

Agenda



Planning Committee

Date: Wednesday, 14 December 2022

Time: 2.00 p.m.

Venue: Civic Space
16 Church Street, Dumbarton

Contact: Email: Nicola.moorcroft@west-dunbarton.gov.uk
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Dear Member

Please attend a meeting of the **Planning Committee** as detailed above.

The business is shown on the attached agenda.

Yours faithfully

PETER HESSETT

Chief Executive

Distribution:-

Councillor Lawrence O'Neill (Chair)
Councillor Gurpreet Singh Johal (Vice Chair)
Councillor Karen Conaghan
Councillor Ian Dickson
Councillor Diane Docherty
Councillor Daniel Lennie
Provost Douglas McAllister
Councillor June McKay
Councillor Chris Pollock
Councillor Hazel Sorrell

All other Councillors for information

Date of Issue: 1 December 2022

PLANNING COMMITTEE
WEDNESDAY, 14 DECEMBER 2022

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are invited to declare if they have any interests in the items of business on this agenda and the reasons for such declarations.

3 MINUTES OF PREVIOUS MEETING 5 - 11

Submit for approval as a correct record, the Minutes of Meeting of the Planning Committee on 16 November 2022

4 NOTE OF VISITATION 13 - 14

Submit, for information, Note of Visitation carried out on 14 November 2022.

5 OPEN FORUM

The Committee is asked to note that no open forum questions have been submitted by members of the public.

6 PLANNING APPLICATION 15 - 23

Submit a report by the Planning, Building Standards and Environmental Health Manager – in respect of the following planning application:-

DC22/088/LBC – Demolition of Category B Listed Building (Former Exciseman's House), at Former Exciseman's House Dumbarton Road, Bowling G60 5BQ by Swan Group.

7 REVIEW OF PLANNING ENFORCEMENT CHARTER 25 - 53

Submit report by the Planning, Building Standards and Environmental Health Manager, seeking approval for the updated Planning Enforcement Charter.

8 DEVELOPMENT PLAN UPDATE

55 - 70

Submit report by the Planning, Building Standards and Environmental Health Manager, providing an update on the development plan position in West Dunbartonshire and seeking approval for the 2022 Development Plan Scheme and Participation Statement.

9 INTRODUCTION OF FEES FOR PRE - APPLICATION ADVICE 71 - 96
AND OTHER DISCRETIONARY FEES, EXEMPTIONS,
REDUCTIONS AND SURCHARGES

Submit report by the Planning, Building Standards and Environmental Health Manager, seeking approval for the introduction of fees for the provision of pre-application planning advice to prospective developers and householders and for the introduction of other discretionary charges, exemptions, reductions and surcharges.

PLANNING COMMITTEE

At a Meeting of the Planning Committee held in Civic Space, 16 Church Street, Dumbarton on Wednesday, 16 November 2022 at 10.00 a.m.

Present: Councillors Karen Conaghan, Ian Dickson, Diane Docherty, Gurpreet Singh Johal, June McKay, Lawrence O'Neill, Chris Pollock and Hazel Sorrell.

Attending: Pamela Clifford, Planning, Building Standards and Environmental Health Manager; Alan Williamson, Team Leader, Development Planning and Place; James McColl, Acting Development Management Team Leader; Nigel Ettles, Section Head – Litigation (Legal Officer); and Nicola Moorcroft, Committee Officer.

Apologies: Apologies for absence were intimated on behalf of Provost Douglas McAllister and Councillor Daniel Lennie.

Councillor Lawrence O'Neill in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in any of the items of business on the agenda.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Planning Committee on 12 October 2022 were submitted and approved as a correct record.

NOTE OF VISITATION

A Note of Visitation carried out on 10 October 2022, a copy of which forms Appendix 1 hereto, was submitted and noted, subject to the addition of Councillors Karen Conaghan, Ian Dickson and Lawrence O'Neill to the attendee list.

OPEN FORUM

The Committee noted that no open forum questions had been submitted by members of the public.

PLANNING APPLICATION

A report was submitted by the Planning, Building Standards and Environmental Health Manager in respect of the following planning application:-

DC20/253 - Amendment to Condition 1 of planning permission DC07/233/FUL to extend the time of the approved landfilling operation and restoration by 15 years at Auchencarroch Landfill Site, Auchencarroch Road, Jamestown, Alexandria by Barr Environmental Ltd.

Reference was made to a site visit that had been undertaken in respect of the above application. The Planning, Building Standards and Environmental Health Manager was heard in further explanation of the report and in answer to Members' questions.

The Chair invited Mr Neil Sutherland (Applicant's agent – Wardell Armstrong LLP) to address the Committee. Mr Sutherland was heard in respect of the application and in answer to Members' questions.

The Chair invited Mr Gavin Ramsey, on behalf of the applicant (Barr Environmental Ltd) to address the Committee. Mr Ramsey was heard in respect of the application and in answer to Members' questions.

After discussion, and having heard the Planning, Building Standards and Environmental Health Manager in further explanation and in answer to Members' questions, Councillor Lawrence O'Neill moved, seconded by Councillor Hazel Sorrell, that:

The Committee be minded to grant planning permission for the operation of the site until 30th June 2024 and completion of the final restoration by 30th June 2026 and delegate authority to the Planning, Building Standards and Environmental Health Manager to issue the decision subject to the conditions set out in Section 9 of the report (as detailed within Appendix 2 hereto) and the satisfactory review of the extant legal agreement and conclusion of a new or updated legal agreement or other suitable mechanism to secure an increased restoration bond value.

As an amendment, Councillor Ian Dickson moved, seconded by Councillor Chris Pollock, that:

The Committee refuse planning permission on the grounds that, insufficient consideration has been given to the detriment on the surrounding roads network, other road users including pedestrians and cyclists, gas emissions that can be detected by residents on a far more frequent basis than suggested, the shortcomings in the habitat management plan as described and because promises were made to residents when this was first granted that it was for a fixed period of time on a fixed piece of ground. The scale has already been increased but the timescale should not be.

On a vote being taken, 6 members voted in favour of the motion and 2 members voted for the amendment. The motion, was accordingly, declared carried.

LOCAL DEVELOPMENT PLAN 2 – SUPPLEMENTARY GUIDANCE

A report was submitted by the Planning, Building Standards and Environmental Health Manager advising of the outcome of consultation on draft Supplementary Guidance and seeking approval of finalised version of the Guidance.

After discussion and having heard the Team Leader, Development Planning and Place in further explanation and in answer to Members' questions, the Committee agreed to approve the finalised versions of Supplementary Guidance as set out in the following Appendices of the Report:-

- Frontiers of the Roman Empire (Antonine Wall) World Heritage Site (Appendix 1)
- Creating Places (Appendix 3)
- Green Network and Green Infrastructure (Appendix 5)

PLANNING APPEAL DECISION – COFFEE SHOP WITH DRIVE -THROUGH, MORRISONS CAR PARK, 36 GLASGOW ROAD, DUMBARTON

A report was submitted by the Planning, Building Standards and Environmental Health Manager, advising that an appeal relating to a Committee decision to refuse planning permission for a drive-through coffee shop on part of the Morrisons supermarket car park, 36 Glasgow Road, Dumbarton, has been dismissed, as has the appellant's claim for expenses.

After discussion and having heard the Team Leader, Development Planning and Place in further explanation and in answer to Members' questions, the Committee agreed to note the outcome of the appeal.

The meeting closed at 10.44 a.m.

PLANNING COMMITTEE

NOTE OF VISITATIONS – 10 OCTOBER 2022

Present: Councillors Diane Docherty, Gurpreet Singh Johal, June McKay and Chris Pollock

Attending: Pamela Clifford - Planning, Building Standards and Environmental Health Manager

SITE VISITS

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

Farm Road, Duntocher, Clydebank by BDW Trading Ltd.

DC22/049/MSD - Approval of matters specified in conditions 1, 3, 5 and 7 of PPiP approval DC19/203 for the erection of 99 dwelling houses, formation of access, landscaping, open space, SUDS and associated infrastructure.

Former Our Lady and St Patrick's High School site, Hawthornhill Road, Dumbarton by Persimmon Homes

DC22/072/FUL – Residential development, landscaping and associated infrastructure

DC07/233/FUL to extend the time of the approved landfilling operation and restoration by 15 years at Auchencarroch Landfill Site, Auchencarroch Road, Jamestown, Alexandria by Barr Environmental Ltd.

GRANT planning permission subject to the following conditions:-

- (1) The development hereby permitted shall ensure for the benefit of the applicant only with the approved landfill operations to be completed by 30th June 2024 and the final restoration of the site by 30th June 2026 unless otherwise agreed in writing by the Planning Authority.
- (2) At all times during the lifetime of this permission, the landfill operations on site, the operational conduct of the site and the restoration of the site shall be undertaken as indicated in the Environmental Impact Assessment dated November 2020 together with all supporting documentation, plans and details that forms part of this application. For the avoidance of doubt, the landfill operations shall be undertaken and completed progressively as approved.
- (3) Except in the case of emergency the hours of working of the site shall be restricted to between the hours of 7.30am to 5.00pm Monday to Saturday only and not on a Sunday or on a recognised Public Holiday in West Dunbartonshire without the prior written approval of the Planning Authority with the exception of essential site maintenance and the maintenance of plant and machinery. Access to and exit from the site shall be by way of Auchencarroch Road.
- (4) The number of deliveries of landfill material to the site shall not exceed 116 in any one working day.
- (5) The site operator shall be responsible for the maintenance of a vehicle register log book of all deliveries to the site which shall be available for inspection by the Planning Authority upon request at any time.
- (6) The applicant shall be responsible for the collection and disposal of any windblown material emanating from the area of infill or deposited from vehicles on or around Auchencarroch Hill and Auchencarroch Road.
- (7) No burning of materials in connection with the infilling operations shall take place on or adjoining the site.
- (8) That within 8 weeks of the date of this permission, the applicant shall undertake a review of external lighting of the site and shall submit full details setting out how the impact of external lighting on the site shall be minimised in the landscape. For the avoidance of doubt this shall include full details of all existing and lighting at the site, details of the hours of illumination, location, height, angles, power rating, projection and any hoods or baffles to direct light. Any amendments of recommendations in relation to external lighting

shall be fully implemented within 8 weeks of the date the details are agreed in writing by the Planning Authority.

- (9) The annual monitoring on the progress of the mitigation areas shall be carried out as required by the Habitat Management Plan and by the applicant or by any person engaged by them. An annual report will be made available to the Technical Working Group at least 3 weeks prior to the formal review meeting of that Group and the annual monitoring report shall be approved by the Planning Authority.
- (10) The approved Habitat Management Plan dated July 2008 shall continue to be fully implemented in connection with the operation of the site.
- (11) All advance works, including habitat translocation to receptor areas for landfill restoration shall take place outside the bird nesting season (March to July inclusive) unless a checking survey confirms the absence of nests. The checking survey shall be carried out at a time and approved in advance by the Planning Authority.
- (12) All diversions of watercourses shall follow the details approved in respect of condition 18 of planning permission DC07/233/FUL.
- (13) The access track which runs partly through the active landfill and links up with the track leading to Paper Muir and the western edge of the commercial forestry plantation shall not be used for the export of timber without the prior written approval of the Planning Authority.
- (14) On completion of the landfill operations, except in so far as may be required for leachate and gas monitoring, the site shall be cleared of all buildings, plant and machinery with details of the phasing of this to be submitted for the approval of the Planning Authority prior to the cessation of landfill operations on site.
- (15) Appropriate measures to prevent mud, dirt, dust, slurry or stones being carried onto the highway shall be taken and such steps shall include the provision and the use of hard standing areas and a wheel wash facility for the cleaning of all lorries, dump trucks, other heavy vehicles and plant leaving the site.
- (16) The access road and public road adjacent to the site shall be kept clear of mud or other deposited materials at all times by means of mechanical brushing.
- (17) All road vehicle transporting waste to site shall be suitably covered/happed to ensure there is no escape of materials. Where appropriate, vehicles leaving the site shall also be happed to minimise traffic noise associated with empty vehicles.

- (18) Soils to be imported to the site shall share similar profile characteristics as the soil structure currently on site. Topsoil and sub-soil shall only be stripped when the soils are sufficiently dry so that when moved, no damage will be done to the structure of the soils. Apart from the works required to enclose the site, no operations shall be carried out until the topsoil is fully stripped and stored in the designated areas within the site.
- (19) Topsoil shall be stripped to full available depth from all areas within the site except those areas designated in the approved plans as topsoil dumps. Following topsoil stripping operations from any areas of land, sub-soil shall be stripped as a separate operation to a depth, where possible, to achieve topsoil and sub-soil not less than 0.9 metre at restoration.
- (20) Topsoil and sub-soil shall be carefully stored in separate dumps and prevented from mixing. Topsoil dumps shall not exceed 5 metres in height. Topsoil dumps and sub soil dumps shall be evenly graded and tops shaped to prevent water ponding. Sub-soil dumps shall not exceed 8 metres in height.
- (21) In the first available seeding season following their formation, all mounds of topsoil, sub-soil and soil making materials shall be seeded in grass and shall be so maintained until the soils are required for use in the restoration of the site except as may be otherwise agreed with the Planning Authority.
- (22) All water treatment areas and settlement lagoons shall be enclosed by a one metre high stock-proof fence and shall be implemented prior to any significant soil stripping.
- (23) Appropriate precautions shall be taken to prevent the discharge of oil from fuelling, oil storage, plant maintenance and vehicle wash areas within the site.
- (24) Dust monitoring shall be routinely carried out by the applicant and undertaken using appropriate equipment and recording devices. The results and records shall be made available to the Planning Authority on a monthly basis during the operational life of the site.
- (25) Noise monitoring programme shall be undertaken during the operational life of the site using appropriate equipment and recording devices, the results of which shall be made available to the Planning Authority on a monthly basis.
- (26) The total waste landfilled on site shall not exceed 225,000 tonnes (net) per year.

PLANNING COMMITTEE

NOTE OF VISITATION – 14 NOVEMBER 2022

Present: Councillor Gurpreet Singh Johal

Attending: Pamela Clifford - Planning, Building Standards and Environmental Health Manager and James McColl - Acting Development Management Team Leader

SITE VISIT

A site visit was undertaken in connection with the undernoted planning application:-

Landfill Site, Auchencarroch Road, Jamestown, Alexandria G83 9EY

DC20/253 - Amendment to Condition 1 of planning permission DC07/233/FUL to extend the time of the approved landfilling operation and restoration by 15 years.

WEST DUNBARTONSHIRE COUNCIL

Report by Planning, Building Standards and Environmental Health Manager

Planning Committee: 14th December 2022

DC22/088/LBC: Demolition of Category B listed building (Former Exciseman's House) at Former Exciseman's House, Dumbarton Road Bowling, G60 5BQ by Swan Group

1. REASON FOR REPORT

- 1.1** The application is subject of an objection from Bowling and Milton Community Council. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** Grant listed building consent subject to the conditions set out in Section 9 below.

