplementary guidance on residential development applies to developments of 3 or more houses so is not directly applicable to this proposal; however some of the document's general guidance is still considered relevant. The guidance seeks to ensure that housing developments give importance to the local context, are design-led, and promote the six qualities of good design. The design of the proposal is discussed below, and it is considered that the proposal would accord with the guidance.

Planning History

- 7.3** Outline planning permission for residential development on the whole of the land between Glenpath and Stirling Road was granted in March 1996 (decision DB2371) and renewed in September 2000 (WP00/155). At the time the applicant and landowner was the Scottish Office / Scottish Executive. The land was subsequently sold into private ownership, but the permission for housing never progressed to a detailed application and the permission was allowed to lapse.

Principle of Development

- 7.4** The application site is part of an undeveloped gap site within a residential part of the town, and the development of such sites for residential purposes is supported by the relevant policies subject to site specific considerations and suitable design, layout etc. In this case, the site forms part of a larger strip of land alongside the A82, which has never been developed and which had become overgrown. The trees and shrubs on the site provide a green area alongside the A82 but are otherwise of no particular value, and it is considered that subject to the maintenance of a green buffer along the edge of the A82 there is no objection to the principle of developing on the site.
- 7.5** Whilst the application site is large enough to accommodate several house plots, the proposal is for a single large plot containing one very large house. The size of the plot is similar to those of some of the larger existing houses on the north-east side of Glenpath, but the house would be larger than any others nearby. The design of the house is considered below, but in principle it is considered that a single large house is acceptable, and it would potentially have less of an impact on the area than would arise from developing the land with several smaller houses.

Prominence and Screening of Site

- 7.6** The proposal would involve excavation of the sloping site to create a level base for the house, which would be elevated in relation to Stirling Road but well below the level of Glenpath. The new house would be readily visible from Glenpath, but would be at a lower level than the street and would be well separated from the existing houses as these are generally well set back within their plots and even more elevated than the street itself. Whilst the new house would introduce development on the south-west side of Glenpath it is considered that this would be appropriate in terms of the character of the street. It would however be appropriate to retain a suitably green boundary

treatment along this street to protect its semi-rural character, and this could be controlled by a condition.

- 7.7** Relative to Stirling Road, the new house would be elevated, and on account of its size the house would potentially be quite prominent. However, its prominence would be reduced by the retention of the existing trees along the edge of the site. A detailed tree survey has not been provided as they are not subject to any tree preservation order and it is considered that none of the trees is of particular individual value, but a condition could be imposed requiring agreement of a detailed tree survey and landscaping scheme showing precisely which trees were to be retained, and that new planting would be involved. It is considered that subject to retaining as many trees as possible and augmenting these with new planting where appropriate, the house would not appear unduly prominent in the street or from A82.

Design of House

- 7.8** In terms of the style of building, the surrounding area is not characterised by one particular style of house, with Glenpath containing a mixture of old stone two-storey villas and more modern 1970s/80s style properties. Other houses in the area are smaller mid-century semi-detached and terraced houses on the opposite side of Stirling Road. The proposed house would therefore not clash with any established building style. At 2½ storeys the building would be higher than most of the surrounding 2 storey houses, but the addition of dormers in the roof space does not significantly add to the building's height and these are considered beneficial to the building's appearance.
- 7.9** The detailed design of the house has been the subject of considerable discussion and amendment during the course of the application. For a building of this size it is important that the proportions and detailing are correct, as the dimensions of ordinary modern suburban houses do not necessarily lend themselves to being "scaled up" to quite the extent required. A traditional and formal style has therefore been employed, resembling a small manor house. Whilst the resultant house would be imposing on account of its size, its style would be classical and understated. Proportions and details would be of a traditional character, and the use of high quality traditional materials such as wetdash and natural slate would be in keeping with this. Overall, it is considered that the house would be of attractive appearance in its own right, and that it would be in accordance with the requirements of Policies H5 / BC3 and with the Council's Residential Development Design Guidelines,

Impact on Neighbouring Houses

- 7.10** The properties on the opposite side of Stirling Road are a considerable distance away from the site, separated from it not only by the dual carriageway but also by Fourth Avenue, and although the new house would be elevated there would be no impact on these properties. In relation to the houses on Glenpath itself, those close to the proposed house are all well set back within their own plots and positioned further up the hillside than the new house would be. There would therefore be no overlooking or overshadowing issues. At present these houses look out onto trees, and the development

would result in parts of the roof of the new house being visible from the front windows of the neighbouring houses. However, due to the difference in levels most of the house would be below the level of the street, and views of the roof would be minimised by boundary landscaping, including the retention of some of the existing trees/shrubs. Overall, it is considered that the proposal would not have any unacceptable impact on any neighbour.

Impact on Trees

- 7.11** Prior to the application being submitted trees and shrubs were cleared from some parts of the site by the applicant. The site is not covered by a tree preservation order so there was no requirement to gain permission from the Council to undertake these works. The trees removed were those which needed to be removed to develop the site, and the applicant has left the other trees as it is desired to retain as many trees as possible. The proposed drawings indicate that the trees along the main northern and southern boundaries would be retained, although the plans do not include a detailed tree survey. This could be required by a condition, which could also specify that trees be retained along both street boundaries, along with new planting where appropriate to strengthen the screening of these area.

Wildlife and Conservation

- 7.12** Whilst the site is heavily overgrown and is doubtless providing a habitat for wildlife, there is no evidence of any protected species being affected. A bat survey was submitted with the application, which concluded that although there was no evidence of current use by bats, the site had potential for bat foraging. However, as the majority of the existing trees are to be retained within the site it is unlikely that the development would adversely affect bats. Some objections had referred to the development preventing wildlife movement through the site, but the planned retention of a continuous tree belt along the frontage would allow small animals to move through the site to and from the relatively small undeveloped area to the North West.

Access and Road Safety

- 7.13** The site would require the formation of a new access from Glenpath, near to the junction with Barnhill Road. The location of the new access would be to the west of the new house, in order to allow the driveway to drop gradually down to the level of the building. The access road is not adopted and is a private road which is understood to be in the ownership of various residents and the Ministry of Defence (apparently as a result of historic pipeline interests). The location and design of the access are considered appropriate in road safety terms and there are no objections from the Council's Roads Service. Whilst some objectors have claimed that the applicant does not have a right of access without obtaining the agreement of other landowners, any such requirements would be a private legal matter for the applicant to resolve. An informative can be added to the decision specifying that the granting of planning permission does not imply any rights in relation to access over the private road.
- 7.14** The Scottish Government's Trunk Roads Division has indicated that no access should be formed onto the A82, either for pedestrians or vehicles, and

that boundary treatment and landscaping should be designed to make informal access impractical. The suggestion for landscaping along this boundary coincides with the intentions for this boundary, and can be addressed by the relevant condition.

Other Issues

- 7.15** In relation to the quality of residential environment for the new house, there is no reason to expect air quality or noise levels to be any different from the many existing houses which front the A82. The proposed house is set back from the road behind trees, and appropriate sound insulation could easily be incorporated into its construction.
- 7.16** Surface water from the roof and hardstanding areas would require to be drained on site, but the site is easily large enough to accommodate a private soakaway and approval of the detailed design of the surface drainage can be addressed by a condition.
- 7.17** Whilst some objections referred to the possibility of a right of way on the site, the Council's Access Officer has no record of any claimed right of way here. There is a gate and steps leading up from Stirling Road adjacent to Hunter's Burn, but these have evidently been disused for many years, and they are some distance out with the application site. Presumably there was once a path connecting these steps up to Glenpath, but if so its alignment is not shown on any old Ordnance Survey maps and there is no trace of it on the ground. As the application site does not border these steps, the current proposal would not prevent the future re-establishment of a link to these steps.
- 7.18** Concern has been expressed that the house may be intended for use as a hotel rather than a family dwelling. It is understood that this is not the case, and any such use would in any event require a separate planning permission for change of use. It would however be appropriate to impose an informative making this clear, and also confirming that the self-contained annexe could not be used as a separate dwelling without also having a specific planning permission.

8. CONCLUSION

- 8.1** The development of the site for residential development is in accordance with the adopted and emerging local plans. Whilst the proposed house is large, it is considered to be of an appropriate design and appearance, subject to the retention of suitable screening along the road boundaries. It is considered that the impact upon neighbouring houses would be acceptable and that overall the development would be in keeping with the appearance and character of the surrounding area.

9. CONDITIONS

- 1. Exact details and specifications of all proposed external materials shall be submitted for the further written approval of the Planning Authority prior to any work commencing on site and shall be implemented as approved. Such materials shall include the use of natural slate for roofs and wetdash render for elevational treatment.**
- 2. Prior to the commencement of any works on the site the position of the house shall be pegged out on site for inspection and further written approval of the Planning Authority.**
- 3. No trees or shrubs shall be felled or removed from the site until such time as a detailed tree survey and proposed landscaping scheme have been submitted to and approved by the Planning Authority. These shall detail the position of all significant trees and clearly identify those which are to be felled and those for retention. The tree retention and landscaping proposals shall ensure the retention and where necessary enhancement of screening along the Stirling Road and Glenpath boundaries of the site. The landscaping and tree retention shall thereafter be implemented as approved, with new planting taking place not later than the next appropriate planting season after the occupation of the house. The scheme shall also include details of the maintenance arrangements, which shall retain the boundary screen planting in perpetuity, and the landscaping shall thereafter be maintained in accordance with these details.**
- 4. No development shall commence until such time as a detailed levels plan showing ground and finished floor levels and detailing the extent of any cut and fill operations has been submitted to and approved by the Planning Authority. The development shall thereafter be implemented in accordance with these levels unless otherwise agreed in writing by the Planning Authority.**
- 5. Prior to the commencement of development, full details of any fences, walls, railings or gates to be erected shall be submitted for the further written approval of the planning authority and implemented as approved. Such boundary treatment on Stirling Road shall be of a type which prevents pedestrian access.**
- 6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), no pedestrian or vehicular access shall be formed from the site onto Stirling Road at any time.**
- 7. During the period of construction, all works and ancillary operations which are audible at the site boundary, or at such other places that may be agreed by the Planning Authority shall be**

carried out between 8am and 6pm Mondays to Fridays, 8am and 1pm on Saturdays and not at all on Sundays or Public Holidays.

8. No development shall commence until such time as the details of the surface water drainage arrangements have been approved in writing by the Planning Authority. Such drainage arrangements shall ensure that there is no run-off from the site onto the public road.

Informative:

Permission is granted for a single house with ancillary domestic accommodation. Any use falling out with Use Class 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) would require a separate application for planning permission, as would any subdivision of the house into multiple separate dwellings.

