

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 22 October 2014

Subject: Scottish Government consultation on planning controls, pay day lending and betting offices

1. Purpose

- 1.1** To advise the Committee of the above consultation and seek approval of the Council's response.

2. Recommendations

- 2.1** It is recommended that the Committee approve the consultation response set out in Appendix 1.

3. Background

- 3.1** Concerns have been expressed in recent years about the levels of problem gambling and personal indebtedness and the prevalence of betting shops and premises selling high interest short term loans – often referred to as pay day lending. The regulation of gambling and financial services is currently a reserved matter for the UK Government and Parliament. The Scottish Government and Parliament cannot at present legislate to regulate these matters directly to restrict the numbers of betting shops or premises selling payday loans, or regulate how these activities are conducted to address concerns about, for example, gambling addiction or excessive indebtedness.
- 3.2** Following the Summit on Gambling and Pay Day Lending in Scotland's Town Centres and Neighbourhoods the Scottish Government is taking steps within the powers available to it to address these concerns where it can. Scottish Planning Policy, published in June 2014, recognises the concerns surrounding these uses in town and local centres and states that development plans should include policies to prevent over-provision and clustering where a town centre strategy indicates that further provision would undermine the character and amenity of centres or the well-being of communities. Officers are involved in the Town Centre Pilots Project run by the Scottish Government. This Council together with Glasgow City Council is in the pay day loans/betting shops working group.

4. Main Issues

- 4.1** The consultation paper (<http://scotland.gov.uk/Resource/0045/00458193.pdf>) is concerned with the requirement for planning permission for pay day loan and betting offices.

4.2 The Use Class Order (Scotland) 1997 separates uses into different classes: Class 1 - shops, Class 2 -financial, professional and other services and Class 3 - food and drink etc. There are 11 classes in total and a number of uses do not fall within any of the classes and are known as sui generis uses e.g. public house. Planning permission is required to change between most uses, but some changes of use do not need planning permission e.g. a restaurant (class 3) does not require planning permission to change to a shop (Class 1) or a financial, professional or other service (Class 2).

4.3 Betting and pay day loan shops are both Class 2 uses. This means that whilst a shop would need planning permission to change its use to a betting office or pay day loan shop, if a bank was to change to a betting office or pay day loan facility this would not require planning permission. Nor would Class 3 uses (food and drink) need permission to become a betting office or pay day loan shop as this is a permitted change of use. The consultation is investigating the possibility of changing what changes of use are permitted through the Use Class Order.

Betting Shops

4.4 It is proposed that betting shops are removed from Class 2 and not listed under any of the classes and would be a sui generis use similar to amusement arcades, public houses and hot food takeaways. This would remove the right for certain uses to change to a betting shop without requiring planning permission.

4.5 The consultation asks if this approach is agreed with or if there is a more effective approach. The response set out in Appendix 1 agrees with this approach, but highlights that it would make little difference to the changes of use to betting shops most commonly received in the West Dunbartonshire area as the majority involve a change from a shop to a betting office which require planning permission in any case. Of greater significance is the recognition of clustering and over-provision issue addressed by Scottish Planning Policy which this Council is experiencing.

Pay Day Lending

4.6 The consultation highlights the difficulty in defining pay day lending differently from other financial services. A Financial Conduct Authority definition of pay day lending is included within the consultation. This is:

- APR is equal to or higher than 100%
- Credit is provided for any period up to 12 months
- Credit is not secured by a mortgage, charge or pledge.

- 4.7** The consultation then sets out two options for excluding pay day loan lending operations from Class 2 of the Use Class Order. Option 1 is to define types of pay day lending operations that should be excluded from Class 2, for example:
- money service business (as defined by Money Laundering Regulations 2007)
 - pawn broking
 - premises for buying goods from visiting members of the public
 - financial lending other than by deposit takers
- 4.8** Option 2 is to specify what type of financial services should be included within Class 2, for example:
- Accountancy services
 - Insurance services
 - Deposit takers (bank, building society, credit union. friendly society)
- 4.9** The response states a preference for Option 2 as it is considered a ‘cleaner’ way of defining what aspects of financial services should remain as part of Class 2. The activities listed under Option 2 are clearly identifiable and/or established by legislation (e.g. Building Societies Act, Credit Unions Act, Friendly Societies Act). Also it gives a more consistent approach of dealing with pay-day loans the same way as betting offices. Option1(listing the types of uses that offer pay day loans) is unlikely to be exhaustive and could lead to issues in the future. The Financial Conduct Authority definition is not useful in planning terms as it is not about the actual activities of a use, but the terms and conditions by which it conducts those activities. Also a pay day loan facility may try to avoid the need for planning permission by providing credit at 99% and over 24 months. Also it is unclear if pay day lenders have to meet all three terms or only one.
- 4.10** The consultation asks if shops that offer pay day loans should be excluded from restrictions on pay day lending. The retailing of goods from premises that also offers pay day loans does not mean that the retailing of goods is the primary business of that unit. If the concern is community wellbeing and the level of indebtedness, then the fact that a pay day loan operator also sells goods does not reduce the impact of pay day loans being available. If an operator offers pay day loans then it should be excluded from Class 1 shops.

5. People Implications

- 5.1** None.

6. Financial Implications

- 6.1** None.

7. Risk Analysis

- 7.1** None.

8. Equalities Impact Assessment (EIA)

- 8.1** The Scottish Government has undertaken an Equality Impact Assessment of the consultation proposals.

9. Consultation

- 9.1** A workshop with Elected Members was held prior to the preparation of this report.

10. Strategic Assessment

- 10.1** The proposed response supports the Council's strategic priority of improving the wellbeing of communities and protecting the welfare of vulnerable people.

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Date: 3 October 2014

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Appendices:	None
Background Papers:	Planning Controls, Pay Day Lending and Betting Offices: Consultation paper on Changes to Planning Legislation
Wards Affected:	All