3. DEVELOPMENT DETAILS

- 3.1** The application relates to the Category B listed Former Exciseman's House which is located on the northern side of Dumbarton Road, Bowling. The building formed part of the Littlemill Distillery which formerly stood on the site. The Distillery itself closed in 1995 with the buildings being demolished following a fire on the weekend of 4th and 5th of September 2004. The former Exciseman's House was listed in 1995 and comprises a two storey, four bay house which a near symmetrical arrangement, with later additions. It has a random rubble sandstone construction to the external walls. In terms of the relationship to the Distillery, under the Excise Act of 1823, distillers were required to provide separate accommodation for Excise officers. These were rented by the Board of Excise for a sum not exceeding £10 per annum.
- 3.2** Following the fire, only the ruins of the building remain on site. The entire roof structure has been lost as has the interior of the building, with various rotting and collapsed timbers evident. The later addition comprising a single storey extension on the ground floor front left of the building has collapsed with only the front elevation remaining. Substantial vegetation growth, including self-seeded trees, has become established within the remains of the building. The rear elevation of the property is largely obscured by overgrown trees and vegetation. The remaining external walls have been significantly penetrated by root growth.
- 3.3** It is proposed to demolish the remaining structure of the building as the applicant advises that the building is dangerous due to the unrestrained nature of the remaining superstructure elements. The applicant sets out that the building has been exposed to the elements for a significant period and is in ruin. The applicant

considers that the site can be accessed even though there is security fencing, and therefore poses a significant risk. It is considered by the applicant that this building is beyond economic repair, dangerous and requires to be removed. In support of the application, the applicant has provided a variety of documents. These include a Property and Boundary Wall Inspection Report, Property Inspection Letter and Applicant's Report inclusive of details relating to development costings and site marketing.

- 3.4** The former distillery site has an extensive planning history. Following the closure of the Distillery in 1995, a variety of planning applications have been granted over the years. Three separate sites (sites A, B and C) were proposed for residential development with sites A and C to the north of Dumbarton Road and site B to the south of Dumbarton Road. The former Exciseman's House is located on site C. Outline planning permission was originally granted in 1996 for residential development on the two separate portions of land (sites A and C) associated with the former distillery on the north side of Dumbarton Road. Site A was completed by 2009 but site C has not been developed. Notwithstanding this, an extant planning permission for 25 residential units including two within the former Exciseman's House remains in place. Site B to the south of the road was subject of separate applications and the development (which has been completed) included the replication of the former kiln towers on the site utilising stone from the demolition of the originals following the fire.

4. CONSULTATIONS

- 4.1** Historic Environment Scotland have no objections to the proposed demolition.

5. REPRESENTATIONS

- 5.1** Three objections have been received in connection with the proposal. These are from Bowling and Milton Community Council together with two residents within the wider locality. The detail of each submitted representation is available in the electronic planning file for the application and available for public viewing. The concerns raised can, however, be summarised as follows:

- The building is not dangerous and is suitably distant from the nearest footpath and fenced off.
- The building has deliberately been allowed to deteriorate.
- It is intended that additional houses will be constructed on the site following demolition.
- Survey works require to be undertaken to assess the condition of the building.
- The lack of maintenance represents a danger to adjacent houses on Littlemill Lane
- Overgrown trees and ivy impact on the sunlight of neighbouring property.
- Asbestos sheeting is location on the site.
- There is no need for more houses in the village.
- Shops should be contracted on the site.

- 5.2** The points and concerns raised will be considered in Section 7 below.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Adopted Local Plan 2010

- 6.1** Policy BE2 advises that the Council will aim to ensure that in relation to any works affecting a listed building or its setting, its appearance, character and setting is not adversely affected. There will be a presumption against the demolition of a listed building unless it can be demonstrated to the Council that steps have been taken to find a viable and acceptable use as a means of retaining it and that its demolition would not destroy the character of the surrounding area. Policy GD1 seeks to ensure that the value of the historic environment is recognised and not devalued or threatened.
- 6.2** Following a full assessment of the proposed demolition of the building, and whilst recognising its historic importance, it is concluded that that the building is incapable of meaningful repair and this is addressed in Section 7 below. Accordingly the demolition of the building can be justified with reference to the adopted Local Plan.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

National Policy

- 7.1** Scottish Planning Policy (SPP) advises that listed buildings should be protected from demolition or other work that would adversely affect them. Revised Draft National Planning Framework (NPF) 4 was laid to Parliament on 8th November 2022 and sets out the emerging national planning policy position. At this stage, the Council considers NPF4 to be a material consideration in the determination of planning applications, with limited weight being given to policies of NPF4 that specifically relate to the proposal. Policy 7 addresses proposals affecting historic assets setting out that development proposals for the demolition of listed buildings will not be supported unless it has been demonstrated that there are exceptional circumstances and that all reasonable efforts have been made to retain, reuse and/or adapt the listed building. A variety of circumstances where the demolition of a listed building could be justified are set out and the position broadly follows that of Historic Environment Scotland's guidance and the position set out within proposed Local Development Plan 2. As it is concluded that that the building is incapable of meaningful repair, the demolition of the building can be justified with reference to adopted and emerging national policy.

Historic Environment Scotland's Policy and Guidance.

- 7.2** Historic Environment Scotland's Historic Environment Policy for Scotland seeks to ensure that changes to specific assets and their context are managed in a way that protects the historic environment.
- 7.3** Historic Environment Scotland's Managing Change in the Historic Environment Guidance Note series provides advice and guidance to Planning Authorities determining applications which affect the historic environment, including listed buildings. The guidance note on demolition specifically addresses proposals to demolish listed buildings and advises on the situations that may result in the loss of a listed building being acceptable, as long as this is clearly demonstrated and justified. The supporting information associated with any application is expected to justify demolition under these situations. The situations where the loss of a listed building may be acceptable are; a listed building longer being of special

architectural or historic interest; the building not being capable of meaningful repair; and the demolition being required to deliver significant benefits to economic growth or the wider community. It is concluded that that the building is incapable of meaningful repair and this is a situation set out by Historic Environment Scotland where the demolition of the building can be justified.

West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

- 7.4** The modified Plan and associated documents was approved by the Council on 19 August 2020. The Council has advised the Scottish Ministers of its intention to adopt the Plan. On 18 December 2020, the Scottish Ministers issued a Direction in relation to the housing land chapter of the Plan. None of the policies considered in the determination of this application are affected by that Direction. Therefore, Local Development Plan 2 is the Council's most up to date policy position and is afforded significant weight in the assessment and determination of planning applications.

- 7.5** Policy BE2 advises that demolition or development that would adversely affect the special interest, character or setting of a listed building will not be permitted unless it can be clearly demonstrated and justified that; the building is no longer of special interest; or the building is incapable of meaningful repair; or demolition of the building is essential to the delivery of significant benefits to economic growth or the wider community. Policy CP1 requires all new development to contribute towards creating successful places including retaining, reinforcing and responding to the historic environment. Again, it is concluded that that the building is incapable of meaningful repair and this is a situation set out by Policy BE2 of proposed Local Development Plan 2 where the demolition of the building could be justified. Accordingly, the proposal does not conflict with proposed Local Development Plan 2.

Assessment of the justification for the demolition of the building

- 7.6** In assessing the proposed demolition of the building, the three principle tests as set out in both Historic Environment Scotland's Guidance and Policy BE2 of proposed Local Development Plan 2 require to be considered. As noted above these are whether the building is no longer of special interest; whether the building is incapable of meaningful repair; or whether demolition of the building is essential to the delivery of significant benefits to economic growth or the wider community.
- 7.7** Whilst there may be a local benefit in removing the remaining parts of a building which is in poor condition and are positioned in close proximity to an adjacent residential property, it is not considered that the demolition of the building would result in any significant benefits to the wider community. It is also not considered that there would be any significant benefits to economic growth. This test is therefore not met.
- 7.8** Turning to assessing whether the listed building is no longer being of special architectural or historic interest, the applicant has not submitted any assessment of whether the building in its current condition remains of special architectural or historic interest. Within the Managing Change Guidance Note on Demolition, Historic Environment Scotland recognise that in some circumstances a listed building may no longer be of special architectural or historic interest. This might include where there has been a significant loss of fabric or features of interest.

Where the case for demolition rests on this factor, the guidance sets out that owners should request a review of the listing to determine if a building is still of special architectural or historic interest. This review should happen before an application for demolition is submitted. While the applicant acknowledges the importance in relation to the historical nature of the building, they consider that the building only serves as a hindrance to the neighbouring community, who have raised numerous complaints regarding the building. This position is not supported in the objections received. The applicant's supporting documentation further sets out the condition of the building in detail. Whilst it is clear that the majority of the fabric and features of the building have been lost over time, no review of the listing by Historic Environment Scotland has been requested. Notwithstanding Historic Environment Scotland advising in their consultation response that they consider that much of the special interest has been lost, it is not considered that it can be fully concluded beyond doubt that the building is no longer of any special architectural or historic interest. This test is also therefore not considered to have been met.

7.9 It therefore rests to consider whether the building is beyond meaningful repair. The applicant advises that they have instructed structural engineers to survey the building on multiple occasions, all of whom have determined that the building should be demolished based on the deteriorating condition and safety concerns. The applicant sets out an assessment of the condition of the building within a property and boundary wall inspection report together with supplementary and updated details. It is identified that the roof and first floor timber joist members have collapsed due to previous fire damage and the ongoing decay of the remaining structural elements due to exposure and weathering, with evidence of these timber elements having collapsed onto the ground floor. The stonework on all the elevations show signs of significant deterioration and cracking and is in extremely poor condition. It is highlighted that all of the external elevation walls are unrestrained due to the collapse of the first floor joists and timber roof elements. Ongoing localised collapse of the masonry is also highlighted caused by weathering, plant growth root damage and lack of mid-height and wall head restraint. It is identified that the timber lintels are saturated with water and show evidence of rot and ongoing decay. Furthermore, the trees present inside the property are substantial in size and have embedded themselves into the floor and remaining internal walls, causing significant structural damage. The mortar beds throughout the property have been compromised due to exposure to the elements for a considerable period, leading to substantial tree and vegetation growth. It is set out that this will have led to significant weather damage as well as tree roots unsettling the mortar beds.

7.10 In further assessing the proposal, the consultation reply from Historic Environment Scotland offers no objection to the proposed demolition. The historic importance of the building is, however, highlighted including that the loss of the building would have a significant impact on the historic environment. Notwithstanding this, Historic Environment Scotland go on to state that the condition of the building has deteriorated incrementally over the years and much of the special interest has been lost. Historic Environment Scotland accept that achieving a meaningful repair would be difficult. Whilst the applicant may not have specifically assessed whether a meaningful repair and restoration of the building could be achieved, it is acknowledged that the condition of the remaining parts of the building are such

that any repair and restoration works will more than likely require the building to be dismantled and fully rebuilt as a new structure and would require to conform to the current Building Regulations. Whilst it may be possible to retain some of the stonework for reuse, although the applicant's advice on the poor condition of the stone is acknowledged, any building which is rebuilt may replicate the general appearance but not necessarily be identical in all respects. Historic Environment Scotland's guidance note advises that it generally would not be possible to meaningfully repair a building where there is structural damage that cannot be repaired without complete reconstruction, for example as a result of extensive damage to the building. Given this, together with the position set out by Historic Environment Scotland in their consultation response, it is concluded that the condition of the remaining elements of the building is such that a historically meaningful repair cannot be achieved in this instance. This test is thus considered to be met.

Economic viability of developing the site

- 7.11** Notwithstanding the above, the applicant also advises that the retention and redevelopment of the building as part of the previously consented development proposals for the wider site is not economically viable in the current market, resulting in the stalled development of the wider site. Historic Environment Scotland's guidance recognises that in some instances the repair and reuse of a listed building is not economically viable. Where the cost of works is higher than the end value, the difference is referred to as the 'conservation deficit'. The applicant sets out two development options, one which seeks to incorporate the existing building and one which would result in the redevelopment of the site following demolition. The applicant's costings identify that retaining and redeveloping the existing building as part of the development would result in a development cost which is 12.5% per unit higher than a development which does not seek to retain and redevelop the listed building. These costings deem a development retaining the listed building undeliverable.

Marketing of the site

- 7.12** Historic Environment Scotland's guidance also sets out the expectation that the building is marketed and that this is necessary to demonstrate that every effort has been made to secure a buyer who would retain the building. In respect of marketing, the applicant advises that this is unviable due to the ownership/security structure the site is held under. It is advised that this site is one of three sites that is held under a Bond which therefore grants certain securities over the site to protect bondholders/investors. The circumstance with such Bond requires the applicant to fully develop each site to full completion. The applicant would also have to gain majority approval to sell the site (in its current condition), however it is advised that at market rate and given the existence of a listed building on site it is implausible that necessary revenue to repay all existing bondholders could be achieved. The applicant does cite advice from a property agent who sets out little interest in the site with the current building in place.
- 7.13** Whilst the marketing of the site would ordinarily be expected, the advice of the applicant on why the site has not been marketed is noted. Notwithstanding this, it remains that even in the event that another party purchased the site to take forward a development which retained the listed building, a historically meaningful repair

cannot be achieved in this instance. Therefore, the lack of marketing of the site can be accepted in this instance.

Reuse of stone within the site

- 7.14** In the supporting documents the applicant sets out that the stonework of the remains of the building is in poor condition, has cracked and is therefore unusable. It remains, however, that it is considered appropriate that the existing stonework is reused within the redevelopment of the site as much as possible. Therefore, notwithstanding the submitted details, conditions will ensure that the stonework is dismantled and retained on site for use within the onward redevelopment. Whilst the details of this would come forward as part of any future planning application, it would be expected that the redevelopment would seek to successfully incorporate salvaged stone in a way that reflects the history of the site. It is noted that this has been achieved with the development of the site to the opposite side of Dumbarton Road where the former kiln towers were replicated using salvaged stone from the demolition. A similar approach in respect of any new development on this part of the site reflecting the design, form and materials of the listed building would be expected.

Other points raised in the objections

- 7.15** Turning to the outstanding points raised in the objections received not already assessed above, whilst the situation and current condition of the building is disappointing, the application requires to be assessed on the basis of the current situation. This application only considers the demolition of the listed building and not proposals for the onward redevelopment of the site for residential or any other use. Such onward redevelopment will require to be considered via a revised planning application although it is noted that there is an extant planning permission for residential development on the site. Asbestos removal is not a matter to be considered as part of this application, nor is the impact of any trees or other vegetation on the site on the sunlight of adjacent property.

8. CONCLUSION

- 8.1** This proposal involves the demolition of the remaining structure of the former Exciseman's House which is a Category B listed building. Whilst the condition of the building is extremely disappointing, following a full assessment of the condition, the remaining fabric and historic features, together with the works that would be required to redevelop the building it is concluded that the building is incapable of meaningful repair. This conclusion is also informed by the consultation response from Historic Environment Scotland together with the Managing Change guidance note on Demolition. Given this conclusion, the proposal does not conflict with the position set out within Policy BE2 of proposed Local Development Plan 2. Overall, there is also no conflict with Policy BE2 of the adopted Local Plan.
- 8.2** Being incapable of meaningful repair, the demolition of the building can be justified with reference to Historic Environment Scotland's policy and guidance and accordingly with the principles of adopted and emerging national planning policy.
- 8.3** Whilst the concerns raised in the objections are noted, there are no material considerations which would justify the refusal of the application. Subject to the

conditions set out in Section 9 below in respect of the retention of the stonework on site for use in any redevelopment, it is considered that listed building consent should be granted.

- 8.4** Finally, where listed building consent is granted for demolition, there is a separate requirement under Section 7 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to allow Historic Environment Scotland an opportunity to carry out recording for the public record. This legislative requirement will be highlighted to the applicant via an advisory note.

9. CONDITIONS

1. That prior to the commencement of any demolition works on site, full details of the methods for the assessment, sorting and retention of the stone from the building to allow future re-use shall be submitted to and agreed in writing by the Planning Authority. Works shall then proceed as approved and all stone retained unless otherwise agreed in writing by the Planning Authority.
2. No stone from the building shall be removed from the site regardless of condition without the prior written agreement of the Planning Authority.