Richard Cairns

Executive Director of Infrastructure and Regeneration

Date: 13 August 2015

Person to Contact: Pamela Clifford, Planning & Building Standards Manager, Housing, Environmental and Economic Development, email: Pamela.Clifford@west-dunbarton.gov.uk

Appendix: None

Background Papers:

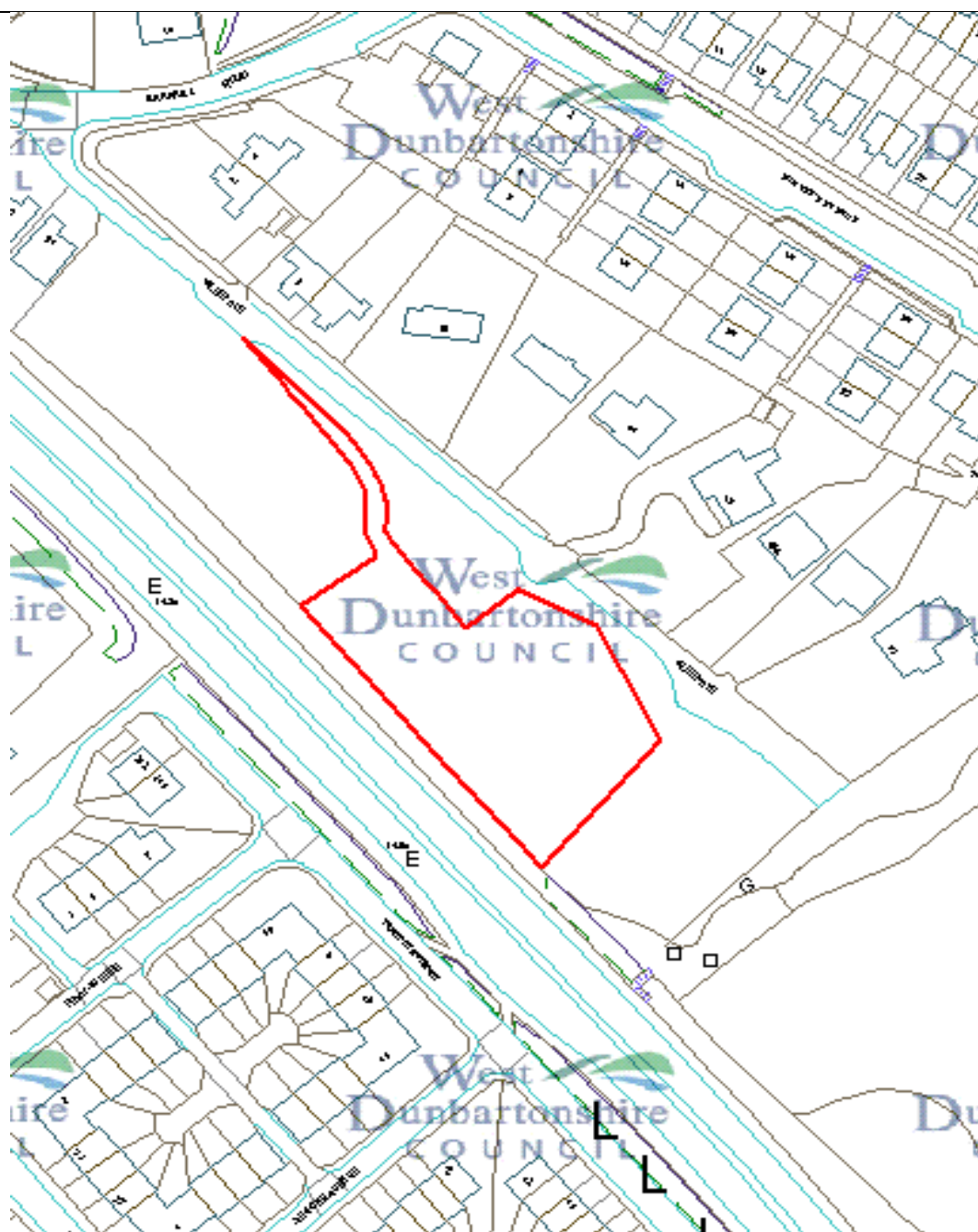
1. Application forms and plans.
2. West Dunbartonshire Local Plan 2010
3. West Dunbartonshire LDP Proposed Plan(2013)
4. Consultation Responses
5. Representations

Wards affected: Ward 3 (Dumbarton East and Central)

DC14/096

**Erection of 2 1/2 storey
dwellinghouse and
installation of associated
driveway and access**

**Land Adjacent To Stirling Road
Glenpath
Dumbarton**



WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 26 August 2015

DC15/027 Erection of 6 flats and 4 houses with associated landscaping, access road and boundary treatments at Site of “Dunclutha”, Parkhall Road, Clydebank, by Parkhall Developments Ltd.

1. REASON FOR REPORT

- 1.1** This report relates to an application which is subject to a representation from a community council, and under the terms of the approved Scheme of Delegation it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Refuse** planning permission for the reasons set out in Section 9.

3. DEVELOPMENT DETAILS

- 3.1** The application site is located on the west side of Parkhall Road close to the junction with Clark Street. At this point Parkhall Road sweeps round in a U-shaped bend, and the site occupies the outside of the curve. It was previously occupied by a large detached villa which was demolished some years ago, and the site is now overgrown with trees and shrubs. The site slopes down from Parkhall Road towards Dalmuir Golf Course which borders the site to the north and west, and which is screened from the site by a belt of mature trees. To the south of the site are the back gardens of houses on Clark Street and Overtoun Drive, which are lower than the site. To the east of the site, inside the curve of Parkhall Road, is a landscaped area of grass, trees and bushes. Along the south side of Parkhall Road to the east of the site are a row of 1960s/70s style houses, most of which are bungalows or split-level houses. The site itself is approximately 0.27 hectares in area and is generally level adjacent to Parkhall Road before sloping down significantly to the west. There is a levels difference of approximately 6m between the ground level of Parkhall Road and that at the western boundary with the Dalmuir Golf Course.
- 3.2** The proposed development would consist of a three storey block of six 2-bed flats, a pair of 3-bed semi detached houses, and two 4-bed detached houses. These properties would be arranged in a cul-de-sac with one of the detached houses fronting Parkhall Road, and the flats positioned at the westernmost corner of the site. An area of open space containing existing mature trees would be provided along the south side of the cul-de-sac. Buildings would be finished in facing brick and render, with concrete roof tiles. All access to the

site would be from Parkhall Road, where a new junction would be formed. The cul-de-sac would use a single-track shared surface in order to maximise the amount of open space which could be retained. Ground levels would be altered to create a more consistent, gentle slope through the site. This would include some lowering of ground near the centre of the site, and landraising of up to 1.7m at its western end.

- 3.3** The site contains a number of trees, and is covered by a Tree Preservation Order. This was originally imposed in order to protect the larger mature trees around the boundaries of the site; however the majority of the site is now covered in young trees which have grown since the house was demolished. A large number of these young trees would require to be removed from the site to make way for the development. Some of the mature trees at the western end of the site (i.e. furthest from Parkhall Road) would be removed, as would some smaller trees along the road boundary which would need to be removed in order to create a suitable road access. However, the majority of the mature trees along the southern side of the site (including a notable monkey puzzle tree) are shown as being retained, as is the belt of mature trees which wraps around the north and west of the site largely within the golf course land. Some new trees would also be planted on the site as part of the landscaping scheme to replace those felled.

Planning History

- 3.4** The site has been subject to four previous planning applications for residential development:
- DC02/436, for 30 flats, was withdrawn;
 - DC03/319, for 25 flats, was refused in June 2004 due to concerns that it would have a detrimental impact upon the amenity of residents. An appeal against that decision was dismissed when the Reporter concluded that the site was suitable for residential development but not of the scale/density then proposed;
 - DC06/143, for 16 flats, was refused in December 2006 for similar reasons, and an appeal against that decision was also dismissed;
 - DC12/235, for 6 flats and 4 houses was refused in January 2014 due to concerns about excessive density, impact upon the privacy of neighbours, and loss of trees. An appeal against that decision was also dismissed.
- 3.5** The current proposal is very similar to application DC12/235 but differs primarily in the layout of the parking/turning area at the west end of the cul-de-sac, and the position of the detached house in the southern corner of the site (Plot 5). The turning facility has been removed, enabling the proposed house to be moved further away from the plot boundary. The house on plot 5 would also be re-orientated to face east instead of north.

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Roads Service considers that the principle of a shared surface cul-de-sac and the position of the access are appropriate,

however they object to the proposed design/layout because the cul-de-sac would not include any provision for turning of vehicles. Large vehicles such as bin lorries and delivery vans would have difficulty accessing the proposed houses, and the road would not meet the standard required for adoption as a public road.

- 4.2** West Dunbartonshire Council Greenspace Service has noted the proximity of the site to the golf course and the potential for buildings close to the boundary to be struck by stray golf balls. Concern has been raised about potential damage liability claims, as similar issues have occurred at other golf courses which border onto new build developments.
- 4.3** West Dunbartonshire Council Environmental Health Service, and Scottish Natural Heritage have no objections to the proposal subject to various conditions.
- 4.4** Scottish Water had not submitted comments at the time of writing this report.

5. REPRESENTATIONS

- 5.1** A total of eight representations have been received in relation to the proposal, of which seven object to it. The objections are from Parkhall, North Kilbowie and Central Community Council, 5 individuals/households and a planning consultant acting on behalf of another individual. Reasons for objection were as follows:

- Out of character with surroundings as there are no flats in area;
- Over-development of the site with inappropriate density;
- Adverse impact on nearby conservation area;
- Increased traffic;
- Inadequate access for bin lorries and bins would be left on Parkhall Road;
- Overlooking of nearby residential properties;
- Loss of view / outlook from nearby homes;
- Loss of protected trees;
- Similarity to previously refused applications, which were also refused on appeal;
- Impact on bats; and
- Risk of golf balls hitting properties/people within the site

- 5.2** One representation from an individual expressed support for the application for the following reasons:
- Site is an eyesore and development would improve its appearance; and
 - Existing problems with dog fouling, fly tipping and anti-social behaviour on the site, which development would resolve.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Local Plan 2010

- 6.1** The application site is designated as a Housing Opportunity Site, which Schedule H2 lists as being suitable for private sector housing with an indicative capacity of 12 units. Policy H1 indicates that such sites are the main opportunities for private housing development within the plan area. The proposal would be in accordance with this policy.
- 6.2** Policies H4 and GD1 set out standards expected of new residential development, which are to be of a high quality in terms of scale, form, layout and materials. Policy H4 sets out a number of criteria against which new residential development should be assessed including providing a range of house types, open space provision, landscaping and natural features, road and parking standards, plot setting and residential densities. Policy GD1 includes those criteria and others including appropriate massing, height, aspect, privacy, recognition of the natural environment compliance with roads and parking standards. Detailed consideration of the design and layout is contained in section 7 below, and it is concluded that the proposal would be contrary with Policies H4 and GD1.
- 6.3** Policy R2 sets out open space standards and developers are required to provide open space in accordance with the targets set out. Flexibility regarding location, need and extent of open space provision may be acceptable if existing areas of open space are readily accessible from the development site and developers contribute to the provision or improvement of facilities in these areas. This application is for a relatively small development of ten dwellings, and would provide approximately 620m² of green space within the site, whereas the standard requires a minimum of only 110m². It is not considered appropriate to require the provision of a play area for a development of this modest scale, especially when ample open space is provided within the site.
- 6.4** Policy E4 indicates that the Council will protect trees covered by Tree Preservation Orders. Where consent is granted for felling of such trees appropriate replanting will be required. Policy E5 requires that developments which affect existing trees should be subject to a tree survey and should seek to retain and protect trees wherever appropriate. Policy T4 requires that development be well integrated into transportation infrastructure, and indicates that new roads, footpaths and cycleways should normally conform to the Council's standards. The impact of the development on trees and the design of the road infrastructure are considered in Section 7 below, and it is considered that the proposal would not comply with these policies.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan (LDP) Proposed Plan

- 7.1** On 8 April 2015, the Council advertised its intention to adopt the West Dunbartonshire Local Development Plan, incorporating all of the Examination

Report recommended modifications (with the exception of those relating to the Duntiglennan Fields site, which is not relevant to the current application). On the same date, the Council advised the Scottish Ministers of its intention to adopt the Plan. The policies referred to below therefore incorporate the accepted recommended modifications. The formal adoption of the plan is presently with the Scottish Ministers.

