

## **PLANNING COMMITTEE**

At a Meeting of the Planning Committee held in Committee Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 24 February 2016 at 2.00 p.m.

**Present:** Provost Douglas McAllister and Councillors Denis Agnew, Jonathan McColl, Patrick McGlinchey, John Mooney, Lawrence O'Neill, Tommy Rainey and Hazel Sorrell.

**Attending:** Jim McAloon, Head of Regeneration and Economic Development; Pamela Clifford, Planning and Building Standards Manager; Keith Bathgate, Team Leader – Development Management; Alan Williamson, Team Leader – Forward Planning; Raymond Walsh, Network Services Co-ordinator; Nigel Ettles, Principal Solicitor and Nuala Quinn-Ross, Committee Officer, Legal, Democratic and Regulatory Services.

**Apologies:** Apologies for absence were intimated on behalf of Councillors Gail Casey and Jim Finn.

**Councillor Lawrence O'Neill in the Chair**

### **DECLARATIONS OF INTEREST**

Councillor O'Neill declared a non-financial interest in the items 'DC15/216 - Siting of portacabins for use as temporary office (retrospective) at Muirhouses Cottage, off Cochno Road, Hardgate by DS Construction (Scotland) Ltd' and 'DC16/013 - Erection of an agricultural building and outbuilding including associated works to form an area of hardstanding and landscaping (retrospective) at Muirhouses Cottage, off Cochno Road, Hardgate by Mr Donald Reddie', and advised that he would leave the meeting and take no part in any decision in regard to these matters.

### **MINUTES OF PREVIOUS MEETING**

The Minutes of Meeting of the Planning Committee held on 27 January 2016 were submitted and approved as a correct record.

### **NOTE OF VISITATIONS**

A Note of Visitations carried out on 20 January 2016, a copy of which forms Appendix 1 hereto, was submitted and noted.

## **CHAIR'S REMARKS**

Having heard the Chair, Councillor O'Neill, in relation to the aforementioned declarations of interest, it was agreed that Provost McAllister would Chair the meeting for the undernoted items of business. Thereafter Councillor O'Neill left the meeting and Provost McAllister assumed the Chair for those items of business only.

## **PLANNING APPLICATIONS**

Reports were submitted by the Head of Regeneration and Economic Development in respect of the following planning applications.

### **New Applications:-**

- (a) **DC15/216 - Siting of portacabins for use as temporary office (retrospective) at Muirhouses Cottage, off Cochno Road, Hardgate by DS Construction (Scotland) Ltd.**

The Planning and Building Standards Manager was heard in further explanation of the report. The Planning and Building Standards Manager also advised that 8 late representations in support of the application had been received and made their terms of representation known.

The Chair invited Mr Jason Matthiopolous, local resident to address the Committee. Mr Matthiopolous made his views on the application known.

Ms Isla McTaggart, local resident, was then invited by the Chair to address the Committee. Ms McTaggart was heard in support of the application.

The Chair then invited Mr Albert Muckley, Planning Consultant for the Applicant to address the Committee. Mr Muckley was heard in support of the application and in answer to the Planning and Building Standards Manager's questions.

Mr Donald Reddie, the Applicant was then invited by the Chair to address the Committee. Mr Reddie was heard in support of the application and in answer to Members' questions.

The Chair then invited Ms Arlene Murdoch, Development Manager to address the Committee. Ms Murdoch was heard in support of the application.

After discussion and having heard the Planning and Building Standards Manager in answer to Members' questions, the Committee agreed to grant temporary consent of the application until October 2017, subject to conditions.

**(b) DC16/013 - Erection of an agricultural building and outbuilding including associated works to form an area of hardstanding and landscaping (retrospective) at Muirhouses Cottage, off Cochno Road, Hardgate by Mr Donald Reddie.**

The Planning and Building Standards Manager and the Team Leader – Development Management were heard in further explanation of the report.

The Chair invited Mr Jason Matthiopolous, local resident to address the Committee. Mr Matthiopolous made his views on the application known.

The Chair then invited Mr Albert Muckley, Planning Consultant for the Applicant to address the Committee. Mr Muckley was heard in support of the application.

The Committee agreed to grant full planning permission subject to the conditions set out in Section 9 of the report, details of which are contained in Appendix 2 hereto.

Note: Councillor O'Neill re-entered the meeting and resumed the Chair at this point. Councillors McColl and McGlinchey left the meeting at this point in the meeting.

**(c) DC15/263 - Change of use from vacant shop to hot food takeaway at 196 Dumbarton Road, Old Kilpatrick by Omar Singh Uppal.**

The Planning and Building Standards Manager was heard in further explanation of the report.

The Chair invited Mrs Linda Aitkinson, local resident to address the Committee. Mrs Aitkinson made her views on the application known.

The Chair then invited Mr Alan Warner, representing Mrs Warner a local resident to address the Committee and he made the views of Mrs Warner known.

Mr Sondh, Architect for the Applicant was then invited by the Chair to address the Committee. Mr Sondh was heard in support of the application and in answer to Members' questions.

After discussion and having heard the Team Leader – Development Management and the Network Services Co-ordinator in answer to Members' questions, the Committee agreed to refuse planning permission for the reasons set out in Section 9 of the report, details of which are contained in Appendix 3 hereto.

Note: The Head of Regeneration and Economic Development left at this point in the meeting.

## **CLYDEPLAN – PROPOSED GLASGOW AND THE CLYDE VALLEY STRATEGIC DEVELOPMENT PLAN**

A report was submitted by the Head of Regeneration and Economic Development advising of the content of the Glasgow and the Clyde Valley Strategic Development Plan (Proposed Plan) and seeking endorsement of the Plan.

Mrs Dorothy McDonald, Assistant Manager of Glasgow and the Clyde Valley Strategic Development Planning Authority was invited by the Chair, Councillor O'Neill to address the Committee.

Mrs McDonald gave a presentation on the proposed Glasgow and the Clyde Valley Strategic Development Plan which will replace the current Strategic Development Plan which was approved in May 2012.

The Committee agreed to endorse the Glasgow and the Clyde Valley Strategic Development Plan (Proposed Plan).

Note: Councillors Agnew and Rainey left the meeting during discussion on the above item of business.

The meeting closed at 4.00 p.m.

**PLANNING COMMITTEE**

**NOTE OF VISITATIONS – 20 JANUARY 2016**

**Present:** Councillors Jim Finn and Tommy Rainey

**Attending:** Lorna Ramsey, Planning Officer

**Apologies:** Councillors Patrick McGlinchey and Lawrence O'Neill

**SITE VISITS**

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

(a) Strathleven Place, Dumbarton

DC15/245 – Extension to existing car park at Strathleven Place, Dumbarton by West Dunbartonshire Council.

(b) Land adjacent to St James Retail Park

DC15/213 – Non-food retail development of 70,000 sq ft (variation of condition 1 of permission DC12/131 to extend duration of permission) at land adjacent to St James Retail Park by Legal & General UK Property Fund.

**DC16/013 - Erection of an agricultural building and outbuilding including associated works to form an area of hardstanding and landscaping (retrospective) at Muirhouses Cottage, off Cochno Road, Hardgate by Mr Donald Reddie.**

**Permission was GRANTED subject to the following conditions:-**

1. The buildings and hardstanding area hereby approved shall be used purely for purposes incidental to the operation of the smallholding or the enjoyment of the dwellinghouse at the site and not for any other commercial purpose.
2. The hardstanding area shall not be used for the siting of storage containers, skips or similar items.