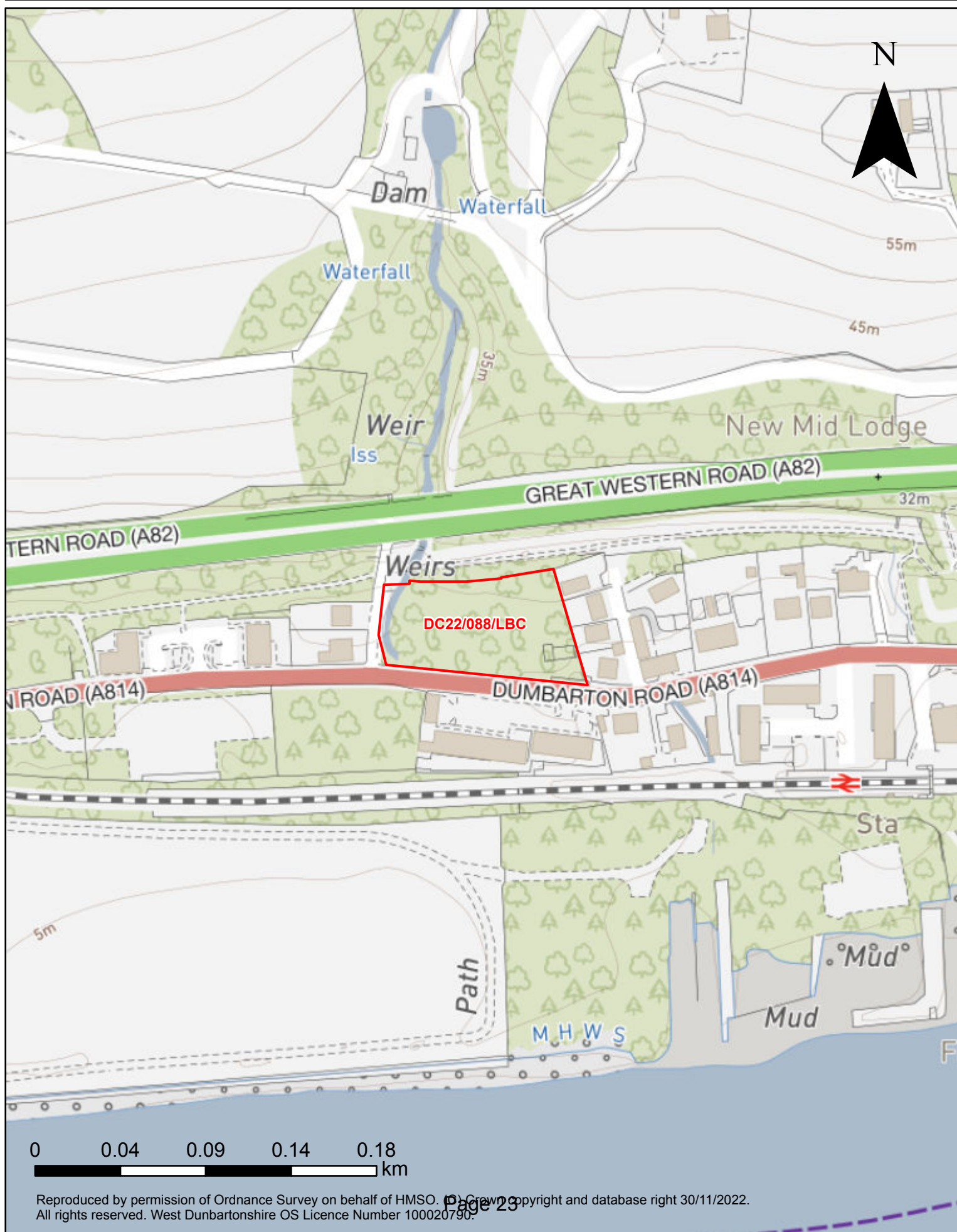
Pamela Clifford
Planning, Building Standards and Environmental Health Manager
Date: 14th December 2022

Person to Contact: Pamela Clifford, Planning, Building Standards and Environmental Health Manager
Email: Pamela.Clifford@west-dunbarton.gov.uk

Appendix: Location Plan

Background Papers:

1. Application documents and plans
2. Consultation responses
3. Representations
4. West Dunbartonshire Local Plan 2010
5. West Dunbartonshire LDP - Proposed Plan 2
6. Scottish Planning Policy 2014
7. Revised Draft National Planning Framework 4
8. Historic Environment Scotland's Historic Environment Policy for Scotland
9. Historic Environment Scotland's Managing Change in the Historic Environment Guidance Note on Demolition



WEST DUNBARTONSHIRE COUNCIL**Report by Planning, Building Standards and Environmental Health Manager****Planning Committee: 14th December 2022**

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

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

2. Recommendation

- 2.1 That the Committee approves the updated Planning Enforcement Charter.

3. Background

- 3.1 All planning authorities require to publish an Enforcement Charter which sets out how the Council as Planning Authority will deal with planning enforcement complaints and to provide details of enforcement powers. The Scottish Government expect the Enforcement Charter to be reviewed every two years to ensure that it reflects the up to date position of the Council in respect of how it deals with enforcement matters and also to reflect any changes in enforcement legislation. One of the performance markers within the annual Planning Performance Framework (PPF) is an up to date Enforcement Charter. The Council's Enforcement Charter was last updated and approved by the Planning Committee in October 2020.

4. Main Issues

- 4.1 The updated Planning Enforcement Charter is contained in Appendix 1. The general focus and content of enforcement procedures and guidance remain consistent with that set out within the 2020 Charter and have not been changed by any new legislation in the interim. The Charter still explains, as required, how the enforcement process works in West Dunbartonshire, the current powers available to the Council and updates the service standards that the Council sets itself. The aims of the charter are to explain the enforcement process and to ensure that the adopted procedures are fair and reasonable; that all interested parties are kept informed; and that they are clearly made aware of anything which is required of them. The Charter is also clear on what is not a planning matter to be addressed via the planning enforcement process.
- 4.2 Since the publication of the 2020 Charter a number of changes have occurred relating to planning enforcement including the Planning Compliance Officers leaving the Council and the introduction of a new online planning enforcement reporting form and improvements to the Enforcement web page in particular the Enforcement Register. The permanent 0.5 Planning Compliance post remains vacant, and the deletion of this 0.5 post is proposed as one of the Council's savings options. This results in the Planning Officers picking up and having to manage planning enforcement cases alongside a full caseload of planning applications. Managing this situation has had implications for the wider Development Management team. An online planning enforcement form has been introduced in May 2021 to assist the public in making planning enforcement enquiries which include all relevant necessary details to allow initial investigation by a case officer. This streamlines the initial investigatory process

as on receipt of an online form it is standard procedure for an automated acknowledgement to be issued, an enforcement case with individual reference number to be created, a site history search be undertaken together with a desktop assessment, and a site visit by the case officer where required. From May 2021 to December 2021 there were 82 new enforcement enquiries, 41 of which did not require any action. From January 2022 to November 2022 there were 47 new enforcement enquiries, 2 of which to date required no action. This process has positively influenced the number of planning enforcement enquiries received.

4.3 The updated 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 imposed on certain planning consents. It also highlights the key points on Planning Enforcement as:

- How enforcement enquiries are prioritised – Category A, B and C;
- The time limits during which enforcement action can be taken;
- That planning enforcement is ultimately a discretionary power and that it must be in the public interest to take formal enforcement action;
- That the planning service 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 and land ownership disputes.

4.4 The updated Enforcement Charter will ensure the Council's approach to enforcement continues to fulfil legislative requirements and is consistent and proportionate. It will also ensure our communities are well informed about the role of enforcement.

5. People Implications

5.1 There are no people implications.

6. Financial and Procurement Implications

6.1 There are no financial or procurement implications.

7. Risk Analysis

7.1 There are no risks associated with this report.

8. Equalities Impact Assessment (EIA)

8.1 An Equalities Impact Assessment has been carried out for the updated Enforcement Charter. The proposal has been screened and is relevant in terms of equality and human rights. Effective communications is highlighted as an area that is especially important, therefore following the Council's Communicating Effectively guidance will help ensure clear communications with disabled people and those for whom English is not a first language.

9. Environmental Sustainability

9.1 A Strategic Environmental Assessment is not required.

10. Consultation

10.1 None required.

11. Strategic Assessment

11.1 The Enforcement Charter is considered to support the strategy priorities of the Council.

Pamela Clifford

Planning, Building Standards and Environmental Health Manager

Date: 14th December 2022

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

Appendices:

1. Planning Enforcement Charter – updated December 2022
2. Equalities Impact Assessment

Background Papers: None

Wards Affected: All

PLANNING ENFORCEMENT CHARTER

Planning and Building Standards Service

West 
Dunbartonshire
COUNCIL

December 2022

West Dunbartonshire Council Planning Enforcement Charter 2022-2024

Contents

| | |
|---|----|
| Planning Enforcement Overview | 3 |
| Key points on planning enforcement | 5 |
| Main Issues | 6 |
| Section 1 Priorities for Enforcement | 8 |
| Section 2 How to comment on a possible breach of Planning Control | 11 |
| Section 3 Monitoring of Planning Conditions | 12 |
| Section 4 High Hedges | 14 |
| Section 5 Control of Advertisements | 14 |
| Section 6 How to make a suggestion or complain about lack of Planning Enforcement | 16 |
| Section 7 - Powers available to deal with breaches of planning control | 17 |



Planning Enforcement Overview

Planning permission is required for the majority of development that takes place in Scotland with the exception of a wide range of smaller scale development, including some changes of use, which is permitted development. Sometimes, however, developers or householders undertake work without planning permission or fail to implement the consent they have been granted in accordance with the approved plans and conditions.

Councils have powers to enforce planning controls in such cases, if they consider it is expedient and in the public interest to do so. Councils monitor developments to ensure planning controls are being followed, but there is also a role for the public in alerting the Council to any breaches of planning control they become aware of.

Enforcement can, in some cases, be one of the most complex parts of the planning system and can affect many members of the community. The aim of this charter is to ensure that adopted procedures are fair, reasonable, consistent and accountable, and that interested parties are fully aware of the procedures involved in the process, the powers available to the Council, and the limits of those powers.

The Charter explains how the enforcement process works, the role of the Council and the service standards it sets itself. It also details what happens at each stage of what can be a lengthy process. We hope you will find this it useful and you will let us know if you think we could improve the service further.



Key points on planning enforcement

Breaches of planning control do not, in most cases, constitute a criminal offence; however, unauthorised works to a listed building, or to a tree protected by a Tree Preservation Order are an exception to this. The purpose of planning enforcement is to try and resolve the breach of planning control in the first instance where appropriate rather than to punish the mistake. However, enforcement action can be taken when it is deemed necessary to control the breach and to prevent further breaches occurring. Any action taken has to be proportionate to the scale of the breach and to the effect that it has on local amenity. In addition, not complying with any formal notice that is served can lead to criminal prosecution.

The West Dunbartonshire Council has statutory powers to investigate development carried out without planning permission, the breach of conditions attached to planning consents and other environmental matters which give rise to concern over general amenity. This can include land which has been allowed to deteriorate to such an extent that it affects the appearance of a wider area. We will take formal action where a satisfactory outcome cannot be achieved through negotiation. This means that the Council has to consider whether it is in the public interest to take enforcement action, and may decide that no action is necessary.

Where development has taken place without planning permission the Council would normally seek a retrospective application to consider the proposal or development before considering formal enforcement action, unless it was considered expedient to cease the breach of planning control to prevent further injury or harm to amenity, road safety etc.

Enforcement action has to be taken within strict time limits:

- A four year limit – this applies to “unauthorised operational development” (the carrying out of building, engineering, mining or other operations in, on, over or under land) and the change of use of a building to a single house. After four years following the breach of planning control, the development becomes lawful, and no enforcement action can be taken.
- A ten year limit – this applies to all other development including change of use (other than to a single house) and breaches of condition. After ten years, the development becomes lawful if no enforcement action has begun.
- There is no time limit for breaches of listed building control.

The Council's authority to take enforcement action comes from government legislation. Further information on the use of enforcement powers can be found in the [Scottish Government publication Planning Circular 10/2009: Planning Enforcement](#).

In relation to Listed Buildings and Conservation Areas guidance can be found in the Managing Change Series (Historic Environment Scotland): Intervention by Planning Authorities.

Main Issues

Is it a Planning Matter?

It is a common perception that planning can intervene to resolve all environmental matters. Many issues that are raised are controlled through other regulatory bodies.

The following are examples of issues that the planning enforcement cannot assist with:

- Civil disputes i.e. neighbour nuisance/boundary and land ownership disputes
- Enforcement of conditions on title deeds
- Noise and odour complaints unless covered by a planning condition
- General land maintenance e.g. grass cutting and untidy gardens

The main objective of planning enforcement is to remedy the undesirable effects of unauthorised development and to bring unauthorised activities under control, ensuring that the amenity of neighbours or a community is not adversely affected.

A breach of planning control is:

Operational development such as building or engineering works which;

- does not have planning permission or benefits from permitted development rights.
- material change of use of land or buildings which has a different or tangible impact in terms of land use.
- development which has not been carried out in accordance with an approved planning permission.
- failure to comply with a condition attached to a planning permission.

Other matters which also fall under the scope of planning control are;

- demolition taking place in Conservation Areas, without conservation area consent.
- works carried out to a Listed Building which effect the historic character or setting.

Planning and related consents, any conditions and also the approved plans can be viewed online at [Public Access](#) .

The Council follows guiding principles in relation to planning enforcement:

Expediency: Planning enforcement is a discretionary power which requires the Council to consider whether it is in the public interest to take enforcement action. There is no requirement for the Council to take any particular action on a breach of planning control; in many circumstances it is considered that action is not necessary or would be disproportionate to the breach. This approach is in line with Scottish Government guidance which states that formal enforcement action should not normally be taken where the breach does not cause harm.

Consistency: Each enquiry presents its own unique set of circumstances, we will endeavour to carry out our duties in a fair, equitable and consistent manner.

Proportionality: To ensure that any enforcement action taken is proportionate to the scale and nature of the breach that has occurred.

Negotiation: The enforcement powers provide leverage to resolve breaches and are not intended to be used as a punishment. In all but the most severe cases requiring immediate attention, we will seek to negotiate compliance in the first instance. However, negotiations will not be allowed to cause unreasonable and unjustified delay.



Section 1 - Priorities for Enforcement

Whilst all complaints will be investigated we recognise that when an enquiry is made there is a high expectation for the matter to be resolved quickly and delays can be frustrating. Due to the large number of enforcement enquiries we receive it is necessary for them to be prioritised and the available resources allocated appropriately and proportionately.

Below is the Council's classes of prioritisation.

CATEGORY A

- Breaches of conditions for major development
- Demolition or alterations to Listed Buildings
- Demolition of buildings in a Conservation Area
- Unauthorised felling of trees - either in a Conservation Area, covered by a TPO or protected by planning condition

CATEGORY B

- Change of use of land and buildings
- Alterations to buildings in a Conservation Area
- Breaches of condition (local)
- Domestic (extensions etc)

CATEGORY C

- Display of Advertisements
- Fences, sheds, decking etc...
- Untidy land



What to Expect

On receipt of a completed online planning enforcement form it is standard procedure for officers to:

1. Automated acknowledgement
2. Create an enforcement case
3. Undertake a site history search
4. Carry out desktop exercise
5. Visit the site (if required)



Enquiries that do not fall within the planning remit will not be investigated further in such instances the enquirer will be advised. Where there is a suspected breach of planning control it may be necessary to utilise the notices described below to aid the enquiry process. These are not frequently used as other less formal means of doing so have proven to be effective.

