

**WEST DUNBARTONSHIRE COUNCIL****Report by the Planning, Building Standards and Environmental Health  
Manager****Planning Committee: 15 March 2023**

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**Subject: Development Plan Update****1. Purpose**

- 1.1 The purpose of this report is to advise Committee of changes to the status of development plan documents.

**2. Recommendation**

- 2.1 It is recommended that the Committee agrees that:
- (1) the Proposed Local Development Plan (LDP2) (as amended by the Examination Report and Scottish Ministers' Direction) is not adopted and remains a material consideration in the determination of planning applications; and
  - (2) that supplementary guidance prepared in association with LDP2 now be referred to as LDP2 Planning Guidance.

**3. Background**

- 3.1 The development planning system in Scotland is changing with the introduction of the development planning provisions of the Planning (Scotland) Act 2019. The National Planning Framework (NPF4) is now part of the development plan for all planning authorities with local development plans still to be prepared for each planning authority. Strategic development plans (e.g. Clydeplan) will no longer form part of the development plan.

**4. Main Issues**National Planning Framework and Scottish Planning Policy

- 4.1 The fourth National Planning Framework (NPF4) was adopted by the Scottish Government on 13 February 2023, superseding the third National Planning Framework (NPF3) and Scottish Planning Policy document which were published in June 2014. NPF4 now forms part of the development plan for West Dunbartonshire (and all other planning authorities in Scotland). This is a change in status from NPF3 and Scottish Planning Policy, which were material considerations but not part of the development plan. As planning applications are to be determined in accordance with the development plan, unless material considerations indicate otherwise, NPF4 has an enhanced status in the determination of planning applications. The Town and Country Planning (Scotland) Act 1997 states that where there is incompatibility between a provision of NPF4 and a provision of a local development plan,

which ever of them is later is to prevail. This means that, where incompatibility exists, greater weight should be given to NPF4 compared to the adopted and proposed local development plans currently in place in West Dunbartonshire.

- 4.2** A summary of the content of NPF4 is attached as Appendix 1 and committee reports and reports of handling will now refer to the document as part of the development plan and will form the basis for planning application decisions. A training session for Elected Members providing more detail on the status and content of NPF4 is scheduled for 15 March 2023.

#### Clydeplan Strategic Development Plan

- 4.3** The Clydeplan Strategic Development Plan ceased to form part of the development plan on 13 February 2023, and will no longer be referred to in planning decisions. In place of strategic development plans, planning authorities are to prepare regional spatial strategies. These will not form part of the development plan, but planning authorities are to have regard to regional spatial strategies when preparing local development plans. The current intention is for the eight Glasgow City Region authorities to collectively prepare a regional spatial strategy. Scottish Government guidance in relation to regional spatial strategies is awaited.

#### Local Development Plan

- 4.4** The current adopted local development plan for the West Dunbartonshire Council planning authority area is the West Dunbartonshire Local Plan 2010. Although dated, it remains part of the statutory development plan for the West Dunbartonshire planning authority area, and is still relevant for decision-making purposes.
- 4.5** On 19 August 2020, following receipt of the examination report, the Committee agreed to adopt the second West Dunbartonshire Local Development Plan (LDP2), incorporating all of the recommended modifications set out in the examination report. Following submission of notice of the Council's intention to adopt the plan to the Scottish Ministers, a Direction was issued by the Scottish Ministers in December 2020 requiring changes be made to the 'Delivering Homes' chapter prior to it being adopted. The Council received legal advice that making the changes required by the Scottish Ministers' Direction could result in a legal challenge to the adoption of LDP2. Further legal advice was sought in January 2023 in relation to adopting the plan in the context of NPF4 being adopted and the Clydeplan Strategic Development Plan superseded. The advice received was that grounds for a legal challenge to the adoption of LDP2 remain, and that given the publication of NPF4 the Scottish Ministers may not now agree to the adoption of LDP2 as the national planning policy framework has changed since LDP2 was prepared and examined.
- 4.6** Officers are of the view that the Council should not adopt LDP2 owing to the legal and financial risks associated with that action. Instead, the Proposed Local Development Plan incorporating the recommended modifications of the

examination report, as agreed at the 19 August 2020 Planning Committee, will remain a material consideration in the determination of planning applications. The Scottish Ministers' Direction is also a material consideration in the determination of relevant planning applications. The document, incorporating the examination modifications will be referred to as Proposed West Dunbartonshire Local Development Plan (2020, as amended) and in shorter terms as Proposed LDP2 (2020, as amended).