- 7.2** The site is located within a residential area and is defined as an Existing Neighbourhood under Policy BC3. This policy seeks to protect the residential amenity, character and appearance of existing neighbourhoods. The policy supports new residential development on gap sites within the Existing Neighbourhood subject to appropriate design and amenity impacts. It is considered that the proposal would not accord with the amenity requirements of Policy BC3.
- 7.3** Residential developments should also accord with Policy GN2 which requires new development to provide SUDS, open space, paths and habitat enhancements. The details for these are set out in the Council's emerging supplementary guidance on green networks, discussed below, and it is considered that the proposal would not accord with Policy GN2.
- 7.4** Policy GN5 indicates that development which would result in the loss of trees or woodland of amenity value will not be permitted unless there is a clear justification and appropriate replanting can be agreed. Policy DS1 requires that development contribute towards creating successful places by respecting the local urban form and retaining natural assets, amongst numerous other criteria. It is considered that the proposal would not accord with the protection of natural assets set out in Policy GN5 and DS1. Policy SD1 requires that development avoid adverse impacts upon the road network, and indicates that they should comply with relevant roads design standards. The road layout does not comply with these standards and the proposal would not comply with Policy SD1.

Supplementary Guidance

- 7.5** New residential development should accord with the Council's supplementary guidance on residential development which sets out principles for good design. This guidance seeks to ensure that housing developments give importance to the local context, are design-led, promote the six qualities of good design and are accompanied by supporting documents including Design and Access Statements. The issue of design is discussed below, but the good design principles of particular relevance here are the character of the proposal in relation to the surrounding residential streetscape and the natural features on the site which require to be incorporated into the layout. It is considered that the proposal would not accord with the guidance.
- 7.6** In addition, the Green Network Supplementary Guidance sets out standards of accessibility, quality and quantity in assessing the required open space provision for new developments. This site is accessible to existing open spaces (Dalmuir Park and golf course) and a financial contribution would be required to enhance these existing spaces rather than provide new spaces

such as play areas on-site. This contribution is based on the estimated population (using the number of bedrooms) and the site would require to contribute £10,080 for local green network enhancements.

Principle of Development

- 7.7** The application site is a brownfield gap site within a residential area, and its redevelopment for residential purposes is acceptable in principle. This has already been established by the allocation of the site as a housing opportunity in the adopted local plan and by the comments of reporters at the three earlier appeals, all of whom agreed that the site was suitable for residential development provided this was of a suitable scale and design. Whilst the site is no longer specifically allocated as a housing opportunity in the emerging LDP, the principle of infill residential development remains compatible with the land use policy and the surrounding area.
- 7.8** The principal issues of this application is therefore whether the amended design addresses the reasons for the previous refusal, and whether the changes themselves give rise to any new issues. At the time of the previous application the Council did not raise any objection to the appearance of the development within the street, the means of access, or to the level of open space provided within the site. Reasons for refusal related to density, impact on neighbours, character of the area, and loss of trees.

Density

- 7.9** The density of development is unchanged from the previous application, in which the Council considered that the layout and density did not reflect the prevailing pattern of development in the surrounding area. The adopted plan allocates the site a notional capacity of 12 units, but such figures are indicative only and in this case it is understood that the figure of 12 was based on an expectation that the development would probably take the form of a single block of flats. In determining the recent appeal against refusal of 6 flats and 4 houses the Reporter considered that there was no objection in principle to a mixture of flats and houses and that it would not be appropriate to impose an arbitrary requirement for the maximum or minimum number of units. However, he noted that the larger the number of units and building blocks was the more challenging it was to address necessary design constraints. These comments remain applicable to the current proposal.

Residential Amenity

- 7.10** The previous application was refused in large part because of its impact upon neighbouring homes. The rear of the detached house on Plot 5 was at the time proposed to be less than 4m from the southern boundary, and due to the levels differences the house would have been significantly elevated in relation to the neighbouring houses on Overtoun Drive and Clarke Street. This was considered to be an overbearing and visually dominating relationship that would have been significantly detrimental to the residential amenity of the existing properties, and could not realistically be overcome by boundary screening or planting. Apart from Plot 5, the other houses and flats did not give rise to any privacy or overlooking issues.

- 7.11 The current proposal seeks to address this issue by making Plot 5 significantly larger, and moving the house north away from the rear boundary. The rear of the house would therefore be around 10m from the closest part of the rear boundary, albeit slightly more elevated as the house would be built further up the slope. Additionally, the house would be turned 90° to face east, with the result that the south facing elevation would be a blank gable. All of the rear windows would instead face west, onto part of the tree belt within the golf course boundary, although oblique views into part of the garden of 4 Overtoun Drive would be possible. From the front of the house there would be oblique views towards the part of the garden of 5 Clark Street, although these too would be partly obscured by retained trees. Overall, it is considered that the changes to the position and orientation of the house on Plot 5 have adequately addressed the concerns about impact on neighbours. Whilst the house would remain elevated, it would be further from the boundary and there would not be any significant overlooking of neighbouring homes or gardens.

Appearance and Character

- 7.12 The proposed layout would broadly accord with the pattern of development on Parkhall Road, where the house facing the street (Plot 1) would replicate the existing arrangement of detached houses along the south side of this road. The main concerns about the appearance of the development in the previous application related to Plot 5, where the elevated position of the house, its proximity to existing lower level houses on Overtoun Drive and Clark Street, and the resultant loss of existing trees on the southern edge of the site were all considered to result in an incongruous and disjointed street scene when viewed from Overtoun Road. The current application attempts to address these concerns by increasing the distance between the new Plot 5 house and the site boundary, and retaining more of the trees. These changes help the appearance of this part of the site somewhat, but do not address them fully. The new house would still be visible from Overtoun Drive, and which slightly further away it would also be even higher up the hillside, accentuating the disjointed appearance which arises from the varying house levels. It is considered that the appearance of this part of the site remains unacceptable and would have a detrimental impact on the street scene and overall residential area.

Impact on Trees

- 7.13 The previous tree survey has been updated, and the amended site layout shows a higher proportion of the trees being retained than the previous application. The large number of small self-seeded trees and scrub within the centre of the site would inevitably require to be removed to make way for any development, but of 35 individual trees recorded around the perimeter of the site the majority appear to be retained. Whilst there are some inconsistencies between the various plans, the proposals for the trees around the perimeter are understood to be as follows:

- Along the **south-eastern boundary**, the four largest trees on the site (a beech, two limes and a monkey puzzle) would be retained, as would five smaller underdeveloped trees within their canopies, which had previously been proposed to be removed.

- Around the **southern corner**, one rowan tree would be removed as it is already dead, but two large trees (ash and silver birch) that had previously been earmarked for removal would now be retained;
- On the **western** boundary the only significant tree (a beech) would now be retained, although its condition is not particularly good and the tree surgeon has noted that it may require early removal;
- Along the **northern boundary**, the survey shows eleven existing trees within or immediately adjacent to the site boundary, as part of a much larger belt of trees (most of which are on the golf course land). Three of these would be removed: a large oak and sycamore within Plot 1, (close to Parkhall Road), and a poor quality sycamore in the western corner behind the proposed flats. Compared to the previous application, several smaller trees behind the flats which had previously been proposed for removal would now be retained, whereas the oak and sycamore within Plot 1 had previously been shown for retention, albeit unrealistically due to their proximity to the proposed house.;
- On the **eastern frontage**, onto Parkhall Road two maple trees would be removed to create the new access, but of the seven other small trees on the frontage only one dead cypress would be removed. Previously it had been intended to removal most of these trees as they are directly in front of the proposed house on Plot 1

7.14 In general, the revised proposal appears to involve the loss of fewer trees than the previous application, and the retention of two trees at the southern corner of the site to screen Plot 5 is a notable improvement. Nevertheless, whilst a large proportion of the trees are shown as being retained, many of them would have buildings positioned relatively close to them. In determining the previous appeal, the Reporter commented on the risk to the long term survival of trees in such circumstances, and also on the impact which trees in such proximity to houses and flats would have upon the residential environment, leading to likely pressure for residents for their removal. The Reporter also considered that insufficient information had been provided on the impacts of construction upon the trees, and on the relationship with trees within the golf course boundary which may also be affected. All of these concerns remain valid in relation to the current application, and in some cases the potential for conflict between trees and residential amenity would appear to have increased due to the retention of more of the existing trees. In relation to Plot 1, two mature trees are now to be removed. Overall, it is considered that the proposal fails to minimise the loss of protected trees and is therefore contrary to Policies E4 / GN5.

Changes to Road Layout

7.15 The position of the proposed access onto Parkhall Road is unchanged from the earlier application and continues to be considered acceptable by the Roads Service. The amount of parking on the site is also unchanged and in compliance with standards. However, the repositioning of the house on Plot 5 has resulted in there no longer being room for a turning head, and this feature has therefore been removed from the proposal. This would make it impossible for large vehicles such as bin lorries and delivery vans to enter and exit the site in forward gear, so they would either have to reverse onto or off

Parkhall Road and would be a hazard to pedestrians on the narrow shared-surface cul-de-sac. Whilst turning of cars on the site would still be possible it may require some awkward manoeuvring. This road layout would not be suitable for adoption and would be both unsafe and inconvenient for road users, and the Roads Service has therefore objected to the application.

Other Issues

- 7.16** An updated bat survey was undertaken in 2013, but did not find any evidence of bats roosting on the site. A previous bat survey undertaken during 2006 also found no evidence of bat roosting but did record brief foraging by a common pipistrelle bat. Of the 30 trees inspected only 4 appeared to have any potential as bat roosts. These trees are located at the western end of the site and are amongst those which it is proposed to remove; however in the absence of any evidence of current use by bats there would not appear to be any impact upon the species. However, SNH have noted that in order to comply with legislation the site will require to be re-surveyed before development occurs on site. Whilst the site has become overgrown and is doubtless providing a habitat for some wildlife, no other protected species are likely to be affected by its redevelopment.
- 7.17** Other issues raised by objectors include the relationship of the site with a nearby Conservation Area and with adjacent golf course. On the former point, the site is not immediately adjacent to the Conservation Area and it is not considered that the proposal would have any impact upon its setting. In relation to the golf course, whilst it would not be appropriate to prevent development of the site because of the risk of occasional ball strikes or concerns about liability claims, the golf course is a long-established use and it would be reasonable to expect the layout of the proposed development to be designed to minimise the risk of damage from stray balls. The applicant previously expressed a willingness to install ball-catch fencing but no details of this have been provided as part of the current application, and high fencing may be difficult to install amongst trees. Whilst the risk of damage or injury from golf balls is difficult to quantify and may not be significant, it is considered that insufficient information has been provided to show how this risk would be minimised.

8. CONCLUSION

- 8.1** The redevelopment of this site for residential development is supported in principle by the policies of the adopted and emerging development plans, and the amendments to the layout have gone some way towards addressing the reasons for the refusal of the previous similar application, especially in relation to safeguarding the privacy and amenity of immediate neighbours. However, it is considered that the proposal would still detract from the character and appearance of the area by reason of the incongruous relationship of existing and proposed houses at the south of the site, and overall the proposal fails to minimise the loss of protected trees which contribute to the appearance of the area. Furthermore, those alterations to the layout which have been made to address the previous privacy problems have resulted in the new layout having

an unsatisfactory road design within the site, which would detract from the safety and convenience of road users.