Service Standards



Service Standard - Acknowledging enquiries

- We will acknowledge the submission of the online form with an immediate automated response.



Service Standard - Replying to enquiries/keeping you informed

- If you make an enforcement enquiry, you will be updated as regularly as resources allow. This will be done by Email.



Service Standard - Timescales for resolving enquiries

- The length of time required to resolve a case or take action can be affected by a number of factors. Progress can be delayed for the gathering of further evidence, to allow negotiations to take place or for formal procedures to be concluded. Similarly, an application to regularise the breach of control or an appeal against a decision of the planning authority can also delay resolution of the case. Accordingly, it is difficult to attach a fixed timescale to case resolution.
- The Council recognises that delays, however, can be a source of considerable frustration. Consequently, we will try to keep interested parties informed of significant stages in the progress of a case. If there has been no progress for a period of 10 weeks, the Council will write to complainants to explain the delay.

Section 2 - How to comment on a possible breach of Planning Control

Members of the public have a vital role in reporting breaches of planning control. Any concerns should be raised with us at the earliest opportunity. There is a Planning Enforcement enquiry form on the Council website which can be completed. This allows us to have a clear record of the complaint and to keep you informed about any action we take. Full contact details are provided at the end of the Charter.

We need the following information when a suspected breach is reported:

- The address of the property concerned;
- The name of the owner of the property, or of the person responsible for the suspected breach; (if known)
- Details of the suspected breach of planning control, photos with times and dates if relevant;
- Your name, telephone number and address and email address;
- Information on how the breach impacts on you.



Link to online [Enforcement Form](#).



Email Compliancemonitoring@west-dunbarton.gov.uk

Section 3 - Monitoring of Planning Conditions

Monitoring of planning conditions will be carried out as resources allow, however, our number one priority for enforcement is numbers of conditions on major planning applications. It is not, practical or proportionate for the Council to monitor all permissions/consents. It is the responsibility of the developer to inform us of when they intend to implement their planning permission. This is done through the submission and registration of a Notification of Initiation of Development (NID). The Planning Officer will then check to ensure that any requirements contained within the pre development conditions have been fulfilled before work begins. Initiating development without submitting a NID is a breach of planning control and the planning authority may consider enforcement action. On completion of development the developer is required to submit a Notification of Completion of Development (NCD) as soon as practicable.

Notification of Initiation and Completion of Development (NID/NOCD) and display of notices while development is carried out.

These are not enforcement powers. They are intended to improve planning enforcement by requiring landowners, householders and developers to confirm when development is due to commence or been completed, and in the case of on-site notices to raise community awareness



of developments in the local area. West Dunbartonshire Council will then be made aware of active development in their areas, enabling them to prioritise resources with a view to monitoring development.

A Notice of Initiation of Development (NID) must be submitted to the WDC for any development which has been granted permission and state when development will start. It must be submitted after planning permission has been granted and before development has commenced. Starting development without submitting an NID is a breach of planning control and WDC may consider enforcement action.

The Notice of Completion of Development (NOCD) requires a developer to submit a further notice as soon as practicable after development has been completed.

Depending on the nature and scale of a development, the developer may also be required to display on-site notices while development is taking place. These notices contain basic information about the site and the development. They also provide contact details where members of the public may find out more information or report alleged breaches of planning control. It is a breach of planning control to fail to display such a notice when it is required to do so.





Section 4 - High Hedges

The High Hedges Act 2013 aims to provide a solution to the problem of high hedges, where neighbours have been unable to resolve the issue amicably. The Act gives home owners and occupiers a right to apply to the relevant Council for a High Hedge Notice but neighbours must attempt to resolve the dispute themselves first with recourse to the Council being a last resort.

The Scottish Government has also issued guidance to all Local Authorities to assist with implementation of the Bill and legislation.

Guidance (PDF) has also been prepared to help explain the process and give you guidance on all reasonable steps that must be taken prior to making a formal application under the Act. Potential applicants may wish to make contact with ourselves to discuss a possible application.

Section 5 - Control of Advertisements

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements are displayed with what is called 'deemed consent' which means they do not require advertisement consent if they meet the 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. It should be noted however, that where an advertisement with 'deemed consent,' is considered to be affecting amenity or public safety then in these circumstances the can serve a Discontinuance Notice to have the offending advert removed.



Displaying an advertisement in contravention of the regulations is an offence and, if convicted in court, an offender can be fined. The court can impose further fines for each day the breach of the regulations continues. The Council has the power to serve an advertisement enforcement notice. This specifies a time period (normally 28 days) for compliance with the notice. However, this period can be reduced to seven days if the Council believes there is an urgent need for the advertisement to be removed or altered in the interests of public safety, or if the advertisement can be removed without any other work being required.

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 if the original advertisement is removed. Any subsequent advertising on this site would amount to a breach of the notice.

The Council has powers to remove or destroy placards and posters that do not have advertisement consent or deemed consent. If the person who put up the poster can be identified, they have to be given at least two days' notice that the Council intends to take the poster down. If they cannot be readily identified, then the advert can be removed immediately.

Council officials can enter unoccupied land, if necessary, to remove an advertisement. However they have no powers to remove advertisements displayed within a building to which there is no public access.

Planning enforcement also covers the display of advertisements such as billboards and advertisement hoardings, although slightly different procedures apply. These are set out in a separate section at the end of this Charter. The actual text and images on an advertisement are not covered by planning control.

Section 6 - How to make a suggestion or complain about lack of Planning Enforcement

The Council tries hard to meet people's expectations and we hope that you will be satisfied with the planning enforcement service. We are committed to improving our service and dealing promptly with any failures or shortcomings. However, if you have any concerns or difficulties, we want to hear from you, [Online Enforcement Form](#) .

We will respond to you within 5 working days of receiving a formal complaint about our Planning Enforcement Service where possible. If we feel that we need more time to investigate the matters raised you will receive an acknowledgement within five working days and a full response within 28 working days in accordance with the Council's Complaints Procedure. A copy of this can be viewed on the Council's website.

Lastly, if you are dissatisfied with the Council's Complaints process, you have the right to take your complaint to the Scottish Public Services Ombudsman at: www.spsso.org.uk

Generally, you must contact the Ombudsman within 12 months of the date of the complaint. Attached to this charter for your information is Appendix 1 which explains the powers available to deal with breaches of planning control.





Section 7 - Powers available to deal with breaches of planning control

Enforcement powers

The enforcement powers available to a planning authority are set out in the Town and Country Planning (Scotland) Act 1997 (as amended). Listed building enforcement notices are covered by the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.



The Planning Acts can be viewed at: www.legislation.hmsso.gov.uk.



Government policy on enforcement is set out in [Planning Circular 10/2009: Planning Enforcement](#).

Planning legislation is complex and therefore if you are served with a statutory notice from WDC planning authority, we advise you seek legal or independent professional planning advice.

Types of Notices

Enforcement Notice

This generally deals with unauthorised development, but can also apply to breach of planning conditions. This must be served on the current owner, occupier and anyone else with an interest in the property or land in question. There are similar notices and powers to deal with Listed Buildings (see below), and advertisements. An Enforcement Notice will specify a time period for the notice coming into effect (a minimum of 28 days), the steps that must be taken



to remedy the breach and the time for this to be completed. There is a right of appeal to the Directorate of Planning and Environmental Appeals (DPEA) up to the date the notice takes effect at which time the notice is suspended until a decision is reached. Failure to comply with an Enforcement Notice within time is an offence, and may lead to a fine of up to £50,000 in the Sheriff Court or the Council considering direct action to remedy the breach.

Breach of Condition Notice

This enforces the conditions applied to any planning permission if they have not been complied with and is effective from the date it is served. It may be used as an alternative to Enforcement Notice (see above), and is served on anyone carrying out development and/or any person having control of the land. Anyone contravening a Breach of Condition Notice can be fined up to £5,000 in the Sheriff Court. There is no right of appeal to this notice.

Listed Building Enforcement Notice

This must be served on the current owner, occupier and anyone else with an interest in the property. The procedures are similar to those outlined above. The notice must specify the steps to be taken to remedy the breach and a final date for compliance. Failure to meet the terms of the notice by the date specified is an offence. There is the right of appeal to DPEA against the notice. Breaches of listed building control are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead either to an unlimited fine or imprisonment.



Stop Notice

This is used in urgent or serious cases where unauthorised activity must be stopped, usually on grounds of public safety. When a Stop Notice is served, the planning authority must also issue an Enforcement Notice. There is no right of appeal against a Stop Notice and failure to comply is an offence. An appeal can be made against the accompanying Enforcement Notice. If a Stop Notice is served without



due cause, or an appeal against the Enforcement Notice is successful, the Council may face claims for compensation. Therefore, the use of Stop Notices needs to be carefully assessed by the Council. It should be noted that a Stop Notice cannot prohibit the use of a building as a dwelling house.

Temporary Stop Notice (TSN)

This requires the immediate halt of an activity which breaches planning control. The provisions make an exception in that a TSN cannot prohibit the use of a building or caravan as a dwelling house. TSNs are enforceable for 28 days, after which time, they expire. They may, however, be followed by further enforcement action such as an Enforcement Notice and associated Stop Notice. There is no provision to appeal against a TSN.

Fixed Penalty Notice (FPN)

This provides WDC with an alternative process, in addition to the option to seek prosecution, to address situations where a person has failed to comply with an Enforcement Notice (EN) or a Breach of Condition Notice (BCN). By paying the penalty imposed by the FPN, the person will discharge any liability for prosecution for the offence. They will not, however, discharge



the obligation to comply with the terms of the EN or BCN, and the Council will retain the power to take direct action to remedy the breach and recover the costs of such from that person. the Council is not required to offer the option of a fixed penalty. Any decision to do so would be dependent on considerations such as the scale of the breach and its impact on local amenity. The fixed penalty amounts to £2,000 for each step not complied with in an Enforcement Notice and £300 for each step not complied with in a breach of condition notice.

Notice requiring application for planning permission

Where the Council considers that a development which does not have planning permission may be acceptable, i.e. the Council considers that it might be granted planning permission, the Council may issue a S33A Notice requiring the landowner or developer to submit a retrospective planning application. This application will be considered on its planning merits and handled in the same way as any other planning application. Issuing a S33A Notice does not guarantee that permission will be granted; the Council may, on consideration of the application, decide instead to refuse planning permission, or grant permission subject to conditions or amendments to make the development acceptable. There is no right of appeal to this notice.

Other Powers

Notice requiring information as to interests in land

This provides limited powers for planning authorities to obtain information on interests in land and use of land. Failure to provide the information required is an offence.

Planning Contravention Notice (PCN)

This is used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier, on a person with any other interest in the land or who is carrying out operations on the land. They are required to provide information about operations being carried out on the land and any conditions or limitations applied to any planning permission already granted. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in court.

Amenity Notice

This allows planning authorities to serve a notice on the owner, lessee or occupier of land which is adversely affecting the amenity of the area. This is also known as an Amenity Notice and sets out the action that needs to be taken to resolve the problem within a specified period.





Interdict and Interim Interdict

Planning authorities can apply to the courts to grant an interdict to stop or prevent a breach of planning control. Court proceedings can be expensive and the Council would normally only seek interdicts in serious cases or where Enforcement Notices or Amenity Notices have previously been ignored.

However, the Council can seek an interdict in relation to any breach without having to use other powers first. Breaching an interdict is treated as a contempt of court and carries heavy penalties.

Direct Action

Failure to comply with the terms of an Enforcement Notice or Amenity Notice within the time specified can result in WDC carrying out the specified work. The Council can recover any costs it incurs from the landowner.



Please Note

This Charter does not comprise of an authoritative interpretation of the Planning Acts. Planning legislation is complex and if you receive any notice from West Dunbartonshire Council, you are advised to seek legal or independent professional planning advice.

Updated December 2022

CONTACT DETAILS

Planning and Building Standards Council Offices

16 Church Street Dumbarton G82 1QL

Telephone: 0141 951 7930

Email: Compliancemonitoring@west-dunbarton.gov.uk

OTHER FORMATS

This document can be made available on request in alternative formats such as large print, Braille, audio tape or computer disc as well as in five community languages.

هذه الوثيقة متاحة أيضا بلغات أخرى والأحرف الطباعية الكبيرة وبطريقة سمعية عند الطلب.

अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है

ਇਹ ਦਸਤਾਵੇਜ਼ ਹੋਰ ਭਾਸ਼ਾਵਾਂ ਵਿਚ, ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਆਡੀਓ ਟੇਪ 'ਤੇ ਰਿਕਾਰਡ ਹੋਇਆ ਵੀ ਮੰਗ ਕੇ ਲਿਆ ਜਾ ਸਕਦਾ ਹੈ।

درخواست پر یہ دستاویز دیگر زبانوں میں، بڑے حروف کی چھپائی اور سننے والے ذرائع پر بھی میسر ہے۔

本文件也可應要求，製作成其他語文或特大字體版本，也可製作成錄音帶。



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|---|--|---------------------------------------|---|--------------------------|
| AssessmentNo | 590 | Owner | alan.williamson | ITEM 7 APPENDIX 2 |
| Resource | Transformation | | Service/Establishment | Regulatory |
| | First Name | Surname | Job title | |
| Head Officer | Pamela | Clifford | Planning and Building Standards Manager | |
| | | | | |
| | (include job titles/organisation) | | | |
| Members | James McColl, Team Leader (Development Management) | | | |
| | | | | |
| | <i>(Please note: the word 'policy' is used as shorthand for strategy policy function or financial decision)</i> | | | |
| Policy Title | Planning Enforcement Charter 2022 | | | |
| | The aim, objective, purpose and intended outcome of policy | | | |
| | 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 any changes in enforcement legislation. The layout of the Enforcement Charter has been updated, however, the general focus and content of enforcement procedures and guidance remain relevant and have not been changed by any new legislation in the interim. | | | |
| | | | | |
| | Service/Partners/Stakeholders/service users involved in the development and/or implementation of policy. | | | |
| | The Planning Enforcement Charter sets out how Scottish Government policy will be implemented at the local authority level by the planning service. | | | |
| | | | | |
| Does the proposals involve the procurement of any goods or services? | | | No | |
| If yes please confirm that you have contacted our procurement services to discuss your requirements. | | | No | |
| SCREENING | | | | |
| <i>You must indicate if there is any relevance to the four areas</i> | | | | |
| Duty to eliminate discrimination (E), advance equal opportunities (A) or foster good relations (F) | | | Yes | |
| Relevance to Human Rights (HR) | | | Yes | |
| Relevance to Health Impacts (H) | | | No | |
| Relevance to Social Economic Impacts (SE) | | | No | |
| Who will be affected by this policy? | | | | |
| Potentially everybody in West Dunbartonshire, but in particular developers and those affected by development. | | | | |
| Who will be/has been involved in the consultation process? | | | | |
| | | | | |
| Please outline any particular need/barriers which equality groups may have in relation to this policy list evidence you are using to support this and whether there is any negative impact on particular groups. | | | | |
| | Needs | Evidence | Impact | |
| Age | | | | |
| Cross Cutting | The Council has made a commitment | Equalities impacts have been assessed | The original Scottish Government EIA | |

| | | | |
|-------------------------------------|--|---|--|
| | to actively widened and deepen engagement with BSL users The Council has an equality outcome on involving under represented groups Some people are members of more than one disadvantaged group in planning, implementing and monitoring policy we need to take account of this | by the Scottish Government in the introduction of new enforcement regulations http://www.scotland.gov.uk/Publications/2007/10/31093316/11 > http://www.scotland.gov.uk/Publications/2007/10/31093316/11 Relevant issues may be raised and disseminated by the Scottish Enforcement Forum. | noted benefits for disabled people and Gypsy travellers |
| Disability | The Council has a legal duty to make services accessible to disabled people | The Charter refers to the serving of notices, completion of forms and display of written information. There may therefore be an issue regarding accessibility to the information for people who are visually impaired. | Communicating Effectively guidance is followed, this should support access to our services |
| Social & Economic Impact | | | |
| Sex | | | |
| Gender Reassign | | | |
| Health | | | |
| Human Rights | All UK legislation and regulation must be compatible with the Human Rights Act The specific Articles of the ECHR relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and | Human rights and equalities considerations often cross cut | An active awareness of Human Right obligations will help protect rights |

| | | | |
|---|---|---|--|
| | Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property). | | |
| Marriage & Civil Partnership | | | |
| Pregnancy & Maternity | | | |
| Race | Some ethnic groups may be more likely not to have English as a first language; Council services must follow Corporate Communications Guidance The Council has an obligation to foster good relations between communities, and wishes to sustain and grow positive relations with Communities such as Gypsy/travellers | The Charter refers to the serving of notices, completion of forms and display of written information. There may therefore be an issue regarding accessibility to the information for people who do not speak English as a first language. | Communicating Effectively guidance is followed, this should support access to our services |
| Religion and Belief | | | |
| Sexual Orientation | | | |
| Actions | | | |
| | | | |
| Policy has a negative impact on an equality group, but is still to be implemented, please provide justification for this. | | | |
| None | | | |
| Will the impact of the policy be monitored and reported on an ongoing bases? | | | |
| | | | |
| Q7 What is your recommendation for this policy? | | | |
| Introduce | | | |
| Please provide a meaningful summary of how you have reached the recommendation | | | |
| The proposal has been screened and is relevant in terms of equality and human rights. Effective communications is highlighted as an area, that is especially important, therefore following the Council's Communicating Effectively guidance will help ensure clear communications with disabled people and those for whom English is not a first language. | | | |