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**DC15/263 - Change of use from vacant shop to hot food takeaway at 196  
Dumbarton Road, Old Kilpatrick by Omar Singh Uppal.**

**Permission was REFUSED due to the following reasons:-**

1. The proposed use would introduce significant potential for noise and disturbance to neighbouring residents, to the detriment of the residential amenity of the area, and would therefore be contrary to Policies H5 and GD1 of the adopted West Dunbartonshire Local Plan 2010 and Policy BC4 of the emerging West Dunbartonshire Local Development Plan.
2. The proposed use would give rise to increased parking demand within an area where additional on-street parking would be to the detriment of the safety and convenience of other road users, whilst the proposed provision of off-street parking spaces would also be unacceptable due to their substandard layout and impact upon the existing road infrastructure. Accordingly, the proposal would be contrary to Policy GD1 of the adopted West Dunbartonshire Local Plan 2010 and Policy SD1 of the emerging West Dunbartonshire Local Development Plan.





## PLANNING COMMITTEE

### NOTE OF VISITATIONS – 22 FEBRUARY 2016

**Attending:** Keith Bathgate, Team Leader – Development Management

**Apologies:** Councillors Casey, McGlinchey and Rainey

### SITE VISITS

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

(a) Muirhouses Cottage, off Cochno Road, Hardgate

DC15/216 Siting of portacabins for use as temporary office (retrospective) at Muirhouses Cottage, off Cochno Road, Hardgate by DS Construction (Scotland) Ltd; and

DC16/013 - Erection of an agricultural building and outbuilding including associated works to form an area of hardstanding and landscaping (retrospective) at Muirhouses Cottage, off Cochno Road, Hardgate by Mr Donald Reddie.

(b) 196 Dumbarton Road, Old Kilpatrick

DC15/263 Change of use from vacant shop to hot food takeaway at 196 Dumbarton Road, Old Kilpatrick by Omar Singh Uppal.



**WEST DUNBARTONSHIRE COUNCIL****Report by the Executive Director of Infrastructure and Regeneration****Planning Committee: 23 March, 2016**

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

- 1.1** To update the Committee on the matters detailed in the report to the November 2015 Planning Committee.

**2. Recommendations**

- 2.1** It is recommended that no further direct action is taken but that discussions should continue between Council Officers and any prospective developers to ensure the site's long-term future.

**3. Background**

- 3.1** Reports have been presented to the August and November 2015 Planning Committees outlining the issues affecting the above site and what action could be taken under the Building (Scotland) Act 2003 and the Planning Acts. It was agreed by the Committee that a Building Warrant Enforcement Notice requiring reinstatement of the perimeter fencing and a Listed Building Enforcement Notice requiring that the building (Hardgate Hall) be made wind and watertight would be served. It was also agreed that further updates would be provided of progress on site.

**4. Main Issues**

- 4.1** Perimeter fencing has now been erected around the complete site and the Building Warrant Enforcement Notice has been complied with. Previously the Council secured Hardgate Hall in late summer of 2015 from public access by securing the windows and the roller shutter door and the Council is in the process of recovering the costs incurred. The building and site are now secured and public access is no longer an issue.
- 4.2** The Listed Building Enforcement Notice which required that Hardgate Hall be wind and watertight has not been complied with and the time for appeal has expired. The next steps available would be either to report the matter to the Procurator Fiscal or for the Council to carry out the works and recharge the owner. The site is presently secure and it is probably unlikely that the Procurator Fiscal would take up such a case. As there is developer interest in the site and the site is secure, it would not be prudent for the Council to take further action at this time.

- 4.3** The Committee were advised in August that there is a local developer interested in redeveloping the site and Hardgate Hall. This developer has had initial discussions with Planning Officers. They have confirmed that they are still interested in the building and the land behind, and are presently awaiting feedback from the owners. Given that the site and the building are now secured it is considered that no further direct action is required by the Council but that discussions should continue with any prospective developers to secure the long-term future of the site.

**5. People Implications**

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

**6. Financial Implications**

- 6.1** There are no financial implications to the Council except for the recovery of relatively minor costs incurred in securing Hardgate Hall in 2015. If the Council were to make Hardgate Hall wind and watertight or undertake works to the site this would have serious financial implications for the Council.

**7. Risk Analysis**

- 7.1** The risks to the Council are presently low. The timescales for appealing against the Listed Building Enforcement Notice have now expired and there is no risk of costs being awarded against the Council in the event of an appeal.

**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.

**Jim McAloon**  
**Head of Regeneration and Economic Development**  
**Date: 6 March 2016**

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**Person to Contact:** Pamela Clifford, Planning & Building Standards Manager,  
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**Appendices:** Planning Committee reports –August and November  
2015

**Background Papers:** None

**Wards Affected:** Ward 4 (Kilpatrick)

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

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**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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**Person to Contact:** Pamela Clifford, Planning & Building Standards Manager,  
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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

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

#### **1.      Purpose**

- 1.2**      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**

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**Person to Contact:** Pamela Clifford, Planning & Building Standards Manager,  
Housing, Environmental and Economic Development,  
[pamela.clifford@west-dunbarton.gov.uk](mailto: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: 25 November, 2015**

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

- 1.1** To update the Committee on the measures detailed in the report to the August 2015 Planning Committee.

**2. Recommendations**

- 2.1** It is recommended that the Committee note the content of this report and that a further report will be submitted no later than the February 2016 Planning Committee meeting updating the Committee on the works carried out on site following the service of the Building Warrant Enforcement Notice and the Listed Building Enforcement Notice and whether there is progress regarding a new owner of the site.

**3. Background**

- 3.1** A report was presented to the August Planning Committee outlining the issues affecting the above site and what action could be taken under the Building (Scotland) Act 2003 and the Planning Acts. It was agreed by the Committee that a Building Warrant Enforcement Notice requiring reinstatement of the perimeter fencing and a Listed Building Enforcement Notice requiring that the building (Hardgate Hall) be made wind and watertight would be served. It was also agreed that a report would be presented no later than the November Planning Committee updating the Committee of progress on site. A copy of the report to the August Planning Committee is contained in Appendix 1.

**4. Main Issues**

- 4.1** Despite correspondence with the developer's agent, the site has not been made secure and as a result a Building Warrant Enforcement Notice has been served on the owners of the site. The Building Warrant Enforcement Notice requires the owner to provide missing sections and repair the site perimeter fencing. The Notice requires the work to be completed by 8 January 2016. If the owner has not completed the fencing work by this date, the Council will arrange to carry out the work specified by the Notice and recharge the owner any costs incurred in carrying out the necessary work.
- 4.2** The Committee were advised in August that there is a local developer interested in redeveloping the site and Hardgate Hall. This developer has had

initial discussions with Planning Officers. It is understood that this local developer has made an offer to purchase the site from the current owners of the site and he is presently awaiting feedback from the owners.

- 4.3** In the meantime the condition of the listed building has not been addressed by the current owners and to prevent further deterioration a Listed Building Enforcement Notice has been served which specifies works to be carried out. The enforcement notice will cease to have effect when either the works are complied with, or listed building consent is granted, and serving the notice will not therefore prejudice any subsequent proposal which may be submitted by any new owners of the building.

## **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** There is a risk to the Council that any costs incurred may not be recovered. In terms of action taken by the Council to erect and repair perimeter fencing in default of the Building Warrant Enforcement Notice, for example in the event of the site owner having financial difficulties, the Council will use powers available to them under the Buildings (Recovery of Expenses) (Scotland) Act 2014 to mitigate against this risk by registering a charging order on the land title.
- 7.2** There is a risk that the Listed Building Enforcement Notice may be appealed and if upheld, costs may be awarded against the Council, if the Council have been found to be acting unreasonably. If the Notice is not complied with, any direct action taken by the Council to ensure the works are carried out would require a further report to be submitted to the Committee.