9. REASONS FOR REFUSAL

- 1. The proposed design fails to respect the character and amenity of the surrounding area by reasons of its visual relationship with neighbouring properties within the street scene, and its failure to minimise the loss of protected trees. Accordingly, the proposal is contrary to Policies GD1, H4 and E5 of the adopted West Dunbartonshire Local Plan 2010, Policies BC3, DS1 and GN5 of the emerging West Dunbartonshire Local Development Plan and the supplementary guidance “Residential Development: Principles for Good Design”.**
- 2. The proposed road layout fails to make adequate provision for the turning of vehicles, does not accord with the standards specified in the Council’s adopted Roads Development Guide, and would potentially detract from the safety and convenience of road users. Accordingly, the proposal is contrary to Policy T4 of the adopted West Dunbartonshire Local Plan 2010 and Policy SD1 of the emerging West Dunbartonshire Local Development Plan.**

Richard Cairns
Executive Director of Infrastructure and Regeneration
Date: 10 August 2015

Person to Contact: Pamela Clifford, Planning & Building Standards Manager,
Housing, Environmental and Economic Development.

email: Pamela.Clifford@west-dunbarton.gov.uk

Appendix: None

Background Papers:

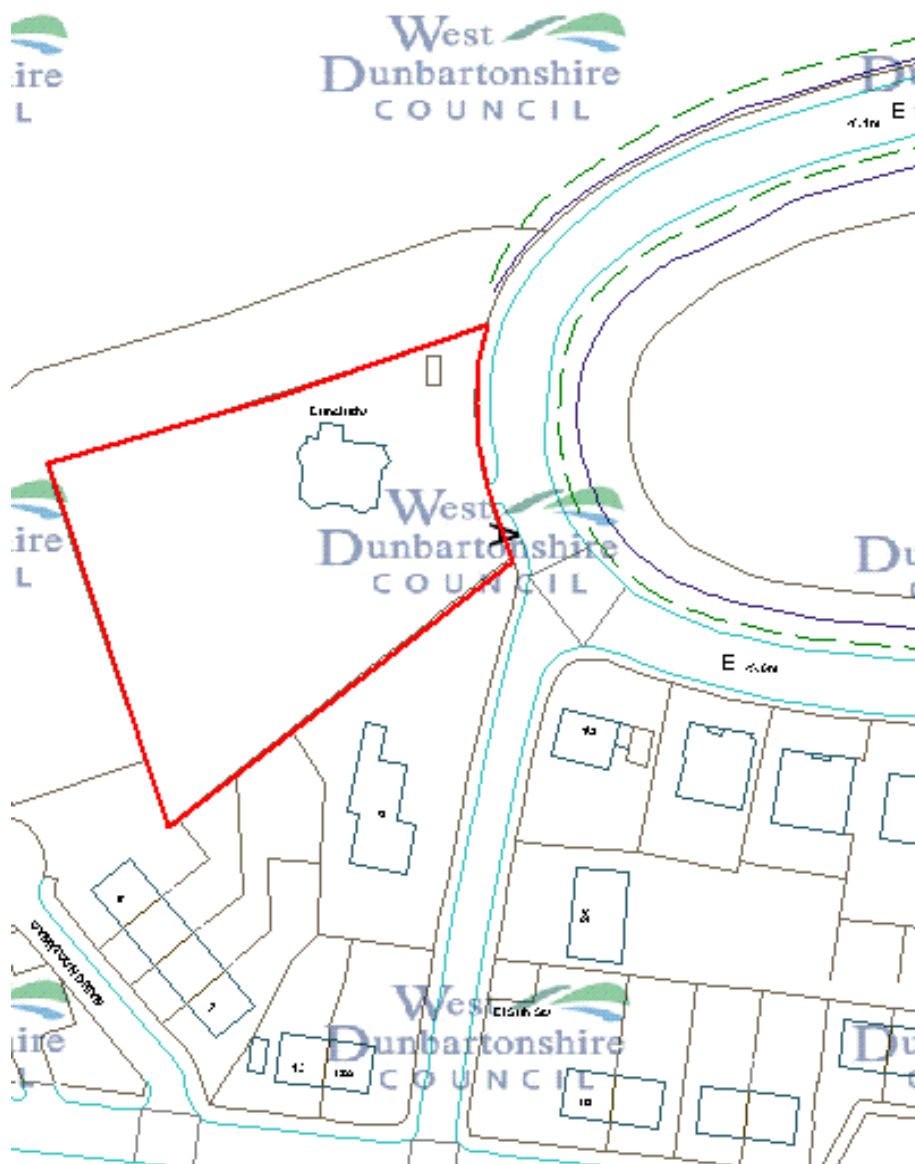
1. Application forms and plans.
2. West Dunbartonshire Local Plan 2010
3. West Dunbartonshire LDP Proposed Plan(2013)
4. Consultation Responses
5. Representations

Wards affected: Ward 5 (Clydebank Central)

DC15/027

**Erection of 6 flats and 4
houses with associated
landscaping, access road
and boundary treatments**

**Housing Development At Former Site Of
Dunclutha
Parkhall Road
Clydebank**



WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 26 August 2015

DC15/123 Change of use of from retail unit (class 1) to office (class 2) and installation of new entrance doors at 65 High Street, Dumbarton by Cube Housing Association.

1. REASON FOR REPORT

- 1.1** This proposal is a departure from the Development Plan, but it is recommended for approval. Under the terms of the approved scheme of delegation it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Grant** full planning permission subject to the conditions set out in Section 9 below.

3. DEVELOPMENT DETAILS

- 3.1** This application relates to a retail unit situated on the southern side of Dumbarton High Street. The unit measures approximately 200m² in area and is currently occupied by a gift shop. The property is on the ground floor of a four storey tenement building with flats on the upper floors. Within the surrounding town centre there are a mix of business uses including shops, banks, offices, bookmakers, public houses and hot food takeaways. To the rear of the site there is a service yard and a public car park.
- 3.2** Planning permission is sought to change the use of the retail unit to an office for Cube Housing Association. In terms of physical works to the building it is proposed that new entrance doors would be installed on the front elevation, while the existing large shop front windows would be retained. Internally, a reception, waiting area and interview room would be created at the front of the unit, and towards the rear of the unit there would be a meeting room, manager's office, open plan office area and tea prep area. The office would be open Monday to Friday 9am to 5pm, and would have a maximum of six housing officers and a manager, although due to the nature of their work it is unlikely that all staff will be present in the office at the same time. The office would be arranged so that staff can undertake their daily duties and residents can visit the office, usually by appointment, to discuss their requirements. Currently, the applicant's housing stock is administered from an office in Maryhill, but the Association has increased its stock within the Dumbarton

area and requires a more local facility for the convenience of its tenants and the effective management of the housing stock.

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Roads Service has no objections to the proposal.

5. REPRESENTATIONS

- 5.1** None.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Local Plan 2010

- 6.1** The site lies within Dumbarton town centre, where Policy RET5 states that applications for non-retail uses will be favourably considered where they contribute to the vitality and viability of the town centre and do not conflict with other local plan policies. The site is also designated as being within the Dumbarton core retail frontage, where Policy RET6 seeks to protect and enhance retail and commercial function by encouraging new and improved retail floor space. In the case of ground floor units within the core frontage there is a presumption against changes of use of existing retail (Class 1) uses to non-retail uses. Applications for any change of use from a shop to a non-retail use will only be permitted where it can be satisfactorily demonstrated that such a change would reinforce and revitalise the centre and would not adversely affect the character and amenity of the area.
- 6.2** The proposal would involve the change of use of a ground floor retail unit within the retail core to a non-retail use, which is discouraged by Policy RET6 except where a non-retail use can satisfactorily demonstrate that such a change would reinforce and revitalise the centre and would not affect the character and amenity of the area. The proposal is therefore in principal a departure from the development plan, however, it is considered that the proposed use would contribute positively to the vitality and viability of the town centre and would not have a detrimental impact on the character and amenity of the area. This matter is discussed further in Section 6 below.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan

- 7.1** On 8 April 2015, the Council advertised its intention to adopt the West Dunbartonshire Local Development Plan, incorporating all of the Examination Report recommended modifications (with the exception of those relating to the inclusion of Duntiglennan Fields, Duntocher as a housing development opportunity). On the same date, the Council advised the Scottish Ministers of

its intention to adopt the Plan. The policies referred to below therefore incorporate the accepted recommended modifications. The formal adoption of the plan is presently with the Scottish Ministers.

- 7.2** The Dumbarton Town Centre and Waterfront “Changing Place” section of the LDP supports a strong retail core and recognises that non-retail uses also make a town centre. The site is included within the core retail area and policy SC2 outlines that proposals for change of use of ground floor Class 1 uses within the core retail areas will be assessed in terms of:
- a) whether the change would significantly reduce the retail offer of the core retail area or parts of it;
 - b) whether the change would lead to the concentration of a particular use to the detriment of the town centre’s vitality and viability;
 - c) the contribution the proposed use would make to the vibrancy of the town centre by increasing footfall;
 - d) the availability and suitability of other locations in the town centre for the proposed use to locate; and
 - e) whether the unit affected by the proposal has been vacant and suitably marketed for retail use.

The proposal is not consistent with Policy SC2 as there are other locations within the town centre which could be used for the facility, and because the unit is not currently vacant. However, these issues are discussed below and it is considered that material considerations are sufficient to overcome the departure from this policy.

Scottish Planning Policy (SPP)

- 7.3** The SPP indicates that planning for town centres should be flexible and proactive, enabling a wide range of uses which bring people into the town centre. The planning system should encourage a mix of uses to support vibrancy, vitality and viability throughout the day and into the evening.

Loss of Retail Unit

- 7.4** The unit is currently occupied by a gift shop, but the applicant has indicated that this is only on a month by month lease. Prior to the current tenant, the premises have been occupied on and off by a succession of short-term tenants since the last long term tenancy ended 7 years ago. The applicant has indicated that they will lease the premises on a long term basis and intend to invest in the unit to improve its condition. They submit that the presence of a long term tenant in a modernised unit will help to improve the visual amenity of the town centre and make a positive contribution to the vitality and viability of the town centre.
- 7.5** Within the Dumbarton High Street area, including the Artizan Centre on College Way, there is a relatively high proportion of vacant units, including around 19 vacant units of various sizes within the core retail area. The application does not satisfy the vacancy and marketing criteria specified by the policy; however it is considered that the proposed use will bring a long term tenant to this unit where members of public will visit the unit on a daily basis. It will make contribute to the vitality and viability of the town centre and

will complement adjacent uses and would not change the character of this part of the town centre.

Availability of Alternative Sites

- 7.6** The applicant was asked to explain whether any alternative sites were considered, such as upper floor offices or shop units outwith the retail core. The applicant did consider a number of other premises, but none of these was judged to meet their requirements. The housing association requires its office to be readily accessible so that tenants can visit it easily, including tenants with mobility issues. Upper floor accommodation is not ideal in this respect, even in cases where the premises has a lift. Whilst there is a range of vacant shop units within the town centre, the majority of these are actually within the designated retail core.

Suitability of Proposed Use

- 7.7** There are a significant number of class 2 uses within the High Street, including banks, betting shops and solicitors' offices. While the proposal would introduce another Class 2 use to the town centre, such uses are reasonably spread across the High Street, and it is not considered that there is such a concentration of Class 2 uses as to have a detrimental impact on the vitality and viability of the town centre. It is considered that the Housing Association is likely to attract a reasonable number of visitors, and the provision of this facility will improve services to housing association tenants in the local community.