WEST DUNBARTONSHIRE COUNCIL

Report by the Planning, Building Standards and Environmental Health Manager

Planning Committee: 14 December 2022

Subject: Development Plan Update

1. Purpose

- 1.1** The purpose of this report is to update Members on the development plan position in West Dunbartonshire and seek approval of the 2022 Development Plan Scheme and Participation Statement.

2. Recommendation

- 2.1** It is recommended that the Committee approve the Development Plan Scheme and Participation Statement contained in Appendix 1.

3. Background

- 3.1** The land use planning policy framework for West Dunbartonshire consists of the National Planning Framework and Scottish Planning Policy at the national level, the Clydeplan Strategic Development Plan which covers the Glasgow city-region area, and the West Dunbartonshire Local Plan for the West Dunbartonshire planning authority area (i.e. excluding that part covered by the National Park Authority). The West Dunbartonshire Local Development Plan: Proposed Plan (2018) is a material consideration in decision-making, as is planning guidance covering the West Dunbartonshire planning authority area.
- 3.2** The development planning system in Scotland is changing with the expected introduction in 2023 of the development planning provisions of the Planning (Scotland) 2019 Act. The next National Planning Framework (NPF4) will become part of the development plan for all Planning Authorities with Local Development Plans for each Planning Authority still being prepared. Strategic Development Plans (e.g. Clydeplan) will no longer be prepared. They will be replaced, by Regional Spatial Strategies, but these will not form part of the development plan.

4. Main Issues

National Planning Framework and Scottish Planning Policy

- 4.1** The current National Planning Framework (NPF3) and Scottish Planning Policy document were published in June 2014. The Revised Draft Fourth National Planning Framework (NPF4) was laid before the Scottish Parliament on 8 November 2022 for no more than 120 days of scrutiny. Under the Planning (Scotland) Act 2019, once adopted, NPF4 will become part of the

development plan for all planning authorities in Scotland. NPF4 will include a National Planning Policy section, replacing the previously separate Scottish Planning Policy document.

- 4.2** A summary of the content of the Revised Draft NPF4 is attached as Appendix 2. The Council has started to refer to the Revised Draft NPF4 in its determination of planning applications as a material planning consideration. Greater weight as a material consideration will be given to the document as it goes through the Parliamentary approval process, and until it becomes part of the development plan when adopted by Scottish Ministers. The decision of the weight attached to Revised Draft NPF4 rests with the decision maker but at present it is considered to have a limited weight.

Clydeplan and Regional Spatial Strategies

- 4.3** The Clydeplan Strategic Development Plan was approved in July 2017 and forms part of the development plan for the West Dunbartonshire Council planning authority area (i.e. excluding that part covered by the National Park Authority). Under the Planning (Scotland) Act 2019, once NPF4 is approved, the Clydeplan Strategic Development Plan will be superseded, and the requirement to prepare Strategic Development Plans is repealed. In place of Strategic Development Plans, planning authorities are to prepare Regional Spatial Strategies. These will not form part of the development plan, but planning authorities are to have regard to Regional Spatial Strategies when preparing Local Development Plans. The current intention is for the eight Glasgow City Region authorities (West Dunbartonshire, East Dunbartonshire, Renfrewshire, East Renfrewshire, South Lanarkshire, North Lanarkshire, Inverclyde, Glasgow City Councils) to collectively prepare a Regional Spatial Strategy. Scottish Government guidance in relation to Regional Spatial Strategies is awaited. An Indicative Regional Spatial Strategy was prepared and submitted to the Scottish Government to help inform the NPF4 preparation process.

Local Development Plan

- 4.4** The current adopted Local Development Plan for the West Dunbartonshire Council planning authority area is the West Dunbartonshire Local Plan 2010. Although dated, it remains part of the statutory development plan for the West Dunbartonshire planning authority area, and is still relevant for decision-making purposes.
- 4.5** On 27 April 2016, the Planning Committee took a final decision not to accept the Local Development Plan (LDP1) Examination Report recommended modification in respect of including the Duntiglennan Fields site in Clydebank as a housing development opportunity. Therefore, as a result of the Scottish Ministers' Direction, that Local Development Plan remained unadopted. Members agreed, at Planning Committee, on February 16th 2022, that LDP1 should no longer be referred to in determining planning applications; it had until that point remained a material consideration in the determination of planning applications.

- 4.6** On 19 August 2020, following receipt of the Examination Report, the Committee agreed to adopt the second West Dunbartonshire Local Development Plan (LDP2), incorporating all of the recommended modifications set out in the Examination Report. Following submission of notice of the Council's intention to adopt the Plan to the Scottish Ministers, a Direction was received requiring changes be made to the 'Delivering Homes' chapter prior to it being adopted. The Council has received legal advice that making these changes could make the adoption of LDP2 subject to legal challenge. Officers are continuing to consider this matter. In the meantime, the Proposed Local Development Plan incorporating the recommended modifications of the Examination Report, as agreed at the 19 August 2020 Planning Committee is a material consideration in the determination of planning applications. The Scottish Ministers Direction is also a material consideration in the determination of relevant planning applications.

Planning Guidance

- 4.7** The Council has a number of planning guidance documents. Some of these have been prepared in association with the current Local Development Plan (LDP2) under the Planning (Scotland) Act 2006, which means that they can go through an adoption process to become part of the development plan, although the associated development plan has to be adopted first. The November 2022 Planning Committee approved Creating Places, Antonine Wall, and Green Network and Green Infrastructure Guidance. It is intended that this planning guidance would become adopted Supplementary Guidance once LDP2 is adopted. Other guidance documents have a non-statutory status, meaning they have lesser weight but are still a material consideration in the determination of planning applications. The Council's current planning guidance is listed in Appendix 1.

Development Plan Scheme and Participation Statement

- 4.8** The Council is required to prepare a Development Plan Scheme and Participation Statement on an annual basis. The Development Plan Scheme sets out the planning authority's programme for preparing and reviewing development plans and the Participation Statement sets out when, how and with whom consultation on preparing the local development plan will take place.
- 4.9** The Development Plan Scheme 2022 does not set out a timetable and participation approach for the next Local Development Plan (LDP3) as the final Regulations and Guidance for preparing the next Plan are awaited. The Scottish Government has indicated that Regulations relating to the preparation of Local Development Plans may come into force shortly after adoption of the NPF4; final guidance on Local Development Plans will be published at the same time. A timetable for LDP3 will be prepared on publication of the final Local Development Planning Regulations and Guidance and set out in the 2023 Development Plan Scheme and

Participation Statement, which will be brought to Planning Committee for approval in the new year.

5. People Implications

5.1 There are no personnel issues associated with this report.

6. Financial and Procurement Implications

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

7. Risk Analysis

7.1 Maintaining an up-to-date development plan and planning guidance will help the Council to achieve the right type of development in the right place.

8. Equalities Impact Assessment (EIA)

8.1 The Local Development Plan (LDP2) has been subject to an Equality Impact Assessment.

9. Environmental Sustainability

9.1 A Strategic Environmental Assessment of Clydeplan and the current Local Development Plan has been undertaken.

10. Consultation

10.1 Clydeplan and current Local Development Plan (LDP2) have been through consultation processes as required by legislation.

11. Strategic Assessment

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

Pamela Clifford

Planning, Building Standards and Environmental Health Manager

Date: 14 December 2022

Person to Contact:

Pamela Clifford, Planning, Building Standards and
Environmental Health Manager,
pamela.clifford@west-dunbarton.gov.uk

Alan Williamson, Development Planning & Place Team
Leader
alan.williamson@west-dunbarton.gov.uk

| | |
|---------------------------|---|
| Appendices: | Appendix 1: Development Plan Scheme and Participation Statement Appendix 2: Summary of Revised Draft Fourth National Planning Framework (NPF4) |
| Background Papers: | None |
| Wards Affected: | All |

**West Dunbartonshire
Local Development Plan**

**Development Plan Scheme and
Participation Statement
2022**

West Dunbartonshire Development Plan Scheme and Participation Statement

Introduction

This document provides information on existing Development Plan coverage within West Dunbartonshire and how participation will be encouraged in the plan-making process.

What is a Development Plan?

It is a document which sets out policies and proposals for the use of land and buildings in the area it covers. It does this by identifying uses that will be acceptable on particular sites and by setting out criteria for the assessment of development proposals.

What types of Development Plan are there?

There are currently two tiers of Development Plan in operation within Scotland (although this will change through the implementation of the Planning (Scotland) Act 2019).

Strategic Development Plans are applicable to the city-regions of Glasgow, Edinburgh, Aberdeen and Dundee, and cover more than one local authority area. These set out a long-term vision for the development of the city-regions and provide a framework for Local Development Plans.

Local Development Plans provide a more detailed planning framework, usually at a local authority level, setting out policies for assessing planning applications and identifying sites for development or protection from development.

Local Development Plans can be supported by Supplementary Guidance, which provides more detailed information on specific issues. Councils can also produce non-statutory Planning Guidance, which does not form part of the Development Plan.

What Development Plans are currently in place in West Dunbartonshire?

The Strategic Development Plan for the area, Clydeplan, was approved by Scottish Ministers on 24th July 2017 and covers the West Dunbartonshire Council area with the exception of that area within the Loch Lomond and the Trossachs National Park. Further information, including the Development Plan Scheme and Participation Statement for Clydeplan, can be found at www.clydeplan-sdpa.gov.uk.

The West Dunbartonshire Local Plan was adopted in March 2010.

Local Development Plan 2 was submitted to the Scottish Ministers for adoption on 26 August 2020. On 18 December 2020, the Scottish Government issued a Direction that the Plan should not be adopted unless specified modifications relating to housing matters are made. The Council is continuing to consider that Direction.

Planning Committee, at its 16 November 2022 meeting, approved finalised Supplementary Guidance on the Antonine Wall, Creating Places, and the Green Network and Green

Infrastructure. The Supplementary Guidance will be sent to the Scottish Ministers for approval to adopt following on adoption of Local Development Plan 2. These Supplementary Guidance will operate as Planning Guidance until this time.

The Council has produced a number of other Planning Guidance and other useful information documents which are listed in Appendix 1.

The Plan covering the National Park area is the Loch Lomond & the Trossachs National Park Local Development Plan 2017 - 2021. Further information, including the Development Plan Scheme and Participation Statement for the Park Authority Local Development Plan can be found at www.ourlivepark.com.

Planning (Scotland) Act 2019

The Planning (Scotland) Act 2019 makes fundamental changes to the development planning system in Scotland. The first step towards implementing this new system is the preparation and publication of the fourth National Planning Framework 4 (NPF4). A Draft Revised NPF4 was laid before the Scottish Parliament on 8 November 2022. If approved by Parliament, it would then be for the Scottish Ministers to adopt NPF4. On adoption, NPF4 will form part of the Development Plan for all Planning Authorities, along with Local Development Plans. Strategic Development Plans, including Clydeplan, will be removed from the development plan framework, with Regional Spatial Strategies prepared, which will not form part of the Development Plan. The Scottish Government will lay Regulations relating to the preparation of new style Local Development Plans in Parliament so that they may come into force shortly after adoption of NPF4. Final Guidance on Local Development Plans will be published at the same time. When these are published, the Council will set out its timetable for preparing the next Local Development Plan (LDP3) and engaging with the community through each stage of its preparation.

The key stages in the preparation of the next Local Development Plan are:

- Preparation of new Development Plan Scheme and Participation Statement
- Invitation for local communities to prepare Local Place Plans
- Preparation of Evidence Report
- Gate Check: Assessment of the Evidence Report by the Directorate of Planning and Environmental Appeals
- Preparation of the Proposed Local Development Plan
- Submission of the Proposed Local Development Plan to the Scottish Ministers
- Examination of the Proposed Local Development Plan by the Directorate of Planning and Environmental Appeals
- Adoption of the Proposed Local Development Plan

As part of, or associated with the Local Development Plan preparation process the Council will also prepare a number of other documents and assessments including:

- Delivery Programme
- Play Sufficiency Assessment
- Open Space Strategy
- Strategic Environmental Assessment
- Habitat Regulations Appraisal

- Equalities Impact Assessment
- Fairer Scotland Duty Assessment

Participation

The Council is keen to encourage participation in the preparation of its Local Development Plan (LDP).

Who can participate in the preparation of the new Plan?

Participation in the plan-making process is open to everyone: from individuals, community groups and small local businesses to investors, land owners, housebuilders and national and international companies.

When will participation happen?

Participation in the preparation of LDP2 is effectively completed as the Plan has been through the Main Issues Report and Proposed Plan consultation stages and Examination. The remaining action is to inform participants of the adoption of the Plan, when that occurs.

As detailed above, the Planning (Scotland) Act 2019 will not be fully implemented until Regulations and Guidance are published. These are expected in 2023. Therefore, whilst the new requirements for consultation and participation are not known at the time this Participation Statement is being written, the Council will encourage participation throughout the development of Local Development Plan 3.

Contact us and register for participation

A Local Development Plan participant database has been established to record the details of all individuals and organisations that want to be kept up to date with the Local Development Plan process. Interested individuals or organisations can have their details added to the database by contacting us through any of the methods below -

Email: ldp@west-dunbarton.gov.uk
Telephone: 0141 951 7930
Write: Development Planning and Place
 Planning & Building Standards
 West Dunbartonshire Council
 16 Church Street
 Dumbarton
 G82 1QL

Further information and key documents can be found online at –

www.west-dunbarton.gov.uk/council/strategies-plans-and-policies/local-development-planning/local-development-plan/

Facebook logo - <https://www.facebook.com/WDCouncil>

Twitter logo - <https://twitter.com/wdcplanning>

Appendix 1- Guidance and other Useful Information

Supplementary Guidance (*Finalised Planning Guidance*)

Antonine Wall, 2022

Creating Places, 2022

Green Network & Green Infrastructure, 2022.