## **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: 9 November 2015**

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

**Appendices:** Appendix 1 – Report to 26 August 2015 Planning  
Committee

**Background Papers:** None

**Wards Affected:** Ward 4 (Kilpatrick)



**WEST DUNBARTONSHIRE COUNCIL****Report by the Head of Regeneration and Economic Development****Planning Committee: 23 March 2016**

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**Subject: Review of the Planning Enforcement Charter****1. Purpose**

- 1.1** To seek approval of the Planning Enforcement Charter.

**2. Recommendation**

- 2.1** That the Committee approves the updated Planning Enforcement Charter and its implementation.

**3. Background**

- 3.1** All planning authorities require to have an Enforcement Charter which details how the Planning Authority will deal with enforcement complaints and to provide details of their enforcement powers. The Scottish Government expect the Enforcement Charter to be reviewed every two years to ensure that it reflects the up to date view of the Council of how it deals with enforcement and also to reflect changes in enforcement legislation. In terms of the annual Planning Performance Framework one of the performance markers requires an updated Enforcement Charter.

**4. Main Issues**

- 4.1** The Planning Enforcement Charter explains how the enforcement process works in West Dunbartonshire, the current powers available to the Council and the service standards that the Council sets itself. The aims of this charter are to explain the enforcement process, and to ensure that our adopted procedures are fair and reasonable; that all interested parties are kept informed at each stage of the process; and that they are clearly made aware of anything which is required of them.
- 4.2** The Enforcement Charter again recognises the important role that the public play in reporting potential breaches of planning control and in monitoring the conditions that are placed in certain planning consents. It also highlights the key points on Planning Enforcement as:

- ***Enforcement is a discretionary power, and any enforcement action must be in the public interest;***
- ***We will work to resolve the problem, not punish the breach;***
- ***Any enforcement action will be proportionate to the scale of the breach;***
- ***The Council will not act as an arbiter for neighbour or boundary disputes.***

**4.3** The Enforcement Charter explains the information that is required when a potential breach is being reported by the public and the process which the Planning Authority will undertake when investigating possible breaches of planning control. Service Standards are provided which indicate timescales for a response to their complaint and it also indicates how they can be kept informed if enforcement action is taken. Information is provided on all the Enforcement powers available to the Council including Enforcement Notices, Breach of Condition Notice, etc. and other powers such as direct action, interdict and interim interdict which are only used in serious cases. A flowchart has been added which shows the enforcement process in a simplified form.

**4.4** Although the layout of the Enforcement Charter has been updated the general focus and content of the enforcement procedures and guidance are still relevant and have not been changed by any new legislation in the interim. However given the nature of enforcement complaints received in the 2 years since the previous Enforcement Charter a section addressing how the Council deals with ad hoc banners and signs remotely from the business premises or activity has been added. A section has also been added of how the Council monitor the quarries and landfill sites in the Council area. Appendix 1 contains the updated Enforcement Charter

## **5. People Implications**

**5.1** There are no people implications.

## **6. Financial Implications**

**6.1** There are no financial implications.

## **7. Risk Analysis**

**7.1** The Council should have an up to date approved Enforcement Charter so that the public are aware of their enforcement powers.

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

**8.1** The charter has been assessed and no equalities impact assessment is required.

## **9. Consultation**

**9.1** None.

**10. Strategic Assessment**

**10.1** None.

**Jim McAloon**

**Head of Regeneration and Economic Development**

**Date: 6 March 2016**

**Person to Contact:** Pamela Clifford, Planning and Building Standards Manager, Housing, Environmental and Economic Development.  
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**Appendices:** 1. Enforcement Charter updated March 2016

**Background Papers:** None.

**Wards Affected:** All wards.

# Planning Enforcement Charter



March 2016

West  
Dunbartonshire  
COUNCIL



# Planning Enforcement Charter

## What is Planning Enforcement?

Many types of development require planning permission or other related consents. Sometimes, either by accident or intentionally, developers or householders undertake work without the necessary permission, or fail to implement correctly the permission they have been given. This is called a **breach of planning control**.

Possible breaches of planning control can include:

- carrying out physical work or changes of use without the required planning permission;
- failure to comply with conditions attached to a planning permission;
- carrying out development otherwise than in accordance with the approved plans or specifications;
- works in breach of special planning controls, including those relating to listed buildings, conservation areas, tree preservation orders and advertisement control

Councils have powers to take enforcement action, if they consider it is in the public interest to do so. The Council's planning enforcement function is administered by the **Development Management team**, within the

Planning & Building Standards service. Building Standards have separate powers under the Building (Scotland) Act 2003.

The purpose of planning enforcement is to **resolve any problems**, rather than to punish the mistake.

### Key points on Planning Enforcement:

- **Enforcement is a discretionary power, and any enforcement action must be in the public interest;**
- **We will work to resolve the problem, not punish the breach;**
- **Any enforcement action will be proportionate to the scale of the breach;**
- **The Council will not act as an arbiter for neighbour or boundary disputes.**

## About this Charter

This charter explains how the enforcement process works in the West Dunbartonshire Council's planning authority area\*, including the enforcement powers available to the Council and the service standards which developers and objectors can expect from the Council.

The aims of this charter are to explain the enforcement process, and to ensure that our adopted procedures are fair and reasonable; that all interested parties are kept informed at each stage of the process; and that they are clearly made aware of anything which is required of them.

Breaches of planning control are an issue which concerns many members of the public. We welcome your comments on this charter, and any suggestions you may have about how we could improve the planning enforcement service further.

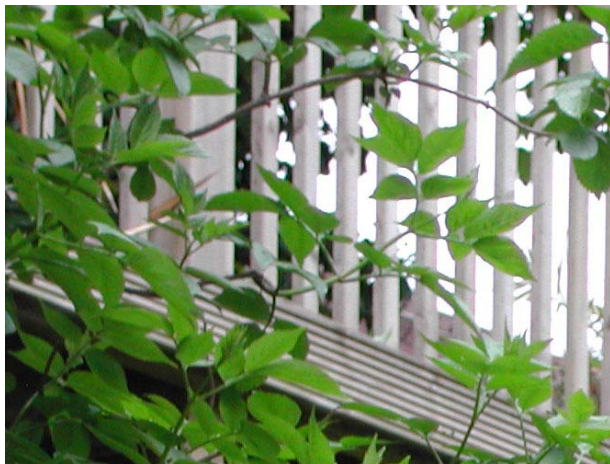
We will monitor the delivery of planning enforcement functions to ensure that the charter's service standards are met.

*\* Please note that all enforcement of planning control within the boundaries of the Loch Lomond and the Trossachs National Park is the responsibility of the Loch Lomond and the Trossachs National Park Authority, whose contact details can be found at the end of this document.*

## Identifying Breaches of Planning Control

Members of the public have an important role in reporting potential breaches of planning control including the monitoring of planning conditions. Due to the large number of permissions granted each year it is not possible for the Council to actively monitor every site.

Any concerns about unauthorised work or breaches of conditions can be raised with the Council by email, or telephone. Issues can also be reported by letter or at one of the Council's One Stop Shops.