#### Planning Guidance

- 4.7** Through changes introduced by the Planning (Scotland) Act 2019, supplementary guidance associated with a local development plan will not be statutory in nature and will not form part of the development plan on adoption. LDP2 identifies a number of topics for which supplementary guidance is to be produced, and some of these have already been consulted on and finalised versions approved by Planning Committee. As it is now proposed that LDP2 will not become adopted, the supplementary guidance prepared in association with it will not become adopted. It is therefore proposed that this be referred to as 'Planning Guidance', which the title is given to other non-statutory guidance. However, a distinction should be retained between planning guidance prepared in association with LDP2 and other more general planning guidance. Planning guidance will therefore be referred to as either 'LDP2 Planning Guidance' or 'Planning Guidance'.

#### New Local Development Plan

- 4.8** As the Council's adopted local development plan dates from 2010, it is important that work starts as soon as possible on a new plan – LDP3. Officers are waiting for the Scottish Government to publish finalised Local Development Planning Regulations and Guidance with regards to the new local development planning process before bringing a timetable for the preparation of the new plan to Committee. The publication of the Regulations and Guidance is expected in Spring 2023.
- 4.9** In the meantime work has commenced in relation to the preparation of an open space strategy and play sufficiency assessment, both of which are requirements introduced by the Planning (Scotland) Act 2019. The open space strategy process involves an audit of all relevant open spaces within the authority area, an assessment of current and future requirements, and the preparation of a strategy including policies about the development, maintenance and use of open spaces. The play sufficiency assessment is to include statements relating to the quality, quantity and accessibility of play opportunities in the planning authority area.
- 4.10** The Planning (Scotland) Act 2019 also introduces a requirement for Councils to invite local communities to prepare local place plans. These are to relate to the development or use of land, and may also identify land and buildings that the community body considers to be of particular significance to the local area. The proposed Council approach to encouraging the preparation of local place plans by communities is also under development. This will be discussed

at the Elected Members training on the 15 March 2023, and also brought to a future meeting of the Planning Committee.

## **5. People Implications**

- 5.1** The Planning (Scotland) Act 2019 introduces significant new requirements for planning authorities which will have an impact on the workloads, skills and training requirements of planning staff.

## **6. Financial and Procurement Implications**

- 6.1** There are no financial or procurement implications associated with this report.

## **7. Risk Analysis**

- 7.1** Not adopting LDP2 will reduce the risk of a legal challenge to the Council. However not having an up-to-date local development plan may have an impact on planning decisions taken by the Council and could result in appeal decisions being upheld.

## **8. Equalities Impact Assessment (EIA)**

- 8.1** The documents referred to in this report have been subject to an equality impact assessment where required.

## **9. Environmental Sustainability**

- 9.1** The documents referred to in this report have been subject to a strategic environmental assessment where required.

## **10. Consultation**

- 10.1** The documents referred to in this report have been subject to statutory consultation.

## **11. Strategic Assessment**

- 11.1** The Council's land use planning documents and processes are considered to support all of the Council's strategic priorities.

**Pamela Clifford**

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**Date: 15 March 2023**

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**Appendices:** Appendix 1: Summary of Fourth National Planning Framework (NPF4)

**Background Papers:** Fourth National Planning Framework (NPF4) -  
<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2023/02/national-planning-framework-4/documents/national-planning-framework-4-revised-draft/national-planning-framework-4-revised-draft/govscot%3Adocument/national-planning-framework-4-revised-draft.pdf>

**Wards Affected:** All