8. CONCLUSION

- 8.1** The proposal involves a non-retail use within the core retail protection area; however, the proposal would provide a long term tenant that would complement the existing uses within a mixed area of the town centre. Restricting the use of the unit so that it could not be used as a betting office, pay day loan shop or pawn brokers would ensure that the development would not have a detrimental impact on the economic wellbeing of the community. It is considered that the proposal would therefore contribute positively towards the vitality and viability of the town centre and can therefore be justified in terms of the policies of the adopted local plan and proposed local development plan.

9. CONDITIONS

- 1.** Notwithstanding the terms of the Town and Country Planning (Use Classes)(Scotland) Order 1997, or any subsequent order amending, revoking or re-enacting that Order, this consent does not allow the premises to be used as a betting office, pawnbrokers or pay-day loan shop, unless a separate application for planning permission is submitted.

Richard Cairns
Executive Director of Infrastructure and Regeneration
Date: 10th August 2015

Person to Contact: Pamela Clifford, Planning & Building Standards Manager,
Housing, Environmental and Economic Development.

email: Pamela.Clifford@west-dunbarton.gov.uk

Appendix: None

Background Papers:

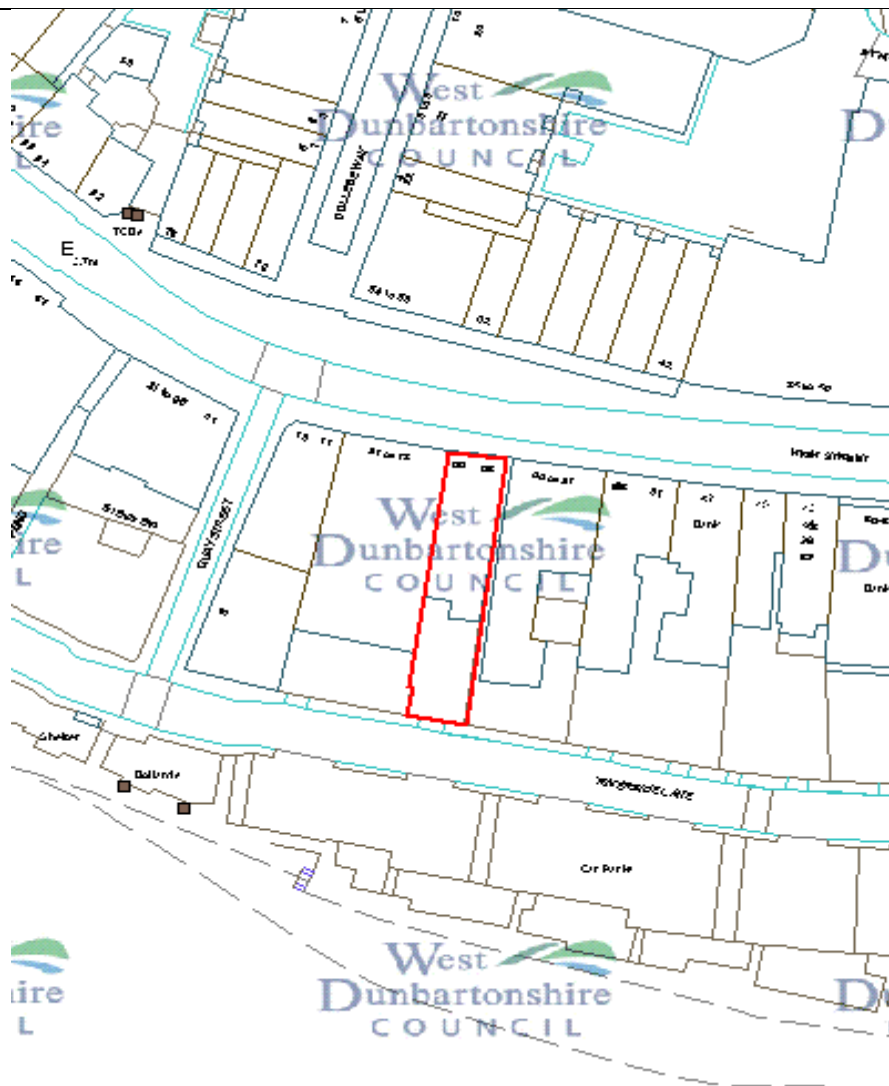
1. Application documents and plans
2. West Dunbartonshire Local Plan 2010
3. West Dunbartonshire LDP - Proposed Plan
4. consultation responses
5. Scottish Planning Policy

Wards affected: Ward 3 (Dumbarton)

DC15/123

Change of use from retail
unit (Class 1) to Office
(Class2) and installation of
new entrance doors

65 High Street
Dumbarton
G82 1LS



WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 26 August 2015

Subject: Annual Review of Quarries and Landfill Sites**1. Purpose**

- 1.1** To update the Committee on the annual monitoring of the two quarries and two landfill sites in the West Dunbartonshire Council area, and the progress made on the renewal of restoration bonds for two of the sites.

2. Recommendations

- 2.1** That **Committee note** (a) the outcomes of the site visits outlined in Appendix 1; (b) the progress made on the renewal of restoration bonds for Dumbuckhill Quarry and Rigangower; and (c) agree that a further update be provided to the Planning Committee in August 2016.

3. Background

- 3.1** Reports were considered by the Planning Committee in April and August 2014 which informed the Committee of the progress of operations and restoration of the two quarries and two landfill sites in the Council area. It also recommended that an annual report be presented to the Committee in August following the formal monitoring of the sites in May/June. This report is to provide details of the progress of the quarry and landfill sites, updates on the compliance monitoring and the assessment of bonds.

4. Main IssuesAnnual Monitoring of Sites

- 4.1** One of the procedures agreed by the Committee in April 2014 was the instigation of a more formal monitoring arrangement for such sites, including an annual site visit to monitor progress and compliance. The second annual monitoring visits were carried out during June-August 2015 with all sites inspected by officers from the Development Management team. A summary of these visits is provided in Appendix 1. In general, all four sites are progressing well operationally, but as they vary in the restoration requirements set out by the planning consents the extent of restoration that has been carried out on each site and the bond requirements varies.

Auchencarroch Landfill Site

- 4.2** Landfill is ongoing at the site and the operator is preparing a new cell for use later on this year. The recycling centre is now fully operational and levels of recycling have increased as methods are refined. Work on implementing the

dry heathland habitat restoration on the capped and seeded cells is running behind schedule (these areas currently being acidic grassland). A meeting is therefore being arranged with the operator to discuss the timescales for habitat restoration. Following this meeting, the Technical Working Group, whose members are involved in monitoring the habitat management of land outwith the operation landfill area, will reconvene (members of this group include planning officers, the site operator, SNH and RSPB).

- 4.3** A review of the value of the restoration bond for Auchencarroch Landfill was carried out in 2014 and it concluded that the implementation of the agreed Habitat Management Plan would not be fully covered by the existing restoration bond. The current value of the bond is £120,000 and dates back to 2008, whereas the report recommended that this be increased to £432,755 to take into account inflationary increases and (more importantly) to include requirements that were omitted from the previous calculations such as landscape planting and seeding. It had previously been assumed that planting would comprise only locally sourced native species. Aftercare costs have also increased, as successful establishment of heathland on the landfill cells relies on suitable brash material from an adjacent site without compromising that habitat and the implementation of this will require a specialist contractor and long-term monitoring.

- 4.4** The findings of the report have been discussed with the operators Barr Environmental, and they have agreed in principal that the bond should be reviewed. This is linked to the discussions on the habitat enhancements (extent and phasing) and the two matters will be progressed together. The site is also covered by a bond in place with SEPA as part of the waste management licence agreement which covers the extensive landfill gas and leachate infrastructure on the site.

Dumbuckhill Quarry

- 4.5** Since the last visit blasting has continued along the north and west faces of the quarry. A new mobile crusher plant has been installed and aggregate output has increased. The operators have sought to amend the operational areas of the quarry, but a planning application for this was refused in May 2015. It is understood that the operators intends to appeal against that decision to Scottish Ministers.
- 4.6** The main restoration works at Dumbuckhill Quarry are proposed to be carried out on cessation of use of the quarry, with the upper benches to be restored once these agreed levels were reached. This work has not yet been carried out, since the outcome of any appeal will have implications for the final bench levels and the tree planting thereon.
- 4.7** A review of the value of the restoration bond for Dumbuckhill Quarry was also carried out in 2014. It concluded that the scope of restoration work, quantities and rates are not adequately covered by the existing bond, which was agreed in 2003 and has a current value of £153,020. A review of the calculations, taking into account inflation, increases the cost of the approved restoration scheme to £519,430. This large increase is mainly due to the fact that the

previous bond calculations wrongly assumed that there were stockpiles of topsoil/subsoil on site, whereas in fact the restoration of the quarry floor would require soil to be imported which would add an estimated £258,942 to the cost.

- 4.8** However, this importation of an estimated 15,100 cubic metres of soil for woodland planting does raise sustainability issues (this volume would need to be transported by lorry) and the report suggests that selected overburden from the quarry could be used instead. At present there are areas of natural regeneration of tree, shrub and herbaceous species which indicate that site-won materials can be a suitable restoration material. It is suggested that this method could be tested on a sample area within the site to determine its acceptability for the rest of the site. Restoring the site without the need for significant importation of soil would not only be more sustainable but would also significantly reduce the cost of restoration works.
- 4.9** The findings of the report have been discussed with the operator and it was agreed that using selected overburden from the site and encouraging natural regeneration of species would be acceptable method of restoring the site. As a short-term measure they have agreed a new bond of £200,000 and, dependent on the outcome of the appeal, a further increase will be negotiated to more closely reflect the revised amount recommended by the review.

Rigangower Landfill

- 4.10** Since the last visit, material has continued to be deposited on site in advance of the March 2016 deadline for completion of infilling. It is only after this period that any site restoration would be undertaken. It was evident at the site visit that some areas on site are now at their final levels.
- 4.11** However, since the last visit, the Planning Committee has decided that it is minded to grant planning permission to extend the area of landfill and allow existing landfill material to be excavated in order to create secondary aggregates. A bond sufficient to cover the restoration costs forms part of the application, and the permission will be issued upon completion of a Section 75 planning obligation securing the bond and associated site restoration.

Sheephill Quarry

- 4.12** Sheephill Quarry has a historic planning permission with very few conditions controlling operations on the site or restoration requirements. The site is therefore operating in compliance with its current permission. However, as the Committee is aware the site is subject to a long-running ongoing application for a Review of Minerals Permission (ROMP) which would result in more appropriate new conditions. Unfortunately, matters have not progressed significantly since last year due to land ownership issues. The site was visited at the same time as the adjacent Rigangower landfill site which is under the same ownership. A “concrete products” area has now been formed on site, which consists of a concrete hardstanding area with aggregate bays, a mobile horizontal cement silo, a mobile generator, 20 foot storage. Quarrying is still taking place in the same area of the site as last year.

5. People Implications

- 5.1** Staff time will be required to take forward any issues which arise from the monitoring exercise. It is anticipated that this additional workload can be accommodated within existing staff resources.

6. Financial Implications

- 6.1** Financial implications could arise in the future in the event of the failure of one of the site operators without a restoration bond, or the bond was not sufficient to cover the required restoration of the site.