**Please note that the preferred method of communicating with all parties is by email if this is possible and where there is no legal or procedural need for traditional letters.**

When reporting a potential breach of planning control it is important to provide the following information:

- the address of the property concerned;
- the name and address of the person carrying out the breach (if known);
- details of the alleged breach of planning control (including any times and dates if relevant);
- an explanation of any problems arising from the alleged breach; and
- your own name, address and contact details

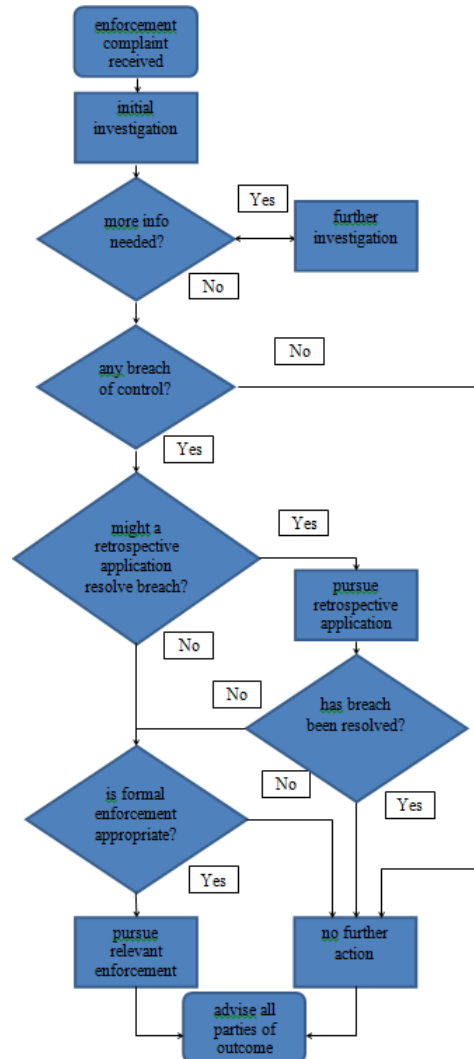
Note that anonymous complaints will not normally be investigated. The Council will not normally disclose who has made a complaint without that person's agreement, however developers do have the right to access certain information about their cases under the Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002, and that information may include complaints correspondence.

Sometimes complaints arise over matters such as disputes over ownership boundaries, rights of access or damage to property. These are private legal matters over which the Council has no remit, in which case we will not investigate further. However, the Council operates a Mediation Service which may be of assistance in such situations, and details can be found at:

[www.west-dunbarton.gov.uk/community-life-and-leisure/crime-prevention-and-community-safety/neighbourhood-mediation-service](http://www.west-dunbarton.gov.uk/community-life-and-leisure/crime-prevention-and-community-safety/neighbourhood-mediation-service)



## Stages of Enforcement



## Investigating Possible Breaches of Planning Control

The information received will be first checked to ensure that it involves a possible breach of planning control. It is important that members of the public reporting breaches provide as much information about it as possible in order to help speed up the investigation. The Council will acknowledge receipt of enforcement complaints by email or letter within 5 working days, providing contact details for the investigating officer.

For most enforcement cases it is necessary for the planning officer to visit the site and to discuss the situation with the developer. Site visits will take place as soon as practical, but may take several days depending on resources. Priority will be given to urgent situations such as a clear public safety concern or damage to a listed building. In cases where we have not been provided with the developer's contact details it can also take time to track down and make contact with whoever is responsible for the alleged breach, especially in the case of vacant sites and absentee landlords. We aim to carry out at least a preliminary investigation of the breach within 10 working days of receiving a complaint, including making contact with the

developer to explain the alleged breach and request any further information that may be necessary.

Council planning officers have powers to enter land or buildings to:

- establish whether there has been a breach of planning control;
- check if there has been compliance with a formal notice;
- check if a breach has been satisfactorily resolved.

In many cases the investigation can be concluded fairly quickly as it will be clear whether or not a breach of planning control has taken place, but in some situations this will take significant longer. Officers may have to monitor a site over an extended period to establish what is taking place or to gather evidence for any enforcement proceedings. Depending on the circumstances, occasionally complainants may be asked to keep a diary of events. The Council will keep interested parties informed of progress in such cases, and they should feel free to contact the case officer for an update. Clear recording of progress at each stage of the process and the decisions which have been reached will take place.

## Determining whether there is a Breach of Planning Control

It is important that the Council establish whether or not any breach of planning control has actually occurred, and precisely what any breach is.

Sometimes the investigation will reveal that only part of the development is actually a breach of planning control. In such circumstances, the Council's enforcement powers are limited to those aspects of the development which require planning permission.

The extent to which enforcement action will be pursued will depend on whether the development complies with the policies of the local development plan. The decision to pursue enforcement action rests with the Council.

## Time Limits for Enforcement

In determining whether a breach of planning control has taken place, the Council is bound by statutory time limits. If an unauthorised development or activity has existed for a long period of time it effectively becomes immune

from enforcement action.

The main time limits are known as the **Four Year Rule** and the **Ten Year Rule**:

- the Four Year Rule applies to "unauthorized operational development" (i.e. the carrying out of building, engineering, mining or other physical works), and also the change of use to a single dwellinghouse.
- the Ten Year Rule applies to all other development, including other changes of use and breaches of conditions.

If there has been no formal enforcement action during this time, after these time periods expire the development becomes



lawful and no further enforcement action can be taken. However, these rules may not apply in cases where there has been deception on the part of the developer (such as deliberate efforts to hide an unauthorised development or to mislead the planning authority about its use), and development which becomes lawful under these rules may not be able to intensify or expand without the need for further planning permission.

These time limits for enforcement **do not apply** to breaches of listed building, conservation area or advertising controls.

## Retrospective Applications

The outcome of many enforcement cases may be the submission of a retrospective planning application. They are dealt with in the same way as other planning applications and are subject to the same consideration.

The invitation to submit a retrospective application, in no way implies that permission will necessarily be granted.

In cases where planning officers consider that a development is clearly unacceptable or that it is giving rise to negative impacts upon



the environment or local amenity which require to be addressed immediately, a retrospective application will not normally be sought. However, the Council cannot prevent a developer submitting a retrospective application should they so wish.

If the changes are minor it may be possible for the developer to apply retrospectively for a non-material variation however it is for the Council to determine what constitutes a non-material variation and whether it is acceptable or not.



## Exercising Enforcement Powers

The pursuit of formal enforcement action is only considered once the existence of the breach has been established and the possibility of resolving the problem by other means has been explored. It is preferable to resolve problems through negotiation in the first instance. In general, the Council will only pursue enforcement where there is a clear breach of planning control and significantly affects public safety and public amenity. In many cases this approach is successful, so only a relatively small proportion of cases result in formal enforcement action.

Even where it has not been possible to resolve the breach through negotiation or a retrospective application; this does not necessarily mean that formal enforcement proceedings will be expedient. The purpose of planning enforcement is to resolve the problems, not to punish the mistake. In situations where the developer has failed to submit a retrospective application but the unauthorised development is considered to be acceptable in planning terms, enforcement is unlikely to be taken. Equally, for minor contraventions where the impacts of the breach are negligible it may be judged that the situation does not merit further action. If the Council decides that no further action is

merited, it will write to objectors and advise of the outcome. In such circumstances the Council would reserve its right to revisit the issue in the event of any significant change in circumstances in the future. Failing to obtain the necessary permissions may result in the developer experiencing legal and time difficulties should they attempt to sell their property in the future.



## Enforcement of Advertisement Control

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements are displayed with 'deemed consent' which means they do not require consent provided they meet the various criteria and conditions set out in the regulations. One of these conditions is that the landowner has given permission for the advertisement to be displayed on their land.

Displaying an advertisement in contravention of the regulations is an offence and, if convicted in court, an offender can be fined up to £200 plus £20 per day for each day that the offence continues after conviction.