Other Planning Guidance

Clydebank Business Park Planning Guidance, 2017

Clydebank Town Centre Development Framework, 2021

Commuted Payments for Parking 2015

Dumbarton Waterfront Path Planning Guidance, 2017

Pay Day Lending & Betting Shops, 2016

Renewable Energy, 2016

Queens Quay Design Codes, 2020.

Developer Contributions

Procedure for monitoring, requesting and allocating developer contributions (2022)

Allocation of green network developer contributions (2022)

Other Useful Information

Alexandria Streetscape Design Guide, 2007

Alexandria Town Centre Masterplan, 2008

Alexandria Town Centre Masterplan, 2021

Balloch Charrette Report, 2016

Bowling Basin Charrette Report 2014

Clyde Riverside Masterplan, 2000

Clydebank Design Guidelines (Page and Park), 2003

Clydebank Town Centre Charrette report, 2015

Dumbarton Town Centre Public Realm Design Guide, 2001

Dumbarton Town Centre & Waterfront – Revised Urban Strategy, 2014

Dumbarton Rock & Castle Charrette Report, 2015

Kilpatrick Hills Local Landscape Area: Statement of Importance, 2015

Revised Draft National Planning Framework 4 (NPF4) – summary of content

The Revised Draft NPF4 consists of 3 parts:

- Part 1 – A National Spatial Planning Strategy for Scotland 2045
- Part 2 – National Planning Policy
- Part 3 - Annexes

Part 1 – A National Spatial Planning Strategy for Scotland 2045

NPF4 states that our future places will be planned in line with 6 overarching spatial principles:

- **Just transition.** We will empower people to shape their places and ensure the transition to net zero is fair and inclusive.
- **Conserving and recycling assets.** We will make productive use of existing buildings, places, infrastructure and services, locking in carbon, minimising waste, and building a circular economy.
- **Local living.** We will support local liveability and improve community health and wellbeing by ensuring people can easily access services, greenspace, learning, work and leisure locally.
- **Compact urban growth.** We will limit urban expansion so we can optimise the use of land to provide services and resources, including carbon storage, flood risk management, blue and green infrastructure and biodiversity.
- **Rebalanced development.** We will target development to create opportunities for communities and investment in areas of past decline and manage development sustainably in areas of high demand.
- **Rural revitalisation.** We will encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together.

Through these spatial principles, it is intended that the national spatial strategy will support the planning and delivery of:

- **Sustainable places**, where we reduce emissions, restore and better connect biodiversity
- **Liveable places**, where we can all live, better, healthier lives; and
- **Productive places**, where we have a greener, fairer and more inclusive wellbeing economy.

To support the national spatial, regional spatial strategies are identified for different parts of Scotland. West Dunbartonshire sits within the Central region. This area broadly covers central Scotland from the Glasgow city region and the Ayrshires in the west to Edinburgh city region in the east, including the Tay cities, the Forth Valley and Loch Lomond and The Trossachs National Park. The strategy for this area aims to:

- Provide net zero energy solutions including extended heat networks and improved energy efficiency, together with urban greening and improved low carbon transport.
- Pioneer low carbon, resilient urban living by rolling out networks of 20 minute neighbourhoods, future proofing city and town centres, accelerating urban greening, investing in net zero homes, and managing development on the edge of settlements.
- Target economic investment and build community wealth to overcome disadvantage and support a greener wellbeing economy.

There are eighteen National Developments identified in NPF4, some of which are nationwide and some relating to regions or specific locations. The National Developments relevant to the central region are:

- Pumped Hydro Storage (Scotland wide)
- Strategic Renewable Electricity Generation and Transmission Infrastructure (Scotland wide)
- Circular Economy Material Management Facilities (Scotland wide)
- Urban Sustainable, Blue and Green Drainage Solutions (Edinburgh and Glasgow)
- Urban Mass/Rapid Transit Networks (Aberdeen, Edinburgh and Glasgow)
- Central Scotland Green Network
- National Walking, Cycling and Wheeling Network (Scotland wide)
- Digital Fibre Network (Scotland wide)
- Clyde Mission
- High Speed Rail

Part 2 – National Planning Policy

On adoption, NPF4 will become part of the development plan, and the policies within it will be used to assess applications for planning permission. The table below sets out the number and names of the policies within NPF4, along with initial officer views on the nature of the policy (i.e. whether it is a general policy applying to all development proposals, or more related to development of a particular type or within a particular area), and a summary of the policy purpose.

| Policy | Type | Comment |
|---|--|--|
| <i>Sustainable Places</i> | | |
| 1. Tackling the climate and nature crises | General – applies to all development | Very general policy stating significant weight to be given to climate and nature crises. |
| 2. Climate mitigation and adaptation | General – applies to all development | Development to be sited and designed to minimise greenhouse gases and to adapt to risks from climate change. |
| 3. Biodiversity | General – applies to all development, although some criteria are only applicable to certain development types. | Overall purpose is to enhance biodiversity. Quite a few criteria in this one, some applicable to all, one re national/major/EIA, one re local excluding householder. |
| 4. Natural places | General – applies to all development | Overall purpose is to protect the natural environment, including designated sites and protected species. Although it protects the 'natural environment' in general, I would think in the main this policy will be used |

| Policy | Type | Comment |
|---|---------------------------------------|---|
| | | in relation to protected sites and species. |
| 5. Soils | Area specific | Protects all soils so applicable to all development affecting soils, but focus is on agricultural land, peatland and carbon-rich soils, and also undeveloped land. |
| 6. Forestry, woodland and trees | Area or development specific | Supports expansion of woodland/tree cover and protects trees/woodland including 'veteran' trees (defined in Glossary), so goes beyond just protecting TPOs (which are not mentioned in policy). |
| 7. Historic assets and places | Area or building specific | Protects historic assets and places with focus on designated sites/buildings but non-designated also protected. |
| 8. Green belts | Area specific | Sets out the types of development acceptable in the green belt and other requirements to be met. |
| 9. Brownfield, vacant and derelict land and empty buildings | Area or building specific | Supports brownfield development and reuse of existing buildings. Limits greenfield development and demolition. Covers contaminated land. |
| 10. Coastal development | Area specific | Sets out considerations for coastal development including coastal defence measures. |
| 11. Energy | Development specific | Sets out considerations for renewable, low-carbon and zero emissions technologies. |
| 12. Zero waste | General – applies to all development | Sets out considerations re waste for all developments, supporting the minimisation of waste at the development and operational phases. Also sets out considerations for the assessment of waste infrastructure. |
| 13. Sustainable transport | General – applies to all developments | Supports sustainable transport through a number of considerations, including low/no car parking in urban |

| Policy | Type | Comment |
|---|---|---|
| | | locations well-served by public transport. |
| <i>Liveable Places</i> | | |
| 14. Design, quality and place | General – applies to all developments | Applies to the six qualities of a successful place (refer also to Annex D) |
| 15. Local living and 20 minute neighbourhoods | Development specific | This policy would be relevant to residential development and how accessible it is to services, and also for proposals for those services. The policy lists some relevant service types. |
| 16. Quality homes | Development specific | Applicable to residential (including gypsy/ traveller/ travelling showpeople) and householder development. Includes affordable housing requirement, and requirement for Statement of Community benefit for development of 50+ houses. |
| 17. Rural homes | Development specific | Applicable to proposals for new homes in rural areas (not clear if this includes green belt, but don't think so). |
| 18. Infrastructure first | General – applies to all development | Covers proposals for infrastructure and also development impacting on infrastructure. |
| 19 Heating and cooling | General – applies to (nearly) all development | Requires consideration of how buildings are to be heated. Covers heat networks and the use of waste and surplus heat. Also covers energy infrastructure development. |
| 20. Blue and green infrastructure | Development or area specific | Protects and supports blue/green infrastructure (open space), including temporary open/green space. Requires effective management/maintenance plans including funding arrangements. |
| 21. Play, recreation and sport | Development or area specific | This relates to development involving loss of sports facilities or open space. Also proposals for open space, sports facilities and play |

| Policy | Type | Comment |
|--|--------------------------------------|--|
| | | equipment, and new streets and public realm. |
| 22. Flood risk and water management | General – applies to all development | Relates to development at risk of flooding, or developments that could increase the risk of flooding. Consider public water mains connectivity. Supports natural flood risk management. |
| 23. Health and safety | General – applies to all development | Considers health-related proposals, developments likely to have an adverse impact on health, air quality, noise, suicide, hazardous sites/substances, HSE/ONR/SEPA consultations, explosive sites. |
| 24. Digital infrastructure | Development specific | Relates to the inclusion of, or proposals for, digital infrastructure. |
| <i>Productive Places</i> | | |
| 25. Community wealth building | Development specific | Relates to development that contributes to community wealth building, and also proposals linked to community ownership and management of land. |
| 26. Business and industry | Development and area specific | Relates to business and industry uses and areas |
| 27. City, town, local and commercial centres | Development and area specific | Relates to development within centres and for footfall generating uses (examples included). Also relates to hot food takeaways, betting offices, high interest money lending and drive-throughs. Town centre living. |
| 28. Retail | Development specific | Relates to retail development. Applies sequential approach. Includes click-and-collect lockers |
| 29. Rural development | Area specific | Relates to proposal for development in rural areas – presumably outwith green belt. Lists supported development types and assessment criteria. |
| 30. Tourism | Development specific | Relates to proposals for or affecting tourist facilities. |

| Policy | Type | Comment |
|----------------------------|-------------------------------|---|
| | | Includes huts and short-term lettings. |
| 31. Culture and creativity | Development specific | Relates to proposals for or affecting creative or cultural venues. Includes reference to public art requirements and 'agent of change principle'. |
| 32. Aquaculture | Development and area specific | Relates to proposals for aquaculture, fish farms. |
| 33. Minerals | Development specific | Limits fossil fuel extraction and does not support fracking. Protects and sets criteria for extraction of mineral deposits. |

Part 3 - Annexes

The Annexes form an important part of the document and include:

Annex A: How to use this document – this annex sets out information on: the purpose of planning; the role of the National Planning Framework; the plan-led approach; and information on the structure and purpose of the document itself.

Annex B: National Developments Statements of Need – this annex sets out the statement of need and additional information in relation to the eighteen National Developments.

Annex C: Spatial Planning Priorities – this annex provides greater details on regional spatial priorities to guide the preparation of Regional Spatial Strategies and Local Development Plans

Annex D: Six Qualities of Successful Place – this Annex sets matters to be considered when taking account of the six qualities of successful place. These qualities are: Healthy; Pleasant; Connected; Distinctive; Sustainable; and Adaptable.

Annex E: Minimum All-Tenure Housing Land Requirement (MATHLR) – The MATHLR is the minimum amount of land, by reference to the number of units, that is to be provided by each planning authority for a 10 year period. The MATHLR is expected to be exceeded in each Local Development Plan's Housing Land Requirement. The MATHLR for the West Dunbartonshire planning authority is 2,100. This means that the next Local Development Plan for West Dunbartonshire will need to identify land for a minimum of 2,100 units for its 10 year timeframe.

Annex F: Glossary of definitions – this Annex provides an extensive explanation of terms used within NPF4.

Annex G: Acronyms – this Annex explains the acronyms used in NPF4.

WEST DUNBARTONSHIRE COUNCIL

Report by Planning, Building Standards and Environmental Health Manager

Planning Committee: 14th December 2022

Subject: Introduction of fees for pre-application advice and other discretionary fees, exemptions, reductions and surcharges.

1. Purpose

- 1.1** To seek approval for the introduction of fees for the provision of pre-application planning advice to prospective developers and householders and for the introduction of other discretionary charges, exemptions, reductions and surcharges.

2. Recommendations

- 2.1** It is recommended that the Committee agrees, subject to decision at Council on 21 December 2022,:
- the introduction of discretionary charges for providing pre-application advice, non-material variations, written confirmation of compliance/discharge of conditions, and exemptions as set out in Appendix 1 to come into effect on 1st February 2023.
 - a surcharge of 25% be imposed on all retrospective planning applications to come into effect from 1st February 2023.

3. Background

- 3.1** The role of pre-planning application advice is to provide a forum for developers to discuss proposals with Council officers prior to submitting an application and thereby receive advice on the issues which will need to be addressed as well as what information will be required for a submission. The pre-application process is a critical mechanism – early and effective consultation and engagement will assist in avoiding delays and difficult situations during the planning application process. The ability to facilitate these processes is key to supporting applicants in the delivery of high quality projects and developments. The Council welcomes early discussions with all applicants and developers prior to the submission of any application. The submission of detailed and comprehensive applications results in quicker decision making once an application is submitted. The Planning Service in West Dunbartonshire focuses resources on front loading complex and high profile regeneration, housing and economic based applications through the pre application process, which ensures speedy decision making and quality development with an

excellent average determination period of 9.6 weeks for major developments in 2021-22, which is well below the Scottish average of 41.3 weeks and the statutory 4 month determination period target for major applications.

3.2 Recognising that applications range in type, scale and complexity, the Council has recently adapted its pre-application service to offer a more bespoke pre-application process; one which can be adapted to suit the needs of the applicant and Council alike. The options for pre-application have been simplified into two distinct routes – Pre-Application Advice and Pre-Application Framework. The Pre- Application document (Appendix 2) explains how these processes will function and also direct applicants to relevant supporting material. The Pre-Application Advice process is generally for smaller and less complex proposals with the Pre-Application Framework for larger and more complex proposals. Whilst applications will still be defined as either ‘local’ or ‘major’, in accordance with the Hierarchy of Development Regulations, the Council has moved away from using these categories to define the type of pre-application process necessary. This is in recognition that all applications vary in type, scale and complexity, and as such, the pre-application process should reflect these different requirements.

3.3 The Pre-Application Framework provides a structured process for the pre-application stage, where applicant teams are working collaboratively with the Council and where consultation with the Council’s Place and Design Panel and Elected Members can be integrated into the process. A trial of this process was run with a developer of a housing site in Clydebank and the responses from officers and the applicant team was positive. The Pre-Application Framework now is being used for other development proposals. There is no charge for this service at present. In 2022 there were 6 Planning Application Frameworks undertaken for development proposals, 4 Place and Design Panels held and 2 Elected Member Briefing sessions.

3.4 Pre-Application Advice is accessed via an online Pre-Application enquiry form and is mainly used for householder and local development and is not targeted at Major, Environmental Impact Assessment development or those developments which require to be put through the Pre-application Framework. The online pre-application enquiry form was introduced in May 2021 and between May 2021 to December 2021 86 enquiries were received and from January 2022 to end of November 2022 90 enquiries were received.

3.5 For other Councils that have introduced fees for pre-application enquiries, there has been a reduction in speculative planning enquiries being

received and they have been better able to focus resources throughout the planning service.