7. Risk Analysis

- 7.1** There is a risk to the Council if the quarry and landfill sites fail however it is not of the same magnitude experienced by some Council's recently with the open cast coal industry. There are financial and reputational risks to the Council if the sites are not formally monitored or the bonds are not adequate to cover the full cost of implementing the agreed restoration proposals. There is a higher risk to the Council if no bonds are in place and the operator fails.

8. Equalities Impact Assessment (EIA)

- 8.1** It is not considered that the report or recommendations raise any equality issues.

9. Consultation

- 9.1** No consultation was necessary for the preparation of this report.

10. Strategic Assessment

- 10.1** The report supports the Council priorities.

Richard Cairns

Executive Director of Infrastructure and Regeneration

Date: 10th August 2015

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Housing, Environmental and Economic Development.

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Appendices: Appendix 1: Monitoring of Quarry and Landfill Sites 2015

Background Papers: None

Wards Affected: All

Appendix 1

Monitoring of Quarry and Landfill Sites 2015

Auchencarroch Landfill Site, Jamestown
Dumbuckhill Quarry, Milton
Rigangower Landfill, Milton
Sheephill Quarry, Milton

Auchencarroch Landfill, Jamestown

Date of Site Visit: 15 June 2015

Attended by: Karen McChesney
Lorna Ramsey

Site Notes:

Officers were shown around the site by Gavin Ramsey (Barr Environmental - Director) and Hector MacAlister (Compliance Manager). The tour included a visit to the active cells and the new recycling plant which is now operational.

The active cell, E1, is almost completely filled and has been partially covered with soil where the fill levels have been reached. The cell will then be capped with top soil and seeded for grass as an interim measure until the levels settle. Cell E2 is being prepared for landfill and has been scraped and lined ready. The access road has been laid with aggregates. It is likely that this cell will be brought into use within the next few months.



A tour of the recycling centre took place where the streaming of non-commercial waste was being undertaken to lift out any waste capable of being recycled such as garden soils, metals, plastic bottles, etc. As a result of the recycling that is being undertaken, there has been a continual reduction in the proportion of waste received that is being deposited as landfill.

In general, work is ongoing at the landfill site with a steady stream of vehicles entering and leaving the site, with processing through the recycling centre before deposits of landfill are being made. The permission allows a maximum of 116 vehicles to deposit waste at the site on a daily basis, with the total amount of waste material being imported set at a limit of 225,000 tonnes per annum and this is being complied with.

Compliance with Conditions:

There are two separate planning permissions: DC07/233 which covers the whole of the landfill site and DC13/216 for a waste recycling facility.

DC07/233

The site is operating as an active landfill site, and although it is evident that landfill cells are filling up this is happening at a slower rate than had been anticipated due to improved recycling rates. As a consequence cell E1 (which was an active cell for landfill last year) is still to reach its final levels.

The site is being partially restored by capping and grass seeding as the landfill is deposited across the site. Work on the habitat enhancement is to take place once the cell levels have settled.

The majority of conditions attached to this planning permission require on-going compliance. In particular, the site operator is required to provide annual reports in relation to progress on the habitat management proposals approved. A Technical Working Group made up of planning officers, the site operator, SNH and RSPB, is required to meet annually to monitor the habitat management of land out with the operation landfill area and this has not happened in the last few years.

DC13/216

There are a number of conditions which require on-going compliance in relation to the waste treatment facility. The building is now operational and the conditions attached to this planning permission have been complied with. There are some conditions which will require the site to be restored in accordance with the restoration plan for the whole of the landfill site (DC07/233) in due course.

There is a requirement for landscaping to be undertaken to help screen the building and this has already been agreed. The landscaping is required to be completed by the end of the next appropriate planting season and now that the building has been completed and is operational the applicant has been asked to confirm when these works will be carried out.

Any Breaches/Issues:

There is a bond in place which relates to site restoration. Work has been carried out by external consultants who confirm that the bond amount is no longer adequate and needs to be updated. The site operators have agreed to this in principle and the mechanism for this are being discussed. The site operators also need to confirm the phasing for the habitat management proposals for the completed cells and the Technical Working Group needs to re-convene once progress has been made on the habitat proposals.

Conclusions:

The operation of the site is generally in accordance with the planning permissions and the conditions granted. However on-going monitoring will be required to ensure that the habitat formation of completed cells to dry heathland is progressed as per the approved plans and that the site continues to operate in accordance with the relevant planning permissions.

Continued progress on the updated restoration bond is required to ensure the site is fully restored on completion of the landfill activities. Action on the habitat management proposals need to be progressed involving the technical working group in the next month.



Auchencarroch Landfill Site – Aerial View (2013)

Dumbuckhill Quarry, Milton

Date of Site Visit: 17 June, 2015

Attended by: Karen McChesney
Lorna Ramsey

Site Notes:

Officers were shown around the site by Kemp Lindsay, Estates Director. All the areas visited in May 2014 were revisited including the perimeter edge of the quarry, viewpoint, TPO area and the operational floor. Work was on-going on the quarry floor and around one side of the perimeter road.

The biggest difference from the May 2014 site visit is that a new mobile crusher plant is now in place which is able to break down large rock into smaller sizes to then be sorted in the mobile grading plant. This means that breaking down at source by digger is no longer necessary and shortens the process. Piles of graded materials are being stored on the quarry floor and the overall space is tight. Blasting has occurred to release new areas of stone. Work is to proceed along the N and W faces with the E face too steep to carry out work (benches need to be adjusted).

Output has increased in the quarry over the past year with the introduction of the mobile plant crusher but it still falls short of the tonnage required to be removed to ensure the final levels are reached by the end of the planning consent.

Compliance with Conditions:

There has been compliance with the noise limits conditions and blasting notification to Environmental Health. Regular noise surveys are carried out and they are all below the recommended limits. Letters advising of the noise levels recorded have been receipted by Planning and Building Standards.

The majority of restoration on the site is required to be carried out on cessation of the quarry operations. The exception to this is the upper benches, as discussed below. However, some of the higher benches are already regenerating naturally in places and there is evidence of a pair of nesting birds on the cliff face. No additional restoration is required to be carried out at this stage. The bond amount has now been increased to £200,000 through a legal agreement.

Progress across site will be updated in early 2016 and the operator will forward a copy of this once it is available as required by the planning condition 39.

Any Breaches/Issues:

Condition 47 – tree planting above the upper benches has not been carried out by previous owner. The new operator is still looking to extend into these areas and a planning appeal is likely to be submitted. The condition should therefore be reviewed further to the outcome of this appeal.

Condition 29 – as previously, there was no soil storage on site when site was bought over. It is likely that given geology of site and long historical use of the site there was not much overlying soil. This means that either soils will need to be imported or whinstone by-products used and should be included in any restoration bond and plans.

Conclusions:

In the past year, the operation of the site has progressed in accordance with the planning permission. An increased bond has now been agreed and depending on the outcome of the appeal to alter the areas of quarrying, the restoration for the site will need to be reviewed.



Dumbuckhill Quarry, May 2014



Dumbuckhill Quarry, June 2015



Dumbuckhill Quarry, May 2014



Dumbuckhill Quarry, June 2015

Rigangower Landfill, Milton

Date of Site Visit: 5 August 2015

Attended by: Bernard Darroch
Stewart MacCallum

Site Notes:

Both officers were shown around the entire site which is located in close proximity to Sheephill Quarry by Andrew Thompson. During the site visit, operations were ongoing with vehicles depositing inert waste materials on the site before being spread and compacted. There are no restrictions on the number of vehicles that can deposit material on a daily or annual basis and there is no restriction on the quantity of waste which can be deposited. The only restrictions relate to the finished ground levels which have to be completed in accordance with the approved plans. The planning permission for the site expires on 25 March 2016 and the landfill site is nearing the end of its life.

Certain areas within the site are now at their finished levels and require to be regraded before site restoration could commence.

The landfill site is quite remote and there were no issues raised with the work that was being undertaken on site at the time of the site visit.

Compliance with Conditions:

There are a number of conditions attached to the planning permission (DC04-458) which require on-going compliance. The most significant conditions which require to be complied with relate to the restoration of the site. In order to restore the site, there are stockpiles of subsoil and topsoil being stored. The restoration that is to be undertaken involves a 300mm layer of subsoil being spread on top of the overburden and then finished with a layer of topsoil in order to complete the development in accordance with the approved levels. The restoration only requires to be implemented on completion of the infilling works which have permission to continue until 25 March 2016.

In addition to the restoration, for a period of 15 years after the date of completion of the infilling, the applicant shall be responsible for the monitoring of the site for the generation and migration of landfill gases, with the monitoring tests to be undertaken four times per year unless alternative intervals are agreed with the Planning Authority. Details of the proposed gas monitoring are to be submitted within 6 months of the proposed completion of the infilling. However these requirements would be superseded if the recent application awaiting conclusion of the legal agreement is implemented.

Any Breaches/Issues:

There were no issues apparent during the site visit which would require any further action to be taken at the present time. However on-going monitoring will be required to ensure that the site is fully restored in accordance with the aforementioned planning permission once the infilling is completed or the permission has expired.

Conclusions:

The landfill site is being operated in a satisfactory manner at the present time. However, a planning application (DC14/160) has been approved subject to the conclusion of a legal agreement to ensure that a suitable restoration bond is in place. This permission will extend the area of landfill and involve the excavation of previously landfilled materials and imported materials, to create secondary aggregates. In effect, it will extend the period of time that the site can be used for landfill purposes and delay the restoration of the site for up to 30 years.

Ringangower Landfill Site, 2014



Ringangower Landfill Site, 2014



Ringangower Landfill Site, 2014

Sheephil Quarry, Milton

Date of Site Visit: 5 August 2015

Attended by: Bernard Darroch, Stewart MacCallum

Site Notes:

A joint visit was carried out with Rigangower as both sites are under the same ownership.

Current Status of Operations:

Current reserve

Annual extracted tonnage is 384,824 tonnes (from 1st November 2013 – 31st October 2014, the operator's financial year) which is slightly less than last year. The remaining reserve is measured at 24.21 m tonnes.

A plan has been submitted indicating the existing operations at February 2015 which shows that operations are moving towards Sheephill and the east and south of the quarry boundary. The operator is still working in the same area of the site as last year. The upper southern face will be reduced as indicated in the EIA which would make the quarry more visible especially from the opposite side of the Clyde. Since last year there has been the development of the "Concrete products" area which consists of a concrete hardstanding area with aggregate bays, a mobile horizontal cement silo, a mobile generator, a 20 foot storage container.

Compliance with Conditions:

The planning consent to be monitored was the 1949 consent which contains only seven conditions. The Review of Minerals Permission (ROMP) has not been agreed and therefore the conditions of the ROMP cannot be monitored until they have been agreed.

Operating Hours:

The standard working hours are 07:00-17:30 Monday to Friday and 07:00-13:00 on a Saturday and the quarry also does maintenance over the weekend. Outwith these hours working operations tend to be only to meet particular contracts such as road contracts.

Blasting:

Usually once a week during the hours of 1000-1600 Monday to Friday with no blasting at weekends as per the ROMP condition.

Restoration

No restoration has commenced on site, however they indicated that in the next few years they may carry out progressive restoration whereby the upper faces would be soiled to encourage plant growth. A condition of the ROMP requires a restoration masterplan to be submitted. There is no restoration bond on this site due to the age of the permission.

Any Breaches/Issues

There were no issues identified during the site visit. It is important to get the ROMP agreed to allow the quarry work under modern conditions especially restoration works, blasting operating hours, etc.

Conclusions

The ROMP and extension application has not been progressed this year due to on-going legal issues. It is hoped that the legal issues can be concluded to allow the ROMP to be agreed this coming year.