Where advertisements are displayed without the required advertisement consent, or in breach of the conditions of such consent, the Council can serve an advertisement enforcement notice. This specifies what is required (such as removal of the advertisement) and the time period for compliance (usually at least 28 days, although this can be reduced to 7 days where the advertisement is detrimental to public



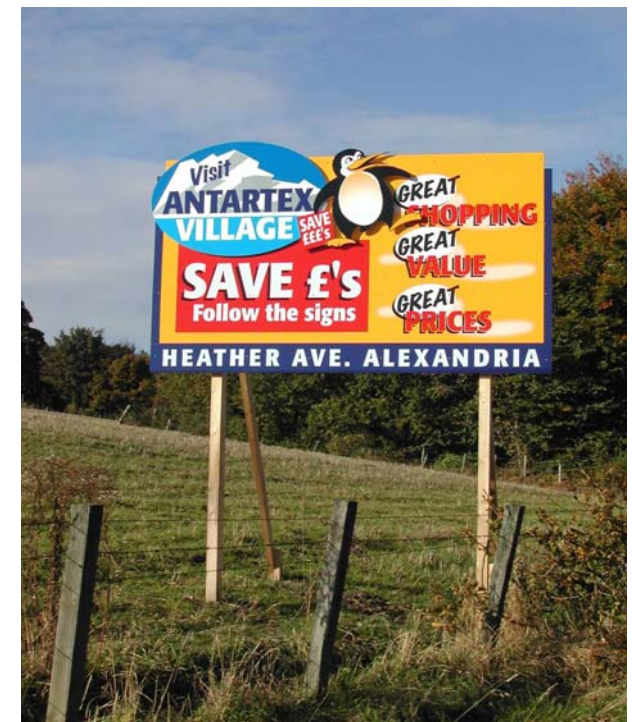
safety, or where it can be removed without any other work being required). There is a right of appeal against the notice to the Scottish Ministers.

An advertisement enforcement notice can also require that a particular piece of land should not be used to display advertisements. This remains in force even after the original advertisement is removed, so any subsequent advertising on this site would amount to a breach of the notice.

In the event of failure to comply with advertisement enforcement notice the Council has powers to remove the advertisement concerned and to seek recovery of the costs of so doing from the

owner as a civil debt.

Where ad hoc banners and signs are displayed remotely from the business premises or activity to which they relate, limited opportunity will be given to the party responsible to remedy the matter voluntarily, if they can be readily identified. Direct action may be taken as the first response if there are traffic safety or site sensitivity issues.



## Monitoring of our Quarries and Landfill Sites

Quarries and landfill sites have major impacts on the landscape and restoration requirements require regular monitoring. There are two quarries within the area (Sheephill and Dumbuckhill) and two landfill site (Auchencarroch and Rigangower) it has been agreed by the Council that these sites will be formally monitored on an annual basis during the month of May, in order to allow the preparation of an annual report. These sites would be visited more frequently should this be needed, for example if complaints are received or if compliance issues come to light during the formal monitoring visit. Compliance monitoring guidance has been produced and during these site visits the current progress of the operations will be recorded and compliance with the conditions of the relevant permissions will be monitored. Also the progress of the restoration scheme will be recorded and discussed with the operator. Notes of the site visit and updated information on the compliance with conditions will be recorded in the case records.



## Statutory Enforcement Powers and Notices

If it is decided to pursue formal enforcement action, there are various different statutory notices and powers which the Council can employ, depending upon the circumstances. The main types of statutory enforcement powers are described below. Most statutory notices are served on the owners, occupiers and any other persons believed to have in interest the site or to be carrying out operations on it, but they are referred to simply as the “developers” below.

Town & Country Planning (Scotland) Act 1997

## Notice Requiring a Retrospective Application for Planning Permission (Section 33A Notice)

Such notices can be served on developers who have carried out work without the necessary planning permission, and the effect of the notice is to require the submission of a retrospective application for the unauthorised work. If the developer fails to comply with this notice this fact will serve as evidence in any further enforcement action (such as an enforcement notice). Additionally, until it is complied with or withdrawn the Section 33A Notice remains on the Councils’ enforcement register and will show up on property searches if the developer tries to sell the property.

## Planning Contravention Notice (PCN)

Such notices are used as part of the investigation process, to obtain information about activities on land where a breach of planning control is suspected. Such notices are used where the ownership of a site is not clear, if the developer does not provide information willingly, or in cases where evidence is being gathered as a prelude to formal enforcement action. The notice specifies information which the recipient is required to provide to the Council in writing



within 21 days. This may include such questions as what their interest is in the land, or what they are using the land for. Failure to comply with the notice is an offence punishable on conviction by a fine of up to £1,000, or up to £5,000 for the provision of false or misleading information.

### Enforcement Notice

This is the most commonly used type of statutory enforcement action. An enforcement notice can be used where development has taken place without the benefit of the required planning permission including breach of planning conditions. An enforcement notice will specify what the alleged breach of planning control is, and what steps must be taken to comply with the notice (for example cessation of an unauthorised use or the alteration or demolition of an unauthorised structure).

An enforcement notice will also specify the time periods for when the notice will take effect (which cannot be less than 28 days after its date of issue), and also the period for compliance with the notice after it has taken effect. There is a right of appeal to the Scottish Ministers against an enforcement notice, but this must be lodged prior to the

notice taking effect. In the event of an appeal the requirements of the notice are suspended until a decision is reached. The compliance period allowed will depend upon the circumstances of the case.

Failure to comply with an enforcement notice is an offence, and on summary conviction may lead to a fine of up to £20,000. For the most serious cases a conviction on indictment is punishable by an unlimited fine. Alternatively, the Council can issue a fixed penalty notice of £2,000 (reduced to £1,500 if paid within 15 days), the non-payment of which within 30 days would result in the matter being referred to the courts. In addition to the potential fine, the Council may also take direct action to secure compliance with the requirements of the notice.

### Breach of Condition Notice (BCN)

In situations where the conditions of a planning permission have not been complied with the Council has the option of serving a Breach of Condition Notice as an alternative to an enforcement notice. It will specify the steps which the developer is required to take in order to comply with the notice, and the period for compliance (a

minimum of 28 days from the date of the notice). The advantage is there is no right of appeal against a Breach of Condition Notice. Failure to comply is an offence, with a fine on conviction of up to £1,000. Alternatively, the Council can issue a fixed penalty notice of £300 (reduced to £225 if paid within 15 days), the non-payment of which within 30 days would result in the matter being referred to the courts.

### Direct Action

Failure to comply with the terms of an enforcement notice can result in the Council carrying out the specified work itself, for example by arranging the demolition of unauthorised building. The Council may recover the costs of this from the landowner or lessee however direct action is only taken for the more significant cases.

### Stop Notice and Temporary Stop Notice

Occasionally a breach of planning control gives rise to such serious or irreversible negative impacts that it is necessary to halt the breach immediately, without the 28 day delay involved in an enforcement notice. In such circumstances the Council can serve both an enforcement notice and a stop notice. The stop notice is able to specify a



shorter period for taking effect (a minimum of 3 days from service of the notice).

Temporary stop notices are for circumstances of such urgency that even a delay of a few days in prohibiting the unauthorised works or use would be unacceptable. A Temporary Stop Notice takes effect immediately (i.e. without the 3 day delay involved in a normal stop notice) and does not need to be accompanied by an enforcement notice, but it only applies for a limited duration (up to 28 days) after which it ceases to apply. This requires an immediate stop to the harmful activity whilst giving the Council time to carry out further investigation and to issue an enforcement notice and stop notice.

A stop notice or Temporary Stop Notice will specify what activity must cease. This will typically only cover the most serious aspects of the breach of control which are required to stop immediately, whereas an associated enforcement notice will address the whole of the breach.