4. Main Issues

- 4.1** The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022 sets out the level of fees required as part of planning applications and other associated applications. The Regulations replace the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004. They also introduced some additional categories of fees and enable the planning authority to charge discretionary fees for some services, to reduce or waive fees in certain cases and to apply a surcharge for retrospective applications.
- 4.2** The Regulations requires planning authorities to set out what will be charged for these services, when and by how much fees will be reduced and clarify the level of surcharges applied. The increase in planning fees came into effect on 1st April 2022 and are welcomed in supporting a well-resourced and efficient planning service. Amongst the changes, standard “householder” fees increased from £202 to £300, the single house application fee increased from £401 to £600, with the maximum major development fee increased to £150,000. A proposed Schedule of Fees are detailed in Appendix 1.
- Pre- application enquiries
- 4.3** Many Local Planning Authorities across Scotland have already introduced charging for pre application enquiries. Appendix 3 provides an indication of the Councils charging for pre application enquiries and the level of their fees. As indicated above the provision of good pre-application advice is fundamental to identifying the appropriate supporting information required to be submitted with a planning application and to front load a planning application. It is proposed that the following pre application fees are introduced – a flat rate of £3000 for major or national developments and those developments identified as requiring to be dealt with through the Pre-Application Framework, £500 for local development and £100 for householder development. It is envisaged that major or national developments and some local developments will require to be dealt with through the Pre-Application Framework, with the Framework determining the number of meetings, the requirement for the Place and Design Panel and Elected Member briefing. More minor local development and householder development may be addressed by a single meeting/ site visit or an email response which will give the policy background, an overall view on whether the development proposals are likely to be acceptable, consultation/ consultees to be carried out, key mitigation required to make the proposal acceptable and expiration date for the advice. Pre- application

advice will be charged to developers, householders and other Council Services who are undertaking development proposals.

Non-Material Variations

- 4.4** Once planning permission has been granted, changes to proposals are often submitted. A non-material variation (NMV) application is essentially a proposal to change an approved development that will not significantly alter what was granted planning permission. The new fee regulations set out that a planning authority may introduce a charge of £200 for each non-material variation request, and it is proposed to include this charge for all development types in line with the level set out in the Regulations.

Written confirmation of compliance with condition(s) and discharge of a condition(s).

- 4.5** Often a developer will seek written confirmation that a condition attached to a planning permission has been complied with or the condition discharged and this does not attract a fee. The Fee Regulations states that "Where a request is made to a planning authority for written confirmation of compliance with a condition imposed on the grant of planning permission the fee payable to that planning authority is £100 for each request". It is therefore recommended that this fee is applied to each separate request as there is significant work involved in discharging and confirming compliance with conditions. The fee would apply to each request made with each separate request attracting a new fee. The current planning fee regulations waive fees in full as an exemption for works or alterations to improve access, safety, health or comfort for a disabled person at their home, and community councils benefit from a 50% fee reduction on planning applications. It is proposed to apply the same reductions to fees relating to discharge and compliance with condition fees.

Waiving or reducing of fees

- 4.6** Regulation 5 of the New Fee Regulations provides that an authority may waive or reduce any planning fees that would otherwise be payable under the Regulations. An authority may waive or reduce a fee if it has published a charter setting out the circumstances in which they will waive or reduce fees. This could be for example where an authority wishes to seek to encourage certain types of development in order to meet a policy objective/outcome where the viability of development would otherwise be significantly and demonstrably affected or where the type of development was not envisaged or provided by the Regulations.
- 4.7** If such a Charter is published it must include, but is not limited to, where the application relates to development in the opinion of the authority, has the primary purpose of contributing to a not for profit enterprise or a social enterprise or where the application relates to development which in the opinion of the planning authority, is likely to contribute to improving the

health of residents of the area to which it relates. It is up to the authority to determine what types of development shall fall into these categories. If a planning authority waives or reduces any planning fee, it must include its reasons for doing so in the decision notice. It is proposed to extend this to cover developments that support the Council's Food Growing Strategy such as allotments, and food banks and no application fee would be payable for such development proposals or alterations.

Surcharges

- 4.8** The new fee regulations also allow surcharges to be applied to retrospective applications to a maximum of 25% of original planning application fee. Many retrospective applications are made once all development is complete or when the development has started but not completed. In these circumstances these planning applications should attract a surcharge of 25%. It is hoped that the introduction of a surcharge will reduce the number of unauthorised developments that are carried out without the necessary planning permission.

Future Review

- 4.9** It is intended that the charges will be reviewed within one year to ensure that the costs are reflective of the service provided and after assessment of the number of enquiries received.

5. People Implications

- 5.1** There are people implications associated with this report. The charging for pre application advice will require a well-resourced planning service.

6. Financial and Procurement Implications

- 6.1** The proposed charges are set out in Appendix 1 and represent estimation of cost in relation to processing these requests.

7. Risk Analysis

- 7.1** If the Development Management service is not adequately resourced there could be reputational damage to the Council if it is charging for a service that it cannot provide it to an acceptable level within an agreed timescale.

8. Equalities Impact Assessment (EIA)

- 8.1** The Equalities Impact Assessment details some small differential impacts of charging impacts, that can be mitigated. The Council will follow its Communicating Effectively to ensure accessibility of advice and guidance. The fees have been introduced in line with The Town and Country Planning (Fees for Applications)(Scotland) Regulations 2022, which

enables and sets out discretionary fees that the Council can introduce for planning-related services. The fees have been set in line with the Regulations where these are set out, or following benchmarking where the Council has latitude to set its own fees. Exemptions have been introduced where allowed to account for potentially disadvantaged groups, and have been set at an affordable* rate for development types likely to be undertaken by individuals (*when compared with the overall costs of a development project). Many of the fees are also optional.

9. Consultation

- 9.1** The input of legal and financial colleagues has been sought during the preparation of this report.

10. Strategic Assessment

- 10.1** The report is considered to align with the Council's Strategic Priorities, particularly:
Our Council – Inclusive and Adaptable
Our Communities – Resilient and Thriving

Pamela Clifford

Planning, Building Standards and Environmental Health Manager

Date: 14th December 2022

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Appendices: **Appendix 1:** Discretionary fees, exemptions and surcharges applicable from 1 February 2023
Appendix 2: Pre-Application Guidance and Services
Appendix 3: Pre-Application fees charged by other Scottish planning authorities
Appendix 4: Equalities Impact Assessment

Background Papers: The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022

Wards Affected: All

| DISCRETIONARY FEES, EXEMPTIONS AND SURCHARGES APPLICABLE FROM 1st FEBRUARY 2023 | |
|--|--|
| 1. Pre-application advice on Major and National Development proposals and other developments requiring to be dealt with through the Pre-Application Framework | £3,000 |
| 2. Pre-application advice on Local Development proposals (except developments listed below or requiring to be dealt with through the Pre-Application Framework) | £500 |
| 3. Pre-application advice on single houses | £150 |
| 4. Pre-application advice on commercial developments and changes of use (max. floor space 500 sqm) | £150 |
| 5. Pre-application advice for householder developments. | £100 |
| 6. Pre-application advice for advertisement proposals | £100 |
| 7. Pre application advice and planning application fee for works or alterations to improve access, safety, health or comfort for a disabled person at their home. | Free |
| 8. Pre application advice and no planning fee for works or alterations for proposals which in the opinion of the Planning Authority are demonstrated to support the Council's food growing strategy – allotments or food banks/hubs. | Free |
| 9. Pre application advice for Community Councils. | Free |
| Note: Planning application fee reduced by a half. | |
| 10. Requests for Non-Material Variation of previously approved scheme | £200 for each request |
| 11. Compliance with conditions - where an applicant seeks confirmation that the terms set out in a condition attached to a planning permission have been met. NOTE: there is no charge in respect of conditions attached to listed buildings or conservation area consent, or when it relates to a householder development, which would benefit from planning application fee exemption under Reg 7 (means of access, etc. for disabled persons) or benefits from a planning application fee reduction - Community Councils. | £100 for each request |
| 12 Discharge of conditions - where an applicant seeks approval of information submitted in respect of a condition attached to a planning permission, for the agreement of the planning authority. Note: there is no charge in respect of conditions attached to listed buildings or conservation area consent, or when it relates to a householder development, which would benefit from planning application fee exemption under Reg 7 (means of access, etc. for disabled persons) or benefits from a planning application fee reduction such as Community Councils | £100 for each request |
| 14. Applications made in retrospect. Where an application for planning permission is made after the whole development being applied for has been carried out in full or where an application for planning permission is made when the development being applied for has been started but not completed, including the revised design of a previously granted planning permission. | Fee calculated in accordance with the Fee Regulations, plus 25%. |
| | |
| NOTE: Brief non-specific or general pre-application advice which can be given over the telephone. | Free |
| NOTE: Where written confirmation is sought that a development proposal does not require planning permission, an application under either Section 150 or Section 151 of the Town and Country Planning (Scotland) Act, 1997 (as amended) would require to be submitted for consideration. | |

Supporting High Quality Development

Pre-Application Guidance and Services

Planning and Building Standards Service

West 
Dunbartonshire
COUNCIL

December 2022

Supporting High Quality Development

Pre-Application Guidance and Services

Contents

- ❑ Overview / Introduction
- ❑ What type of Pre-Application Process?
 - ❑ 1. Permitted Development
 - ❑ 2. Pre-Application Advice
 - ❑ 3. Pre-Application Framework
- ❑ Disclaimer
- ❑ Freedom of Information



Overview

West Dunbartonshire Council's aim is to create places for people, spaces for investment and destinations to enjoy. To support this aspiration, the spatial strategy is focussed on the delivery of significant regeneration areas and other key sites within our already established urban areas. Sustainable and high quality placemaking is at the heart of this strategy and is a key priority for the Council.

The Council is committed to taking a more proactive role in supporting the delivery of high quality developments. However, in recognition of a changing and more complex policy landscape and after an internal review, the Council has sought to review its processes to ensure a continued improvement to its service offer.

The pre-application process is seen as a critical mechanism – early and effective consultation and engagement will assist in avoiding delays and difficult situations during the planning and building warrant processes. The Council appreciates that its ability to facilitate these processes is key in supporting applicants in the delivery of high quality projects and developments.

What type of Pre-Application Process?

The Council welcomes early engagement with all applicants and developers prior to the submission of any application. The submission of detailed and comprehensive applications results in quicker decision making once an application is submitted.

In recognition that applications range in type, scale and complexity the Council has adapted its service offer to develop a more bespoke pre-application process; one which can be adapted to suit the needs of the applicant and Council alike.

The options for pre-application have been simplified into two distinct routes – Pre-Application Advice and Pre-Application Framework. This document will seek to explain how these processes will function and also direct applicants to relevant supporting material.

Whilst applications will still be defined as either 'local' or 'major', in accordance with the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 , the Council has moved away from using these categories to define the type of necessary pre-application process. This is in recognition that all applications vary in type, scale and complexity, and as such, the pre-application process should reflect these changing needs.

Upon receipt of a pre-application enquiry the Council will suggest which route is most appropriate and provide relevant information and guidance to the applicant team.



1. Permitted Development

Prior to engaging with the Council regarding the possible pre-application routes, it is recommended that any applicant check whether the proposed development falls under what would be considered as permitted development to determine if planning permission is required or not. Further information regarding permitted development rights can be found at the link below:

<https://www.gov.scot/publications/guidance-householder-permitted-development-rights-9781780456836/>

2. Pre-Application Advice

Pre-Application Advice supports applicants who require guidance for smaller and less complex proposals. These often include alterations to a property or the development of a small number of dwellings.

The advice service is designed to:

- ☐ simplify the submission of a planning application;
- ☐ outline the policies of the local development plan and other material considerations that would affect the proposal;
- ☐ identify constraints;
- ☐ identify consultation/ consultees;
- ☐ provide a view on whether the development proposals are likely to be acceptable;.
- ☐ identify key mitigation required to make a proposal acceptable.

Please Note:

- ☐ We can't provide pre-application advice for specific proposals over the telephone.
- ☐ We reserve the right not to provide pre-application advice if the process is not entered into cordially or objectively.
- ☐ Any evaluation of the proposal does not prejudice any decision made by West Dunbartonshire Council and its Committees and the advice is not legally binding on the determination of a forthcoming planning application.
- ☐ Pre-application advice may be subject to third party requests made under the Freedom of Information (Scotland) Act 2002.

Further information regarding Pre-Application Advice, including suggested submission material and enquiry forms, can be found at the link below:

[Pre-Application enquiry | West Dunbartonshire Council \(west-dunbarton.gov.uk\)](https://www.west-dunbarton.gov.uk/pre-application-enquiry)

As part of the proposed changes to the Councils Pre-Application process and in accordance with revised national regulations the Council will now charge a discretionary fee for this service. A charge of £500 will be applied to this service, although this is reduced for certain categories of development. The fee will include:

- ❑ Meetings with applicant and Case Officer
- ❑ One site visit by Case Officer, if necessary
- ❑ Written response including commentary from necessary consultees

3. Pre-Application Framework

West Dunbartonshire Council is committed to supporting the highest quality development and acknowledge that early and effective consultation is essential to this aspiration. The Pre-Application Framework has been developed as a critical tool in helping to support applicants for larger and more complex developments through this process.

The Council recognises that developments can be uniquely complex and often involve different services from both within and outwith the Council. The Pre-Application Framework has been established in order to provide a bespoke pre-application process; one which reflects the changing needs of different applications.

The key benefits of using the Pre-Application Framework are to enable the local planning authority and applicant to:

- ❑ Set out an efficient, transparent and solution focussed process for determining complex planning applications;
- ❑ Agree relevant timescales, actions and resources for handling applications;
- ❑ Enable joint working between the applicant and local planning authority, including engagement strategies for other parties such as statutory consultees, Councillors, the Place and Design Panel and other stakeholders.

The diagram to the right seeks to explain how a typical Pre-Application Framework may be planned. Please note that this is an indicative diagram, and the number of meetings necessary may decrease or increase in accordance with the applications needs. The framework for each application will be discussed with the applicant team before a commitment from either party.

Please note that there is a statutory requirement for Pre-Application consultation (PAC) with the public in relation to planning applications for Major Development. Advice on the Pre-Application Consultation and the Proposal of Application Notice (PoAN) process is available at <https://www.west-dunbarton.gov.uk/planning-building-standards/planning-applications/planning-applications-advice/>. It defines what constitutes a major development and what is required in terms of public consultation.

Objective and Principles

The objective of the Pre-Application Framework is one of co-operation and consistency throughout the negotiation, and for discussion relating to the pre-application process to provide a degree of certainty of intended outcomes and improve the quality of the project, leading to an effective and efficient quality planning decision.

The Council have developed a series of principles which should guide the conduct of all parties entering into a pre-application framework.

Principle 1 – To work together as a team and in good faith, and to respect each other's interests and confidentiality.

Principle 2 – To be transparent and consistent at all times so that outcomes are anticipated, defined and understood.

Principle 3 – To drive forward high-quality design and placemaking.

Principle 4 – To help facilitate (where appropriate) effective involvement and consultation with statutory stakeholders, council members and other stakeholders.

Principle 5 – To agree process milestones which will remain fixed unless agreed by all parties.

Principle 6 – To identify and involve specialist consultees and advisors including authority officers/managers where appropriate, including the Place and Design Panel when appropriate.

The Pre-Application Framework is devised to provide a realistic timeframe for planning and resourcing the pre-application discussions, with the aim of agreeing a submission date and facilitating a streamlined and effective planning application process. The Applicant and the Council acknowledge that the timetable may be subject to change which will be kept under review moving forward.

A designated member of the Applicant's team, in conjunction with the Council Case Officer, will convene meetings, organise agendas and produce minutes to be agreed by the Project Team. Information will be shared between parties in good time in order to facilitate necessary input to the process as a whole.

This Pre-Application Framework process does not give a guarantee of planning permission. It will not prejudice the outcome of the planning application or the impartiality of the Council, in exercising its statutory duties as local planning authority. This agreement relates to the process of considering development proposals and not the decision itself.

