

## WEST DUNBARTONSHIRE COUNCIL

### Report by Planning, Building Standards and Environmental Health Manager

Planning Committee: 11 October 2023

---

**Subject: Scottish Government consultation on mandatory training on planning for Elected Members**

#### **1. Purpose**

- 1.1** To seek the agreement of the Committee to submit a response to the Scottish Government consultation on mandatory training on planning for Elected Members.

#### **2. Recommendations**

- 2.1** It is recommended that the Committee agree the proposed Council response set out in Appendix 1.

#### **3. Background**

- 3.1** An independent review of the Scottish planning system, published in May 2016, recommended mandatory training on planning for Elected Members. Public consultation on the independent review indicated broad support for mandatory training, and subsequently the requirement for mandatory training was included in the Planning (Scotland) Act 2019, with Section 45 of that Act prohibiting Elected Members from carrying out specified planning functions if they have not completed training specified by Scottish Ministers, with these functions to be specified in Regulations. These Regulations have not been published yet, and the purpose of the consultation is to inform them.
- 3.2** At West Dunbartonshire, most of the Elected Member involvement in planning functions takes place at Planning Committee. This is where the majority of non-delegated planning applications are decided, as well as all decisions on Local Development Plan matters, other planning policy matters and responses to Scottish Government and other consultations. Reviews of delegated planning decisions are undertaken by the Local Review Body, which has the same membership as the Planning Committee. Under the current Scheme of Delegation, Full Council decides on planning applications which fall into the category of National Developments, and also Major Developments that are significantly contrary to the Development Plan. Under changes introduced by the Planning (Scotland) Act 2019, certain stages of the Local Development Plan (the Evidence Report and the Proposed Plan) will also need to be approved by

Full Council, and because the Clyde Mission area, covering 500 metres either side of the River Clyde, is now a National Development, more planning applications received by the Council will be considered National Developments and considered by Full Council. As a result of these changes, Full Council will be involved in more planning decisions in the future, relating to both the Local Development Plan and planning applications.

- 3.3** Presently planning training is provided at the beginning of the new election cycle for new and returning Elected Members. This covers the development plan system, the determination of planning applications and material considerations, enforcement, the Councillor Code of Conduct and the Local Review Body. Whilst there is no formal planning training plan, training has been delivered on NPF4, placemaking matters, health and wellbeing considerations and at various stages of the local development plan process. Training is also provided on a request basis, for example, when an Elected Member who previously was not involved in the Planning Committee becomes a member of the Planning Committee.

#### **4. Main Issues**

- 4.1** The Scottish Government published a consultation paper on Mandatory Training on Planning for Elected Members in July 2023, with comments sought by 26 October 2023 ([Mandatory Training on Planning for Elected Members \(www.gov.scot\)](http://www.gov.scot)). The consultation responses will be used to inform the preparation of Regulations relating to the provision for mandatory training for Elected Members set out in the Planning (Scotland) Act 2019. The consultation paper sets out context and asks a number of questions relating to:
- The planning functions that Elected Members be prohibited from taking decisions on until training requirements have been completed - for example, the prohibition could be restricted to taking decisions on planning applications, or could extend to include decisions on the Local Development Plan and other policy documents.
  - Whether different levels of training is required for Elected Members on the Planning Committee, and other committees that take planning decisions - most non-delegated planning applications are decided by the Planning Committee, but some go to full council, and under the Planning (Scotland) Act 2019, some decisions relating to the Local Development Plan will also be taken at full council. The Local Review Body reviews decisions on delegated planning applications.
  - The content of any mandatory training and how it should be delivered - the consultation paper asks if the mandatory training should focus on the key principles and knowledge of the planning system, and suggests topics that could be covered in mandatory training (1. importance of the plan led system; 2. planning application process; 3. decision making at committee;

4. role of Elected Members; and 5. post-decision issues). A number of options for delivery are set out, including online and in-person training, and training delivered by Council officers or appointed trainers.
- Whether Elected Members should be required to pass a test before being allowed to take planning decisions
  - The frequency of mandatory training – suggestions include once a year, every election cycle or just once;
  - Whether and where information relating to the completion of training should be published – suggestions include online or in the annual Planning Performance Framework; and
  - How the long-term effects of training could be monitored

**4.2** The Council welcomes the consultation on mandatory training on planning for Elected Members. Planning legislation and planning matters can be complex and it is essential that Elected Members have adequate training to enable them to make informed decisions.