There is no right of appeal against a stop notice or Temporary Stop Notice, and failure to comply is an offence punishable by a fine of up to £20,000 on summary conviction or

an unlimited fine if convicted on indictment. However, the developer can seek a judicial review of the notice, and they can also appeal to the Scottish Ministers against the accompanying enforcement notice. If the courts consider that a stop notice or TSN was served without due cause, or if the enforcement notice is quashed on appeal, the Council may be required to compensate the developer for the costs of having to stop work. The use of stop notices and Temporary Stop Notices is therefore reserved for only the most serious and urgent situations.

### **Interdict and Interim Interdict**

The Council can apply to the courts for an interdict to restrain or prevent an actual or apprehended breach of planning control. An interim interdict is a temporary interdict made until the court reaches a final decision on whether to grant an interdict. Breaching an interdict or interim interdict is treated as a contempt of court, which is an offence carrying heavy penalties including possible imprisonment.

Although the Council can seek an interdict in relation to any breach without having to use other powers first, in practice such proceedings involve significant legal costs so

would only be employed as a last resort for the most serious cases or where enforcement notices have been ignored in the past.



**Auchentoshan Woods.**

[Planning \(Listed Buildings & Conservation Areas\) \(Scotland\) Act 1997](#)

### **Prosecution**

In extreme cases of unauthorised works to a listed building or within a conservation area the damage may not be capable of being remedied by the Council's enforcement powers, for example if the building has been completely destroyed. As it is an offence to carry out work to a listed building without

the required listed building or conservation area consent, the Council can report such cases directly to the Procurator Fiscal without the need for any prior enforcement action. The offence is punishable by up to a £50,000 fine or six months imprisonment on summary conviction, or an unlimited fine and/or two years imprisonment if convicted on indictment. As with all fines imposed by the court for breaches of planning control, the level of any fine will be determined with regard to any financial benefits accrued by the guilty party as a result of the offence.

#### **Listed Building Enforcement Notice**

This is used for works being carried out to a listed building or within a conservation area without the required consent or in breach of a condition of such a consent. A Listed Building Enforcement Notice can require that the building/site be restored either to its former state, to the state required by the condition which has not been complied, or to such other state as the Council may consider sufficient to alleviate the effect of the breach. There is a right of appeal to the Scottish Ministers.

Failure to comply is an offence, and may lead to a fine of up to £20,000 on summary

conviction or an unlimited fine for conviction on indictment. Alternatively, the Council can issue a fixed penalty notice of £2,000 for the first Listed Building Enforcement Notice. Continued non-compliance attract escalating fines of £3,500 for a second notice and £5,000 for a third or any subsequent notices. The level of fixed penalty fines is reduced by 25% if paid within 15 days, whereas non-payment with 30 days would result in the matter being referred to the courts.

#### **Listed Building Stop Notice and Listed Building Temporary Stop Notice**

These are similar to planning stop notices as described above, but relate to development in breach of listed building and conservation area controls.

#### **Listed Building Repairs Notice and Compulsory Purchase**

If the Council considers that the owner of a listed building is not taking reasonable steps to properly maintain a listed building, it may initiate a process leading to compulsory purchase of the building.

The first step is the service of a repairs notice on the owner of the building. It advises the owner of the steps which the Council

considers necessary for the proper preservation of the building, and explains that if these are not carried out within a specified timescale the Council may initiate compulsory purchase proceedings. There is no right of appeal against the Repairs Notice and no offence of non-compliance. However, owners and other interested parties can challenge an application for compulsory purchase.

In the event of the owner failing to carry out the works specified, the Council may seek a compulsory purchase order from the Scottish Ministers. If this is granted, the compensation payable to the owner will have regard not only to the market value of the building but also to the costs likely to be incurred by the Council in restoring the building to an appropriate condition. If it is judged that the owners have deliberately allowed the listed building to fall into disrepair in an attempt to justify its demolition then minimal compensation may be payable.

These procedures would involve significant legal costs and financial risks for the Council, so they would only be used in the most serious cases.

### **Urgent Works to Unoccupied Listed Buildings**

If it appears that works are urgently required to preserve an unoccupied listed building, the Council may serve notice on the owner giving them 7 days to undertake these works. Should the owner fail to carry these works then the Council can arrange to have the works carried out itself, and may subsequently seek to recover the costs of doing so from the owner. The owner can challenge the payment or the amount of these costs, in which case a decision on the issue will be made by the Scottish Ministers.



### **Tree Preservation Orders (TPO) and Trees in Conservation Areas**

It is an offence to wilfully cut down, uproot, destroy or damage a tree which is subject to a Tree Preservation Order or within a conservation area. Prosecution may be sought in serious cases, in which case the offence is punishable by a fine of up to £20,000 on summary conviction or an unlimited fine if convicted on indictment.

Any person who has removed or damaged a protected tree without the necessary consent must plant a replacement tree of an appropriate size and species as soon as reasonably possible, unless otherwise agreed with the Council. Should they fail to do so, the Council may serve a notice requiring appropriate re-planting. There is a right of appeal against such a notice. Failure to comply with the notice may result in the Council taking direct action to carry out the re-planting and recovering the costs of doing so from the owner. Wilful obstruction of this would be an offence liable to a fine of up to £1,000 on summary conviction.

### **Other Relevant Planning Powers**

#### **Amenity Notice or Wasteland Notice**

The Council to serve a notice on the owner, lessee or occupier of land, if it considers that the condition of the land is adversely affecting the amenity of any part of their area. The Notice specifies the steps considered necessary to reduce the adverse effect within a specified timescale. This notice can be used for buildings as well as land. There is a right of appeal to the Scottish Ministers against such notices. In the event of non-compliance the Council can enter the land, undertake the steps necessary to comply with the notice, and seek recovery of its costs from the owner.





**Notification of Initiation of Development(NID); Notification of Completion of Development(NCD) and Display of Notices while Development is carried out**

While these are not planning enforcement notices, these Notices are intended to improve the monitoring of development by requiring confirmation that development has commenced and been completed. For example this will allow planning conditions to be checked for compliance.

Site Notices which apply to major developments help to raise awareness of proposed developments in the area. They contain basic information about the site and the proposed development. It provides contact details where further details of the development can be found or reporting alleged breaches of planning control. It is a breach of planning control of failing to display a site notice when required to do so.

Starting a development without submitting a Notice of Initiation of Development is a breach of planning control and the Council may consider enforcement action. The Notice of Completion of Development requires a developer to submit a further Notice after



development has been completed.

**Certificates of Lawful Use or Development (CLUD)**

This allows the developer to establish the planning status of land. A Certificate of Lawfulness of Existing Use or Development can be used to confirm that an existing use or activity or in breach of a condition has already taken place is lawful. It is defined as lawful if enforcement action cannot be taken against it. This may be that planning permission is not required or the use or operation took place and the time for enforcement action has expired. Time Limits for enforcement are outlined above.

A Certificate of Lawfulness of Proposed Use or Development confirms that what is being proposed would be lawful and would not require planning permission ie it is permitted development or already has planning permission.

In both cases the onus of proof lies with the applicant. Certificates can be revoked if it subsequently appears that false or misleading information has been submitted with an application. The above Certificates do not mean that planning permission has been granted but the use of development is lawful and immune from enforcement action.

## Responsibility for Exercise of Enforcement Powers

The majority of enforcement proceedings are undertaken by planning officers under delegated powers; however in a small number of more significant cases authority may be sought from the Planning Committee.

Appeals against enforcement proceedings are to the Scottish Ministers, but in most cases the determination of appeals is delegated to Reporters from the Scottish Government's Directorate of Planning & Environmental Appeals.