Sheephill Quarry, 2014



WEST DUNBARTONSHIRE COUNCIL**Report by the Executive Director of Infrastructure and Regeneration****Planning Committee: 26 August, 2015**

Subject: Hardgate Hall and Adjacent Land at Glasgow Road, Hardgate**1. Purpose**

- 1.1** To update the Committee on the issues outlined in the report to the Planning Committee in June 2015.

2. Recommendations

- 2.1** It is recommended that the **Committee note** the options for enforcement action, and that the following actions will be undertaken
- a Building Warrant Enforcement Notice requiring reinstatement of the perimeter fencing;
 - a Listed Building Enforcement Notice requiring that the building be made wind and watertight.

3. Background

- 3.1** The condition of Hardgate Hall and the adjacent land to its side and rear has been the subject of complaints from local residents, with the planned redevelopment of the site for flats having apparently been abandoned. A report was presented to the Planning Committee on 24 June 2015 (attached as Appendix 1), detailing the planning history and current condition of the site, and putting forward options for addressing the immediate problems. It was agreed that a meeting would be sought with the site owners to discuss what was needed to make the site suitably secure, and to explore the owner's intentions for the site. Also, it was agreed that the various planning and building standards enforcement powers would be explored, with a view to finding a longer term solution for the site.

4. Main Issues

- 4.1** The problems arising from the site are as follows:
- Unsecured boundaries allow ready unauthorised access to the abandoned construction site, which may be a risk to persons entering the site;
 - Unsecured access to listed building interior increases the risk of further malicious damage, endangering the future of the building;
 - Deteriorating condition of listed building generally, through exposure to elements, loss of slates and removal of interior;

- Unsightly condition of site, including temporary hoardings, growth of weeds, abandoned building materials, abandoned foundations and stagnant water;
- Risk of anti-social behaviour on the site with resultant impacts upon local residents

Actions To Date

- 4.2** Responsibility for site security and safety lies with the site owners, and the agent for the building warrant was made aware of its condition and asked to secure both the land and the listed building as soon as possible. However due to a slow response, and with the onset of the summer holidays, the Building Standards Section exercised its powers to take direct action to secure the building from unauthorised access. The three accessible open windows on the building have been boarded up and the unsecured roller shutter has been securely locked. The temporary wooden access gates at the front of the Hall adjacent to Glasgow Road were also re-secured. The Council's costs in arranging this work will be recharged to the owners under the Building (Scotland) Act 2003. This has addressed the immediate issue of people being able to enter the building, but the other problems remain.
- 4.3** An officer from Building Standards has met with the architect on the site, and a further meeting has been requested with the site owner in order to explain the current issues and to establish the owner's intentions, however this has not taken place despite the request. The architect has however indicated that their client's intention is to sell the site. Whilst it is to be hoped that any new owner would move to develop the site promptly, there may well be a delay before a suitable buyer comes forward, and in the meantime there is a risk that the problems with the site will persist or intensify. It may therefore become expedient to employ further enforcement powers.
- 4.4** In order to pursue some forms of enforcement action it is first necessary to establish the correct ownership of the site. A title search has been carried out by Legal Services and the site (including Hardgate Hall) is registered to Hardgate Glasgow Ltd., based on the Isle of Man. However, the most recent amendment to building warrant for site stated that Waterman Capital Ltd was the applicant. As both companies were based at the same address it is believed that they may be linked. To clarify ownership, a formal Notice has been issued to both companies under Section 272 of the Town and Country Planning (Scotland) Act 1997 and Section 37 of the Building (Scotland) Act 2003 on 27 July, 2015. These Notices require each company to provide in writing details of the nature of their interest in the land, and the name and address of any other person known to them as having an interest in the land. Responses are awaited at the time of writing this report.

Building (Scotland) Act 2003

- 4.5** During a previous inspection, Hardgate Hall was found to be insecure and access was freely available via the front door shutter which was in an unlocked and open position. Access was also relatively easily available via 3 unsecure ground floor windows and there was evidence that some of these windows had been used to gain access into the building. Internally the upper

level balconies have been removed and some areas of the suspended timber ground floor of the premises were open and rotten in various locations. The Hall was deemed to be dangerous by Building Standards and using emergency powers under section 29 of the Building (Scotland) Act 2003, arrangements were made for the premises to be secured in order to reduce the danger by preventing people from accessing the Hall.

- 4.6** At the time of writing this report reinstatement of the unsecured areas of temporary fencing to the greater perimeter of the construction site has still to be carried out by the developer of the site/site owner. The Building Warrant for the new flats at the site includes the statutory condition that the work will comply with the building regulations. Work to construct the flats has clearly started and as the site has been partially developed the building regulations requires the site to have appropriate protective works provided to it. The Building (Scotland) Act 2003 makes provision for the Council to serve a Building Warrant Enforcement Notice requiring the work to comply with the approved Building Warrant. In the circumstances, it is considered appropriate to serve a Building Warrant Enforcement Notice under Section 27 on the owner, requiring them to reinstate the perimeter fencing in the interests of public safety. Officers will issue this notice once the ownership issue has been clarified. Having issued the notice and following a minimum 28 days after the date the notice takes effect if the owner has failed to carry out the work specified in the notice, the Council have the power to do the work in default and recharge the costs incurred.

Town and Country Planning (Scotland) Act 1997

- 4.7** There does not appear to be any current breach of planning control on the site, as there is no evidence of the owner having carried out works without the benefit of planning permission. Rather, the problem is that they have partially implemented a planning permission but not completed it. Whereas planning permission is subject to a statutory requirement that work must commence within a specified period, there is no general limitation on when a development must be complete. However, the Council does have the power to impose such a date, by serving a Planning Completion Notice (S.61) if it appears that the development will not be completed within a reasonable period. Such notice would require the owner/developer to complete the approved planning permission within a specified period of not less than 12 months. Failure to comply with such a notice would invalidate the original planning permission and render the works which had already been carried out unauthorised. A normal Enforcement Notice (S.127) and related powers could then be employed to have the unauthorised works removed.
- 4.8** Whilst superficially attractive, this option would be of limited use in resolving the problems at the site. It is unlikely that service of a planning completion notice could make the owner complete the approved flats if it is not economic to do so. The removal of the foundations which have been formed would also do little to improve the overall appearance of the site, and may be counterproductive as it might increase the costs of developing the site, making it more likely that it would remain as wasteland for a longer period.

- 4.9** A notice requiring proper maintenance of land (commonly known as a “Wasteland Notice”) can be served in cases where the condition of land is adversely affecting the amenity of the area (S.179). Such notice could require (for example) the removal of the unused building materials, cleaning of graffiti from the listed building, repairing broken fencing and the cutting back of unsightly vegetation. However, whilst removal of the building materials and graffiti would be desirable these are a fairly small parts of the overall problem, and as the site would remain wasteland it is unlikely that a Wasteland Notice would achieve any significant or lasting improvement in the appearance of the site.

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- 4.10** As the condition of the listed building has been allowed to deteriorate, the Council could serve a Listed Building Enforcement Notice (S.34) requiring that the building be restored to the condition that it was in at the time of its listing in 2004 (or such other less onerous condition as may be considered expedient). This might require, for example, that the roofing slate be reinstated or that the building made wind and watertight. The owner could appeal against such a notice on various grounds, including if they considered that the works required would restore the building to a better condition than it was in at the time of listing, so there is potential for dispute about exactly what condition the building was in in 2004. Non-compliance with such a notice would allow the Council to take direct action and seek to recover costs (S.38), and also to report the owner to the Procurator Fiscal for potential prosecution (S.39). Although not without potential difficulties, use of these powers to require that the building be made wind and watertight would help to prevent the listed building from deteriorating further.
- 4.11** Where it appears that the owner of a listed building is not taking reasonable steps for its preservation, the Council may acquire the building at a cost which reflects the cost of the restoration works required (S.42), having first served a Repairs Notice giving the owner the opportunity to do these works themselves (S.43). This approach would obviously involve some financial risk to the Council, as it would potentially result in the Council being obliged to take ownership of the building and to pay for its repair. Even if the building were acquired at a minimal value, there would be a risk that the repair costs might exceed the building’s eventual commercial value. In view of the financial risks it would not be appropriate to pursue this route unless all other avenues had been exhausted.
- 4.12** Where there is an immediate risk of a listed building experiencing further damage, the Council can undertake urgent direct action to prevent this, having first given the owner 7 days to complete the required work themselves (S.49). Expenses may be recovered from the owner, who has a right of appeal against the having to pay these (S.50). There are three grounds of appeal: that some/all of the works were not necessary; that in the case of temporary works these were put in place for an unreasonable length of time; or that the costs specified were unreasonable or would cause the owner hardship. This power could potentially have been exercised in relation to making the listed building secure by refastening the window and door

shutters, but as explained above the required works were instead carried out under Building (Scotland) Act powers.

5. People Implications

- 5.1** There are no personnel issues associated with this report.

6. Financial Implications

- 6.1** In case of direct action being taken by the Council under any of the aforementioned powers, the Council would incur the costs of the works which would require to be taken out of the Planning and Building Standards budget, within which there is presently no provision for such works. Whilst it may be possible to recover such costs from the owner, this may itself give rise to legal costs.

7. Risk Analysis

- 7.1** If no action is taken there is a heightened risk of antisocial behaviour, further damage to the listed building and persons being injured on the site.
- 7.2** There is a risk to the Council that they may not recover their costs in terms of direct action, for example in the event of the site owner having financial difficulties.

8. Equalities Impact Assessment (EIA)

- 8.1** There are no equalities issues associated with this report.

9. Consultation

- 9.1** No consultation is required to be carried out.

10. Strategic Assessment

- 10.1** No strategic issues have been identified.

Richard Cairns
Executive Director of Infrastructure and Regeneration
Date: 10 August 2015

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Appendices: Appendix 1 – Report to 24 June 2015 Planning

Background Papers: None

Wards Affected: Ward 4 (Kilpatrick)

WEST DUNBARTONSHIRE COUNCIL**Report by the Executive Director of Infrastructure and Regeneration****Planning Committee: 24 June 2014**

Subject: Update on Hardgate Hall and adjacent land, Glasgow Road, Hardgate, Clydebank

1. Purpose

- 1.1** To inform the Committee of the condition of Hardgate Hall and the adjacent land to its side and rear, and to put forward options for addressing the present issues.

2. Recommendations

- 2.1** It is recommended that the **Committee note** the issues affecting the site and agree that officers seek a meeting with the site owners to discuss what is needed to make the site suitably secure and to explore the owner's intentions for the site. Thereafter the matter will be reported to the August 2015 meeting of the Planning Committee to update Members of progress, explore enforcement powers and to authorise planning enforcement action should that be expedient.

3. Background

- 3.1** Hardgate Hall is category "C" listed building located on the north side of Glasgow Road, Hardgate. It is a substantial two-storey stone building which was originally built as a church in 1844-45 and was later a public hall, but it has been vacant for over ten years. Planning permission and listed building consent were granted in 2005 and 2006 to convert and extend the building into 8 flats (decisions DC04/539 and DC05/209). Work never started and these permissions have since lapsed. Subsequent pre-application discussions about renovation and extension of the building took place in 2012, but did not progress to an application.
- 3.2** The land to the north and west of Hardgate Hall was formerly in separate ownership, and was once a dam for the old Hardgate Mill (which was on the site of Old Mill Garage). The site was vacant for many years and became overgrown. Although no longer a dam, the Cochno Burn flows through the middle of this land. Planning permission for the erection of a block of 25 flats on this land was granted on appeal in January 2011 (decision DC10/078). The applicant at the time was GK2 Developments Ltd., but it is understood that the site was sold to a developer, Waterman Capital (also known as

Waterman Group), who also acquired Hardgate Hall. Work commenced on building the new flats in March/April 2012.