**4.3** The proposed response to the consultation paper is set out in Appendix 1. Key points from the response are summarised below:

- It is the view of the Council that Elected Member involvement in the determination of planning applications and decisions on Local Development Plans should be prohibited until mandatory training has been completed.
- However, many of the Council's Elected Members have concerns that a restriction on them taking part in decisions on planning functions is anti-democratic, as they have been elected to take these decisions.
- It is the view of the Council that the training requirements for Elected Members should be the same, regardless of whether their involvement in planning decisions takes place at Planning Committee, Full Council or Local Review Body.
- Mandatory training should focus on the key principles and knowledge of the planning system, and the topics set out in the consultation paper are what mandatory training should cover (These are: 1. Importance of a planned system; 2. Planning application processes; 3. Decision making at committee; 4. Role of Elected Members; and 5. Post decision procedures). Councils could complement these mandatory topics with information on subjects such as conservation, listed buildings, biodiversity, enforcement, affordable housing developer contributions, placemaking, sustainability, net zero, etc
- Training should be provided by options of in-person training for Elected Members who prefer to learn that way and an online course that can be taken by Elected Members at their own convenience.
- The requirement for a test would focus Elected Members' focus on training, but it is recognised that this may be a disincentive for some Elected Members to be a part of committees that take decisions on planning matters.

- Mandatory training should be undertaken every election cycle, with Elected Members encouraged to keep skills and knowledge up to date via annual training covering emerging legislation and updated procedures and issues.
- It is not considered necessary to publish a list of which Elected Members have undertaken the training course, with this information available on request.
- Monitoring is supported if it will be purposeful and used to ensure mandatory training is meeting objectives.

## **5. People Implications**

- 5.1** There are no direct personnel issues associated with this report. Some of the options set out in the consultation paper would require Council officers to deliver mandatory training to Elected Members. There may resource issues if the Planning Service have to deliver mandatory training, however, these are likely to be minimal as the Council already provides in-house training on planning for Elected Members.

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

- 6.1** There are options mentioned in the consultation paper which refer to the Scottish Government procuring an online course or an online training provider. However, no reference is made as to whether planning authorities would be required to contribute to the cost of this. The Council response advises that our planning training is currently delivered in house and any costs to the Council would be an additional burden at a time of budget restraint.

## **7. Risk Analysis**

- 7.1** Planning decisions are quasi-judicial in nature and poor decisions can result in costs being awarded at appeal or challenged at the Court of Session, at which costs can also be awarded against planning authorities. It is important to have well informed Elected Members in order to limit decisions which could have financial and legal implications for the Council. An intended outcome of mandatory training would be decisions being taken on a better informed basis, and therefore the risk of poor decisions being taken would be reduced. However, as the Council already provides training in-house, it is not clear that the risk reduction for West Dunbartonshire Council would be significant.

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

- 8.1** The Scottish Government has undertaken an equalities impact assessment of the consultation documents.

## 9. Consultation

- 9.1 An information/discussion session was held for Elected Members on 13 September 2023, at which comments which have informed this response were collated. The consultation paper and contents of this report were shared with Committee Services and Legal Services.

## 10. Strategic Assessment

- 10.1 As planning decisions can impact on all of the Council's strategic priorities, it is considered that the proposed mandatory training is relevant to all.

**Pamela Clifford**

**Planning, Building Standards and Environmental Health Manager**

**Date: 11<sup>th</sup> October 2023**

---

<b>Person to Contact:</b>	Pamela Clifford, Planning, Building Standards and Environmental Health Manager Pamela.clifford@west-dunbarton.gov.uk  Alan Williamson, Development Planning & Place Team Leader Alan.williamson@west-dunbarton.gov.uk
<b>Appendix:</b>	Appendix 1: Response to Scottish Government consultation on mandatory training on planning for Elected Members
<b>Background Papers:</b>	Scottish Government consultation paper on mandatory training on planning for Elected Members - <u><a href="#">Mandatory Training on Planning for Elected Members</a></u> ( <u><a href="http://www.gov.scot">www.gov.scot</a></u> )
<b>Wards Affected:</b>	All