## Information on Current Enforcement Proceedings

Details of outstanding enforcement notices, Breach of Condition Notice and Stop Notices and other formal enforcement proceedings are recorded in the Council's Enforcement Register. You can inspect the register and the documents online [www .....](http://www.....)

## Enforcement Powers

The Planning Enforcement powers available to the Council are set out in Part IV of the Town and Country Planning (Scotland) Act 1997 and in Chapter IV of the Planning (Listed Buildings and Conservation Areas ) (Scotland) Act 1997. The Planning Acts are available from The Office of Public Sector Information (OPSI) at [www.opsi.gov.uk](http://www.opsi.gov.uk).

Government policy on planning enforcement is set out in Circular 10/2009, "Planning Enforcement". This document is available from the Scottish Government and can be viewed electronically at [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning).

## Enforcement Contacts

Contact details for reporting suspected breaches of Planning control:  
Development Management Team  
West Dunbartonshire Council  
Email: [development.management@west-dunbarton.gov.uk](mailto:development.management@west-dunbarton.gov.uk)  
Tel: 0141 951 7941  
Address: Aurora House  
3 Aurora Avenue  
Clydebank  
G81 1BF

Contact details for general enquiries on Planning issues:  
Planning & Building Standards West  
Dunbartonshire Council  
Email: [buildingandplanning@west-dunbarton.gov.uk](mailto:buildingandplanning@west-dunbarton.gov.uk)  
Tel: 0141 951 7941

Contact details for complaints regarding the level of service:  
Ms Pamela Clifford  
Manager of Planning & Building Standards  
Email: [Pamela.clifford@west-dunbarton.gov.uk](mailto:Pamela.clifford@west-dunbarton.gov.uk)  
Tel: 0141 951 7938

## Other useful contacts – enquiries regarding building warrants:

Building Standards Team  
West Dunbartonshire Council  
Email: [building.standards@west-dunbarton.gov.uk](mailto:building.standards@west-dunbarton.gov.uk)  
Tel: 0141 951 7941

Loch Lomond and The Trossachs National Park and Planning Authority  
Planning Information Officer  
Email: [planning@lochlomond-trossachs.org](mailto:planning@lochlomond-trossachs.org)  
Tel: 01389 722 024

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For general enquiries regarding the Planning system:  
The Scottish Government – Planning helpline  
Tel: 0845 774 1741

Planning Aid for Scotland provides a free and independent advice Service for individuals and community groups across Scotland - [http:// www.planning-aid-scotland.org.uk](http://www.planning-aid-scotland.org.uk) or call the helpline 0845 603 7602.

**WEST DUNBARTONSHIRE COUNCIL**

**Report by the Head of Regeneration & Economic Development**

**Planning Committee: 23 March 2016**

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**Subject: Draft Planning Delivery Advice: Housing and Infrastructure**

**1. Purpose**

- 1.1** To inform the Committee of the content of draft Planning Delivery Advice that has been prepared by the Scottish Government.

**2. Recommendations**

- 2.1** It is recommended that the Committee agree Appendix 1 as this Council's response to the draft advice.

**3. Background**

- 3.1** This draft advice on Housing and Infrastructure was published on 17 February 2016 and comments are requested by 31<sup>st</sup> March 2016. Once finalised, the advice will replace Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits. Although the new draft guidance does cover affordable housing and housing land audits, it is much broader in scope, concentrating on the need to identify the infrastructure required to deliver new housing. The primary purpose of the advice is to assist in the preparation of development plans. However, it may also be a material consideration in the determination of planning applications and appeals.

**4. Main Issues**

- 4.1** The emphasis of the guidance is how the development plan process can be used to increase the delivery of new housing. The premise is that development plans identifying the infrastructure requirements needed to allow development to go ahead, including the cost of that infrastructure and how it will be funded, will help delivery. Doing this will involve collaborative working with all Council departments, agencies, infrastructure/utilities providers, site promoters and developers.
- 4.2** The draft guidance is divided into three sections – development plans that deliver, planning to deliver homes and planning for infrastructure. It also includes four appendices and six annexes which focus on infrastructure assessment as well as aspects of the development plan process such as the Call for Sites and Action Programmes.
- 4.3** Section 1 - Development Plans that Deliver highlights the need for:
- effective joint working;
  - the delivery of high quality development; and

- development that is sustainable and guided to appropriate locations.

**4.4** Section 2 - Planning to Deliver Homes will replace the existing PAN guidance on Housing Land Audits and advises:

- that the allocation of a housing site in the development plan should carry with it a firm and shared commitment to ensure that it is delivered;
- when the presumption in favour of sustainable development becomes relevant i.e. when the development plan is considered not to be up-to-date;
- on innovative approaches to the identification of housing land, including planning authorities taking the lead in the redevelopment of brownfield land, encouraging residential use within town centres and responding positively to the emerging Build to Rent sector;
- the need to establish indicative costs for the infrastructure required to deliver sites;
- that marketability should not be a determining factor in deciding if a site is effective or not; and
- the viability testing of development sites should be sought during the preparation of the development plan.

**4.5** Section 3 – Planning for Infrastructure reflects the new emphasis on the need to address infrastructure requirements in the development plan:

- spatial strategies should be based on making use of existing infrastructure capacity, but should also be supported by longer term plans for infrastructure provision;
- establishing infrastructure capacity and needs should be integral to the development plan process, and it is good practice to set up a Delivery Working Group involving all stakeholders to achieve this; and
- planning authorities should aim to establish indicative infrastructure costs in the development plan; the mechanisms to fund these costs, including expected developer contributions, also need to be established through the proposed plan and detailed in the Action Programme.

**4.6** The Appendices and Annexes provide greater detail in relation to

- infrastructure types and how to assess needs and costs for transport, education, utilities (electricity, heat, gas, digital and telecoms), water and drainage, green infrastructure, health and other community facilities;
- the Call for Sites process;
- the Action Programme process; and
- affordable housing.

What it means for West Dunbartonshire

**4.7** Increasing levels of house-building is a key priority for the Government and it has been challenging to achieve this in recent years. This guidance differs from previous advice in that it focusses on delivery, and in particular on the infrastructure requirements, costs and funding necessary to deliver the development plan's spatial strategy. The gathering of this information will require significant contributions and effective joint working with a multiplicity of stakeholders including key agencies, infrastructure providers, Council departments and developers. This joint working will be a continual process



throughout all stages of the Local Development Plan preparation and beyond. The Action Programme will require to be updated annually and kept as a 'live' document. The requirements of the new guidance are complex and time-consuming and will have challenging resource implications for all involved. The Council may face criticism if information on infrastructure requirements and costs is found to be insufficient or inaccurate.

- 4.8 The guidance will ensure that there is more information available with regards to infrastructure provision, but it will not of itself increase the delivery of new housing. In areas where there is less pressure for development, such as West Dunbartonshire, it may be more difficult to achieve developer contributions for infrastructure requirements without affecting development viability, and alternative mechanisms to fund infrastructure costs may have to be considered. Advice on delivering development under such circumstances should be included.
- 4.9 The proposed Council response to the draft guidance is included in Appendix 1.

#### Next Steps

- 4.10 The Scottish Government will consider all responses to this draft and publish the final guidance in due course. This will guide the preparation of the next Local Development Plan and the associated Action Programme.

### **5. People Implications**

- 5.1 In discussing the advice several planning authorities have expressed concern about the implications of providing the information of infrastructure requirements in the development plan, both in terms of workload and the information/knowledge available to do this. A proportionate approach will need to be taken to achieve this with existing resources.