- 3.3** Building contractors worked on the site over the summer of 2012, undertaking works which included clearing vegetation, forming a large retaining wall structure along the northern boundary of the site, forming gabion baskets along part of the burn bank, opening the south boundary wall for road access into the site at Glasgow Road, and constructing some of the foundations for the flats. However, work ceased in September 2012 due to financial difficulties. Despite assurances from the developer that these were being resolved, work has never recommenced. Portable cabins were removed from the site and it was secured with fencing around the perimeter. Since then the developers have on several occasions been required to attend to the site at the request of Building Standards officers to re-secure the fencing.
- 3.4** Following complaints about the condition of the site and reports of a fire at Hardgate Hall, officers from the Development Management and Building Standards teams visited the site in June 2015 to establish its condition.

4. Main Issues

Site Condition

- 4.1** Hardgate Hall remains structurally intact externally, although the rear part of the roof has been stripped of slates. Internally however the building is in a poor condition with floors missing, and due to the damage to the roof and some insecure windows the building is open to the elements. Whilst the windows and doors were formerly all boarded up, some of the window shutters have been removed by vandals or thieves and the building is therefore unsecure. The building was set on fire during May and the Fire Service attended, however the resultant internal damage was fortunately relatively minor.
- 4.2** The development site to the side and rear of the hall has now been inactive for over 2 years and vegetation is re-growing throughout the site. The ground is uneven, with some foundation trenches having been dug but never filled, and some of the concrete foundations which were formed are filled with stagnant water. Various pieces of construction debris such as concrete blocks, gabion baskets, reinforcement bars and a metal staircase have been left lying around the site.

Security and Safety

- 4.3** The site is effectively abandoned, with no manned security presence for either Hardgate Hall or the adjacent building site. The Glasgow Road frontage has a stone wall of varying height, with wooden site screen fencing behind. This screen fence has deteriorated and is now unsightly, and one of the security gates securing the entrance into Hardgate Hall's curtilage has been broken off. At the rear of the site, access from Cochno Road and from a footpath near Waulkmill Lane was formerly secured by Heras type fencing, but this has

been removed leaving the site unfenced. Both Hardgate Hall and the building site are therefore unsecured and readily accessible.

4.4 Local residents have expressed concerns over safety and security on the site, particularly given that school summer holidays are approaching. Having viewed the site, officers consider that there are three specific areas of concern:

- a) That the condition of the site and building may be a danger to persons entering the site (e.g. children). As a building site, it is subject to both building regulations and health and safety regulations and requires to be secured;
- b) That the condition of the listed building has been allowed to deteriorate, and it is at risk of further deterioration and/or malicious damage; and
- c) That the ongoing derelict condition of the site and building may continue to attract anti-social or criminal behaviour.

4.5 The responsibility for security and safety lies with the site owners. The owner has been made aware of the condition of the site and has been asked to secure both the land and the listed building as soon as possible. It is to be hoped that the owners will therefore address the issues themselves without undue delay. However, in the event that they do not do so it is considered essential that prompt action is taken to ensure the perimeter of the site and the building itself are made secure.

Danger to Persons

4.6 The Council has power under Section 30 of the Building (Scotland) Act 2003 for the repair, securing or demolition of a dangerous building which the local authority considers necessary. A notice under this Section would require that the owners repair and reinstate the site security fencing and secure the building to prevent unauthorised access. In the event of non-compliance, the Council would be able to take direct action to undertake the work itself, and to recover the costs of doing so from the owner. Recovery of costs in such cases is not always straightforward, particularly if the site owner has financial difficulties. Such notices can be served under delegated powers, and this will be pursued by the Building Standards Team if the owner does not deal with the issue promptly.

Deterioration of Listed Building

4.7 The Council has power under Section 49 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to take direct action to prevent the further deterioration of a listed building which is at risk through neglect or damage. In this case, appropriate works would be to secure the building from unauthorised access, and to place a temporary cover over the rear part of the roof which has been stripped of slates. The legislation provides that the Council's may recover its costs from building's owner. However, it is considered that the security of the site can in the first instance be best addressed under the aforementioned building standards powers. The potential for direct action under listed buildings legislation can be explored at the August meeting of the Planning Committee if the issue is not resolved.

General Condition of Site

- 4.8** If the resumption of the development is not imminent it would be desirable to improve the appearance of the site by repairing the fencing, removing graffiti from the listed building, and removing the waste building materials which have been left on the site. These could be achieved by way of an Amenity Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997. As with other enforcement powers, in the event of non-compliance with such a notice the Council could undertake the necessary work itself and seek to recover the costs from the owners. This option can also be explored in more detail at the August Planning Committee.

Longer-Term Solutions

- 4.9** Whilst the above powers may address the immediate security problem, the slow deterioration of the building and achieve some short term improvement in the appearance of the site, they would not provide a permanent solution. Planning Services will explore the various planning enforcement powers and this will be detailed at the August Planning Committee together with any recommendations.
- 4.10** Officers have contacted the site owners to explain the problems and to request a meeting to establish the owner's intentions for the site. The report to the August Planning Committee will inform Members of any progress, detail the enforcement powers available and to seek authorisation of appropriate enforcement action if necessary. This would also allow the potential costs to the Council of any direct action to be explored.
- 4.11** In the meantime officers have initiated a Land Registry title search and have served a Section 272 Notice on the site owner which requires the provision of full details of all parties with an interest in the site. These will provide information necessary for planning enforcement action should this become expedient.

5. People Implications

- 5.1** There are no personnel issues associated with this report.

6. Financial Implications

- 6.1** In the event of direct action to secure the boundaries of the site and the shuttering of the building, the Council would incur the costs of the work and would seek to recover these costs from the site owners. There is a risk that recovery of costs may require legal action and may not be straightforward.

7. Risk Analysis

7.1 If no action is taken there is a heightened risk of antisocial behaviour, further damage to the listed building and persons being injured on the site.

8. Equalities Impact Assessment (EIA)

8.1 There are no equalities issues associated with this report.

9. Consultation

9.1 No consultation is required to be carried out.

10. Strategic Assessment

10.1 No strategic issues have been identified.

Richard Cairns

Executive Director of Infrastructure and Regeneration

Date: 10 June 2015

Person to Contact: Pamela Clifford, Planning & Building Standards Manager,
Housing, Environmental and Economic Development,
pamela.clifford@west-dunbarton.gov.uk

Appendices: None

Background Papers: None

Wards Affected: Ward 4 (Kilpatrick)

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 26th August 2015

Subject: **Determination of appeals against the refusal of planning permission and listed building consent for change of use from nursing home to hotel and events centre at Dalmoak House, Renton Road, Dumbarton (DC14/037 & DC14/038)**

1. **Purpose**

1.1 To inform the Committee of the outcomes of two appeals.

2. **Recommendations**

2.1 That the Committee **notes the outcome** of the appeals

3. **Background**

3.1 Applications for planning permission and listed building consent for the change of use of a nursing home to a hotel and events centre were refused by the Planning Committee on 3 February 2015. Both applications were refused for the same reasons, which are as follows:

- “(1) The use would have a detrimental impact on the established amenity of the nearby residential properties by way of the potential generation of noise, general disturbance and traffic and that the proposed conditions would not mitigate against the adverse impacts;*
- (2) The use would result in a loss of amenity in an area where there is no specific locational need for the use; and*
- (3) The use would have a potential adverse impact on the adjacent farming business.”*

4. **Main Issues**

4.1 Appeals against these two decisions were submitted to the Scottish Ministers, and following a site visit and written submissions the two appeals have been determined by a Scottish Government Reporter.

Planning Permission Appeal

4.2 The Reporter considered that overall the impact on the listed building would be acceptable. The benefit of preserving this nationally important “A” listed building by bringing it back into use was an important material consideration, but had to be weighed against other relevant matters. The Reporter found no

conflict with Green Belt policy GB1 as the proposal was an appropriate re-use of a significant vacant building. He also found the proposal to be consistent with Tourism policy LE8, and considered that the impacts upon wildlife interests and road safety would be acceptable. These matters were not in dispute.

- 4.3** In relation to the reasons for refusal, the Reporter did not consider that the proposal would have any adverse impact upon the general amenity or character of the surrounding area, or that there was any requirement for the applicant to demonstrate a specific locational need for the development in this case. Farm access should not be obstructed as there were adequate passing places along the private road leading up the site and obstruction caused by vehicles parked outside the hotel entrance could be avoided through appropriate management. He considered that there was insufficient evidence to suggest that noise from the use would have an adverse effect on cattle within the adjacent fields. The Reporter therefore did not agree with the Council's reasons for refusal (2) or (3).
- 4.4** However, in relation to the specific impacts upon the residential amenity of nearby houses, the Reporter agreed with the Council's concerns. There would be a significant adverse impact upon the amenity of residents in the adjacent Stables Cottages in terms of noise, disturbance and loss of privacy, and also some adverse impact on the Lodge adjacent to Renton Road arising from increased traffic. These impacts meant that the proposal was contrary to Business policy LE7. He considered that while noise from inside the building could be mitigated against, it would not be possible to operate the venue without some disturbance to neighbouring homes, particularly late at night when patrons are leaving. The Reporter considered whether these issues could be addressed by conditions, but felt that any conditions sufficient to protect the amenity of residents (e.g. by tightly controlling the timing or nature of functions) would be unreasonably restrictive and may undermine the viability of the use. On balance, the Reporter concluded that the risk of adverse impact upon residential amenity outweighed the benefits relating to the listed building, and accordingly he dismissed the appeal against refusal of planning permission.

Listed Building Consent Appeal

- 4.5** The Reporter noted that the sole determining issue in the application for listed building consent was the desirability of preserving the category "A" listed building, its setting and its features of special architectural or historic merit. However the Council's stated reasons for refusing listed building consent were the same as those for the planning application, and that as these did not relate to the listed building issues they were not relevant to the consideration of whether listed building consent should be granted.
- 4.6** The Reporter noted that the building benefits from an exceptionally lavish interior and that this forms an important part of its special architectural features. He considered that the proposed use was well related to the nature and scale of the building, would involve minimal alteration to the interior, and would have the effect of ensuring its continued contribution to the local historic

environment. While he did have some concerns relating to the impact of the proposed parking and fencing upon the setting of the listed building, he considered that the impact of these would be relatively minor and would be outweighed by the benefits of securing a suitable new use for the building. Accordingly, the Reporter upheld the appeal and granted listed building consent subject to a number of conditions relating to the detail of the works.

5. People Implications

5.1 None.

6. Financial Implications

6.1 None.

7. Risk Analysis

7.1 No risks have been identified.

8. Equalities Impact Assessment (EIA)

8.1 An equalities impact assessment was not required.

9. Consultation

9.1 Not required.

10. Strategic Assessment

10.1 There are no strategic issues.

Richard Cairns

Executive Director of Infrastructure and Regeneration

Date: 10th August 2015

Person to Contact:

Pamela Clifford, Planning and Building Standards Manager, Housing, Environmental and Economic Development.

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Appendices: None.

Background Papers:

1. Report to 3 February 2015 Planning Committee
2. Appeal decision letters dated 9 July 2015

Wards Affected: Ward 3 (Dumbarton)