A flat charge of £3000 will be charged for the Pre-Application Framework process. The fee will include the below:

- ☐ A minimum of four meetings with Case Officer, Placemaking Coordinator and other consultees where necessary.
- ☐ One site visit by Case Officer, if necessary.
- ☐ Written response including commentary from necessary consultees issued after each pre-application meeting.
- ☐ Access to a minimum of one Place and Design Panel, where necessary, facilitated by WDC Council. Further information is outlined below.
- ☐ Access to a minimum of one Members Briefing, where necessary, facilitated by WDC Council. Further information is outlined below.
- ☐ Where it is deemed, through a collaborative discussion, that additional meetings are necessary to facilitate the improvement of an application, these meetings will be facilitated by Council Officers at no extra cost.
- ☐ A written schedule will be developed by WDC Council to provide clarity of each Pre-Application Framework process, and issued to all relevant parties.

Information regarding the Pre-Application Framework, and associated charging, will be presented on the Council website through a series of web pages. These will be developed in a consistent structure, similar to those which currently describe the Pre-Application Advice service.

Place and Design Panel

The Place and Design Panel has been established to assist the Council in delivering the highest quality development in West Dunbartonshire. The panel consists of a group of independent and experienced built environment professionals working across the disciplines of:

- ☐ Architecture
- ☐ Landscape architecture
- ☐ Urban design
- ☐ Development
- ☐ Planning
- ☐ Environmental sustainability
- ☐ Engineering
- ☐ Infrastructure

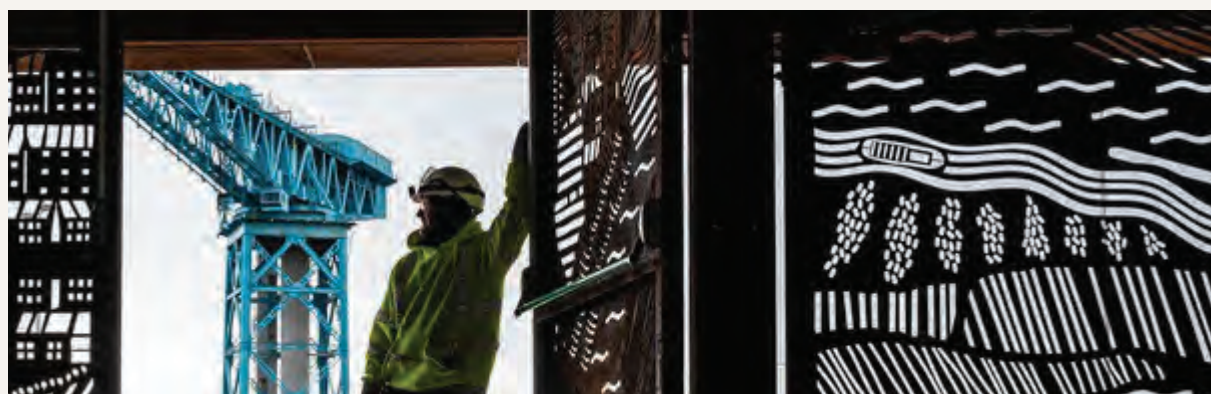


The Panel act as an advisor to both applicant and council officers, with a view to helping improve developments through the pre-application and application process. In doing so, the Panel members seeks to use their experience to help increase the design quality of the built environment in West Dunbartonshire.

It is vital for applicant teams and developments proposals to ensure that the Place and Design Panel are brought into the application discussion at the correct stage – the framework ensures that this is achievable and provides clarity to all involved. A report of the panel discussion is created with the necessary action points clearly defined in order to feed into the next phase of the Pre-Application Framework.

It may not be necessary for all applications to visit to the Place and Design Panel, whilst some may benefit from visiting the Panel on more than one occasion. As with other elements of the Framework, case officers will provide clarity on this process, to be agreed with an applicant team.

Place and Design Panel Terms of Reference and Governance



Elected Members Briefing

For some applications of a significant scale, complexity or of local interest an Elected Members briefing may be necessary as part of the Pre-Application Framework.

The Council has agreed procedures for Elected Member involvement in the pre-application stages. The Scottish Government has issued guidance on the role of Elected Members in pre-application discussions. Elected Members are encouraged to engage at the pre-application stage and to add value to the process while continuing to act within the terms of the Councillors Code of Conduct.

The briefings are an important tool to allow early engagement by developers with Elected Members in order to identify key and significant local issues at an early stage of the planning process. It enables Elected Members to be better informed of developments that will subsequently be presented to Planning Committee and helps to give a degree of certainty and confidence to applicants by identifying key and local issues earlier in the process. The Elected Members briefing is open to all Elected Members and not just Elected Members that sit on the Planning Committee.



Disclaimer

The Council will make every effort to ensure that the advice given in the pre-application process is as accurate as possible. However any advice given by Council officers for pre-application inquiries does not constitute a formal decision of the Council with regards to any planning application and, whilst it may be a material consideration, cannot be held to bind the Council in its validation or formal determination of a subsequent application

If an application is subsequently submitted which fails to take on board advice given by officers, then the Council may refuse it without further discussion with the applicant or their agent.

Freedom of Information

There is a possibility that, under the Freedom of Information Act, the Council will be asked to provide information regarding inquiries for pre-application advice and copies of any advice provided or correspondence entered into. This information may only be withheld if its disclosure could prejudice commercial interests, inhibit the free and frank provision of advice or exchange of views during the planning process, or could prejudice the effective conduct of public affairs. Those seeking pre-application advice should provide a covering letter that sets out the reasons why, and for how long, any information relating to the case needs to remain confidential.

It will be for the Council to decide whether information can be treated as exempt from disclosure and the thrust of the legislation is to make information accessible unless there is a pressing reason why not. Each case will be assessed on its merits. The passage of time may remove the need for exemption as information becomes less sensitive. Generally notes and correspondence relating to pre-application discussion will not be treated as confidential once a planning application has been submitted and the case is in the public domain.

CONTACT DETAILS

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OTHER FORMATS

This document can be made available on request in alternative formats such as large print, Braille, audio tape or computer disc as well as in five community languages.

هذه الوثيقة متاحة أيضا بلغات أخرى والأحرف الطباعية الكبيرة وبطريقة سمعية عند الطلب.

अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है

ਇਹ ਦਸਤਾਵੇਜ਼ ਹੋਰ ਭਾਸ਼ਾਵਾਂ ਵਿਚ, ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਆਡੀਓ ਟੇਪ 'ਤੇ ਰਿਕਾਰਡ ਹੋਇਆ ਵੀ ਮੰਗ ਕੇ ਲਿਆ ਜਾ ਸਕਦਾ ਹੈ।

درخواست پر یہ دستاویز دیگر زبانوں میں، بڑے حروف کی چھپائی اور سننے والے ذرائع پر بھی میسر ہے۔

本文件也可應要求，製作成其他語文或特大字體版本，也可製作成錄音帶。



ITEM 9 APPENDIX 3

| Pre-Application Fees - Benchmark Costings - November 2022 | | | | | |
|---|----------------|------------------|------------------|--------------|-----------------------|
| | Permitted Dev. | Householder Dev. | Minor Local Dev. | Local Dev. | Major / National Dev. |
| Aberdeen City | No Fee | No Fee | £150 | £750 | £2,000 |
| Aberdeenshire | No Fee | No Fee | No Fee | No Fee | No Fee |
| Angus | NA | NA | NA | NA | NA |
| Argyll & Bute | £50 - £800 | £50 - £800 | £50 - £800 | £50 - £800 | £1,000 |
| Cairngorms NPA | No Fee | No Fee | No Fee | No Fee | No Fee |
| Clackmannanshire | No Fee | No Fee | No Fee | No Fee | No Fee |
| Dumfries & Galloway | No Fee | No Fee | No Fee | No Fee | No Fee |
| Dundee | No Fee | £50 + Vat | max £1250 | max £1250 | max £2000 |
| East Ayrshire | No Fee | No Fee | max £500 | max £500 | max £1500 |
| East Dunbartonshire | NA | max £72.80 | max £1560 | max £1560 | max £1560 |
| East Lothian | No Fee | No Fee | No Fee | No Fee | No Fee |
| East Renfrewshire | NA | NA | NA | NA | NA |
| Edinburgh | NA | NA | max £396 | max £2718 | max £9120 |
| Falkirk | NA | NA | NA | NA | NA |
| Fife | NA | £65 | max £520 | max £520 | max £1500 |
| Glasgow | NA | £120 | max £180 | max £1800 | £12,000 |
| Highland | NA | £49 | max £1400 | max £2000 | max £7500 |
| Inverclyde | No Fee | No Fee | No Fee | No Fee | No Fee |
| Loch Lomond and Trossachs | No Fee | No Fee | No Fee | No Fee | No Fee |
| Midlothian | No Fee | No Fee | No Fee | No Fee | No Fee |
| Moray | NA | £64 | £161 | £536 | £1,607 |
| North Ayrshire | No Fee | No Fee | No Fee | No Fee | No Fee |
| North Lanarkshire | No Fee | No Fee | No Fee | No Fee | £1,000 + VAT |
| Orkney Islands | No Fee | No Fee | No Fee | No Fee | No Fee |
| Perth and Kinross | | £50 | £250 | £250 | £500 |
| Renfrewshire | No Fee | No Fee | No Fee | No Fee | No Fee |
| Scottish Borders | No Fee | No Fee | max £400 | max £640 | max £2500 |
| Shetland Islands | No Fee | No Fee | No Fee | No Fee | No Fee |
| South Ayrshire | NA | £130 | £156 - £1040 | £156 - £1040 | max £5000 |
| South Lanarkshire | No Fee | No Fee | No Fee | No Fee | No Fee |
| Stirling | No Fee | No Fee | No Fee | No Fee | No Fee |
| West Dunbartonshire | No Fee | No Fee | No Fee | No Fee | No Fee |
| West Lothian | NA | £90 | max £1200 | max £2400 | max £3600 |
| Western Isles | No Fee | No Fee | No Fee | No Fee | No Fee |

| | | | | |
|---|---|-------------------|---|--------------------------|
| AssessmentNo | 593 | Owner | alan.williamson | ITEM 9 APPENDIX 4 |
| Resource | Transformation | | Service/Establishment | Regulatory |
| | First Name | Surname | Job title | |
| Head Officer | Pamela | Clifford | Planning, Building Standards and Environmental Health Manager | |
| | | | | |
| | (include job titles/organisation) | | | |
| Members | Alan Williamson, Development Planning & Place Team Leader James McColl, Development Management Team leader Joshua Doyle, Placemaking Co-ordinator | | | |
| | | | | |
| | <i>(Please note: the word 'policy' is used as shorthand for strategy policy function or financial decision)</i> | | | |
| Policy Title | Discretionary charges for planning services | | | |
| | The aim, objective, purpose and intended outcome of policy | | | |
| | The policy introduces charges for a range of services offered by the Planning Service, for example for pre-application advice, for non-material variations to planning permissions, confirmation of compliance/discharge of conditions attached to planning permissions, and a surcharge for retrospective applications. The introduction of these fees is related to the publication of new Regulations by the Scottish Government that provide the statutory basis for introducing these fees for the first time. | | | |
| | | | | |
| | Service/Partners/Stakeholders/service users involved in the development and/or implementation of policy. | | | |
| | None | | | |
| | | | | |
| Does the proposals involve the procurement of any goods or services? | | | No | |
| If yes please confirm that you have contacted our procurement services to discuss your requirements. | | | No | |
| SCREENING | | | | |
| <i>You must indicate if there is any relevance to the four areas</i> | | | | |
| Duty to eliminate discrimination (E), advance equal opportunities (A) or foster good relations (F) | | | Yes | |
| Relevance to Human Rights (HR) | | | No | |
| Relevance to Health Impacts (H) | | | No | |
| Relevance to Social Economic Impacts (SE) | | | Yes | |
| Who will be affected by this policy? | | | | |
| Organisations and individuals who are seeking planning permission or who already have a planning permission in place. | | | | |
| Who will be/has been involved in the consultation process? | | | | |
| The proposed fees have been benchmarked with other Scottish planning authorities. | | | | |
| Please outline any particular need/barriers which equality groups may have in relation to this policy list evidence you are using to support this and whether there is any negative impact on particular groups. | | | | |
| | Needs | Evidence | Impact | |
| Age | | | | |
| Cross Cutting | The council needs to | The factors above | The Council will | |

| | take an approach that takes account of how factors interact | can interact | ensure that the advice and process is accessible |
|-------------------------------------|--|---|---|
| Disability | Information and services must be accessible to disabled people Disabled people may need to undertake works or alterations to their home to improve access, safety, health or comfort. Advice needs to be accessible to BSL users, this is a legal duty and highlighted in our BSL action plan | Disabled people are more likely to be income deprived than non disabled people | Pre-application advice for this sort of planning application will be free. |
| Social & Economic Impact | People/organisations who are less well-off may be put-off seeking pre-application advice if there is a charge for it. | See above in terms particular groups who are more income deprived groups who groups | Seeking pre-application advice is optional, therefore the cost does not need to be incurred. The cost of pre-application advice for householder development (which is the sort of development most likely to be undertaken by individuals) is set at £100. This is likely to amount to only a fraction of an overall development cost. An option exists for brief non-specific/general pre-application advice to be given for free over the telephone e.g. someone checking whether a particular project requires planning permission. Pre-application advice will be free for community councils, and for proposals |

| | | | |
|--|--|---|--|
| | | | which support the Council's food growing strategy - allotments or food banks/hubs. |
| Sex | Processes need to be fair and accessible | Women are more likely to be income deprived than men | Any differential impact is likely to be low. The cost of pre-application advice for householder development (which is the sort of development most likely to be undertaken by individuals) is set at £100. |
| Gender Reassign | | | |
| Health | | | |
| Human Rights | | | |
| Marriage & Civil Partnership | | | |
| Pregnancy & Maternity | | | |
| Race | Information needs to be accessible | People from BME groups are more likely to be income deprived. Some interpreting and translation may be required from some service users | Any differential impact is likely to be low. The cost of pre-application advice for householder development (which is the sort of development most likely to be undertaken by individuals) is set at £100. |
| Religion and Belief | | | |
| Sexual Orientation | | | |
| Actions | | | |
| | | | |
| Policy has a negative impact on an equality group, but is still to be implemented, please provide justification for this. | | | |
| | | | |
| Will the impact of the policy be monitored and reported on an ongoing basis? | | | |
| The level of fees will be monitored and revised within one year of implementation, taking account of any particular cases/circumstances that arise after implementation. The Council will ensure that advice and process are accessible by following the Council's 'Communicating Effectively' Guidance. Staff can access the Council's Providing Accessible Services training | | | |
| Q7 What is your recommendation for this policy? | | | |
| Introduce | | | |
| Please provide a meaningful summary of how you have reached the | | | |

recommendation

EIA 593 details some small differential impacts of charging impacts, that can be mitigated. The Council will follow its Communicating Effectively to ensure accessibility of advice and guidance. The fees have been introduced in line with The Town and Country Planning (Fees for Applications)(Scotland) Regulations 2022, which enables and sets out discretionary fees that the Council can introduce for planning-related services. The fees have been set in line with the Regulations where these are set out, or following benchmarking where the Council has latitude to set its own fees. Exemptions have been introduced where allowed to account for potentially disadvantaged groups, and have been set at an affordable* rate for development types likely to be undertaken by individuals (*when compared with the overall costs of a development project). Many of the fees are also optional.