### **6. Financial Implications**

- 6.1 The guidance does not have any direct financial implications for the Council.

### **7. Risk Analysis**

- 7.1 It was not necessary to carry out a risk assessment in relation to this report.

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

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

### **9. Consultation**

- 9.1 Not applicable.

### **10. Strategic Assessment**

- 10.1** The new guidance will help the Council to deliver on the strategic priority of improving local housing and environmentally sustainable infrastructure.

**Jim McAloon**

Head of Regeneration & Economic Development

Date: 8 March 2016

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<b>Appendices:</b>	Appendix 1: Detailed response to Draft Planning Delivery Advice: Housing and Infrastructure
<b>Background Papers:</b>	Scottish Government Draft Planning Delivery Advice: Housing and Infrastructure
<b>Wards Affected:</b>	All

Draft Planning Delivery Advice: Housing and Infrastructure

General points

1. The whole structure of the draft advice is rather unbalanced, and overly long. The majority of the advice relates to infrastructure provision, for example, whilst the Affordable Housing guidance is reduced to an Appendix. The main messages of the guidance could be made clearer in the text.
2. Planning of itself cannot increase the delivery of new housing, and this should be clearly acknowledged. Whilst establishing a better evidence base for infrastructure needs, costings and funding is good practice, it will not of itself ensure development takes place. It is less imperative in areas where there is limited development pressure and the emphasis is on the regeneration of vacant and derelict urban land. More emphasis on achieving development under these conditions would be welcome, for example on issues relating to decontamination and supporting the market.
3. The importance attached to the Housing Land Audit is to be welcomed.
4. The emphasis on establishing the infrastructure evidence base and identifying and costing infrastructure requirements will be challenging. The resource implications and potential skills gap for authorities as well as other stakeholders in embracing this guidance are considerable. The consequences of dependence on incomplete or inaccurate information, and the potential implications of this should be addressed.
5. In addition, the guidance will require significant liaison, consultation and influence to be exerted over a variety of external stakeholders, over which planning services may have little control. It may also require a greater corporate awareness of the importance of development planning within local authorities. Government involvement in publicising planning's new coordinating role in this exercise would be welcome.

Section 1

Para 9 - It should be acknowledged that it was not only collaborative working that achieved success here but major Government funding to support the Commonwealth Games.

Section 2

Para 15 - It is impossible for development plans to provide certainty about where development WILL take place, and this wording needs to be amended. This is determined by

housebuilders activity, market conditions which fluctuate, activity elsewhere etc. Where the market is not strong, the development plan will not be able to meet its housing land requirement with sites where there is a firm commitment to delivery, because this is only possible with housebuilder involvement in every site. Identifying suitable housing land through the process of community participative design is a welcomed approach, if resource-heavy – but it will not provide certainty that housing will be delivered. Only housebuilders will do that.

Table 1 - shows the 5-year effective land supply as all-tenure. It should be separated by tenure as indicated in para 29.

Para 39/40 - there is some confusion here. The established supply includes sites which are already allocated and sites with planning permission. The effective land supply is a sub-set of the established supply, as noted in Para 57 – this should be reflected in the untitled Table.

Paras 44-49 - The approach to identifying housing land in these paragraphs is generally welcomed. However, greater emphasis and guidance on the possible interventions to encourage development on brownfield land where there is little developer interest would be appreciated by the many authorities where this is the most relevant development planning issue.

Para 51/54 – There are concerns relating to Build to Rent housing which may have significantly different standards to normal or standard products for sale. It should not be assumed that these will provide long-term high quality homes and contribute to successful place-making. Mainstream rented accommodation should not be allowed to reduce standards and potentially store up problems for the future. The propensity to build fairly homogenous development dominated by high density flats could be to the detriment of achieving a mixture of house types and tenures.

Para 56 - Should refer to Annex B.

Para 60 - The separation of marketability from the other 'effectiveness' criteria is welcomed, as is the statement that it should not be the determining factor in deciding whether a site is effective. Marketability as a concept can be subjective, can vary depending on the type of development proposed and can change over time.

Para 63 - It is already good practice to rigorously reassess sites in the development plan and the Housing Land Audit. However, care should be taken in making the argument that sites should be de-allocated solely because of a lack of market interest. Evidence would have to be provided from a range of providers that the market perception would not change.

Paras 64-67 - Sites identified in the development plan will not all be in the control of housebuilders. It seems unlikely that housebuilders will provide detailed viability assessments on all potential sites, and sites promoted by others will not always have the expertise or resources to provide assessments. If this information is provided, it is unlikely to be on a comparative basis. There may be a skills gap in requiring assessment of these in-house, and resource implications if external expertise is to be used. There may also be issues relating to confidentiality. The success of viability assessments will very much depend

on the detail and reliability of the information submitted. Some examples or additional guidance in terms of what information should be obtained and how, would be useful.

Para 71 - Urban capacity studies identify additional land resources beyond that identified in the Housing Land Audit. Third bullet point should end after 'appropriate for housing'.

Para 73 - It may be difficult to include 'softer' data on constraints within the audit itself. Projected completions will show when development will be expected. This should link to the Action Programme where more detailed information on constraints and how they will be lifted will be included.

Para 75 - Low past completion rates indicate that there is a greater 'pool' of effective land still to be developed, and therefore less requirement for additional allocations. Low level of anticipated completions must not artificially inflate the level of additional release, or there is an 'incentive' to take a less than realistic view of the effective land supply.

Para 76 – Justification for the de-allocation of sites should be part of the development plan process not in the audit.

Para 77 - An example should also be taken from the documentation and work undertaken by the Glasgow and the Clyde Valley authorities to ensure a consistent and transparent approach by the authorities across the city region where there is a regeneration strategy.

Para 79 - See comment on Para 71 re urban capacity studies.

Para 84 - Tenure is essential to the audit to assess the 5-year land supply. Information on house types is desirable but not essential.

### Section 3

This new guidance places most emphasis on planning for areas of growth requiring major new infrastructure provision. It is ambitious in scope and principle; in practice it will add new complexities to the development plan process and require new working practices to be put in place to bring the information required together. The proportionate approach is supported. However, the need for more detailed and accurate requirements to be outlined in the Action Programme will remain challenging and time- consuming.

Para 99 - Given the example of the infrastructure Delivery Group in Aberdeen City and Shire, will the guidance indicate whether this assessment of infrastructure should be undertaken at local authority level or the city-region level?

Para 111/113 – Those who bring forward development proposals will not all be able to provide comparable data and this could disadvantage some site promoters.

Para 125 – There is perhaps a wider issue here about the testing of information provided on requirements, costing and funding at examination.

### Appendix 1

Transport – bringing together planning and transport services and aligning roads construction consent with planning permission are practical ways to help integrate transport infrastructure and development planning.

## Appendix 2

In general this guidance on the Call for Sites process and the template (Annex C not D) is welcomed. Advice on how to deal with a comparative assessment of sites which have been brought forward with varying levels of detail would be useful.

## Appendix 3

The proposed guidance presents significant changes to the way Action Programmes are prepared and presented which could significantly increase the resources required to produce them. Para 6 suggests that LDP Action Programmes could focus on key development areas and major developments, rather than trying to include every development individually. This more proportional approach should be given more prominence in the PAN.

The ability to prepare a robust and detailed Action Programme will largely depend on the information forthcoming being of adequate detail. There is a concern that because of the dependence on others if the Action Programmes is considered to be incomplete or lacking in detail, planning authorities will come under criticism for something outwith their control.

## Appendix 4

This basically updates the current PAN in relation to Affordable Housing.

Para 5 – Note this statistical return is no longer requested.