

# Agenda



## Planning Committee

**Date:** Wednesday, 3 August 2022

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**Time:** 10.00 a.m.

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**Venue:** Council Chamber,  
Clydebank Town Hall, Dumbarton Road, Clydebank

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**Contact:** Gabriella Gonda, Committee Officer  
Email: [Gabriella.Gonda@west-dunbarton.gov.uk](mailto:Gabriella.Gonda@west-dunbarton.gov.uk)

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: 21 July 2022

**PLANNING COMMITTEE**  
**WEDNESDAY, 3 AUGUST 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 - 23**

Submit for approval as a correct record, the Minutes of Meeting of the Planning Committee held on 8 June 2022.

**4 NOTE OF VISITATION 25**

Submit, for information, Note of Visitation carried out on 6 June 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**

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

**(a) DC22/058/FUL** - Part use of restaurant car park for hand car-wash facility!  
with associated works inclusive of office and canopy **27 – 33**

**(b) DC22/096/FUL** - Change of use to allow fitting of tyres to motor vehicles!  
together with associated works (retrospective) **35 - 42**

**(c) DC21/039/FUL** - Extension to existing shop unit for use as a hot food  
takeaway **43 - 52**

## **7 PERMITTED DEVELOPMENT RIGHTS CONSULTATION 53 - 69**

Submit report by the Planning, Building Standards and Environmental Health Manager, seeking agreement to submit a response to Scottish Government consultation on the review of permitted development rights.

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## **PLANNING COMMITTEE**

At a Hybrid Meeting of the Planning Committee held in the Civic Space, 16 Church Street, Dumbarton on Wednesday, 8 June 2022 at 10.22 a.m.

**Present:** Councillors Karen Conaghan, Ian Dickson, Diane Docherty, Gurpreet Johal, Daniel Lennie, 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; Gillian Neil, Biodiversity Officer; Nigel Ettles, Section Head – Litigation (Legal Officer); Ashley McIntyre and Nicola Moorcroft, Committee Officers.

**Apologies:** An apology for absence was intimated on behalf of Provost Douglas McAllister.

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

### **DECLARATIONS OF INTEREST**

Councillor Lawrence O'Neill declared a personal interest in Item 5c (DC22/052/FUL – Installation of decking (Retrospective)), stating that family members had previously owned this property, was not involved in the sale of the property and it was his intention to remain in the meeting during consideration of this item.

### **RECORDING OF VOTES**

The Committee agreed that all votes taken during the meeting would be done by roll call vote to ensure an accurate record.

### **OPEN FORUM**

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

### **PLANNING APPLICATIONS**

Reports were submitted by the Chief Officer – Regulatory and Regeneration in respect of the following planning applications:-

**DC21/178/ADV – Range of advertisements include fascia signs and freestanding 8m high double sided pole sign (associated with proposed coffee shop and drive-thru facility subject to application DC21/176/FUL) at Morrison's Supermarket 36 Glasgow Road, Dumbarton, G82 1QZ by Trilogy (Leamington Spa) 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 Mike Powell, on behalf of the applicant, to address the Committee. Mr Powell was heard in respect of the application and in answer to Members' questions.

After discussion having heard the Planning, Building Standards and Environmental Health Manager in further explanation, and in answer to Members' questions, the Committee agreed:-

- to grant advertisement consent subject to the condition set out in Section 9 of the report, as detailed within Appendix 1 hereto.

**DC21/217/FUL – Development of a Plastics to Hydrogen Facility, Hydrogen Vehicle Refuelling Station and Associated Infrastructure and Landscaping at Vacant Land At Rothesay Dock, Cart Street, Clydebank by AXIS PED.**

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 Donald Anderson, Richard Barker and Laura Mackey, on behalf of the applicant, to address the Committee. Mr Anderson, Mr Barker and Ms Mackey were heard in respect of the application and in answer to Members' questions.

After discussion having heard the Planning, Building Standards and Environmental Health Manager in further explanation, and in answer to Members' questions, the Committee agreed:-

- 1) to grant full planning permission subject to the conditions set out in Section 9 of the report, as detailed within Appendix 2 hereto;
- 2) that a detailed phasing programme be submitted to the Planning Authority prior to commencement of the development on site ; and;
- 3) that any flaring is completed during the hours of darkness, at times agreed, in consultation with West Dunbartonshire Council Environmental Health and Glasgow Airport.

**DC22/052/FUL – Installation of decking (Retrospective) at No. 144 Mirren Drive, Duntocher, Clydebank, G81 6LD.**

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 Laura McCormick, objector, to address the Committee. Ms McCormick was heard in support of her objections and in answer to Members' questions.

The Chair then invited Christine Shields (applicant) to address the Committee. Ms Shields was heard in support of the application and in answer to Members' questions.

After discussion having heard the Planning, Building Standards and Environmental Health Manager in further explanation, and in answer to Members' questions, the Committee agreed:-

- to grant full planning permission.

**DC21/138/FUL – Residential development of 88 dwellings comprising of cottage flats, bungalows and flats with vehicular access, associated car parking and landscape works at land at the corner of Glasgow Road and Mill Road, Clydebank by West Dunbartonshire Council.**

The Planning, Building Standards and Environmental Health Manager was heard in further explanation of the report and in answer to Members' questions. and Matt McPhee (Anderson Bell and Christie, Architects) in answer to Members' questions, the Committee agreed:

- 1) to grant full planning permission subject to the conditions set out in Section 9 of the report, as detailed within Appendix 4 hereto: and additional condition
- 2) notwithstanding the submitted details, the size, design and siting of fibre/telecommunication cabinets and salt/grit bins shall be submitted to and approved by the Planning Authority and shall be implemented within a timescale agreed by the Planning Authority.

**FELLING OF TREES WITHIN BRUCEHILL CLIFFS TREE PRESERVATION AREA**

. Reference was made to a site visit that had been undertaken in respect of the above matter. The Development Planning and Place Team Leader was heard in further explanation of the report regarding tree felling within the Brucehill Cliffs Tree Preservation Order area and seeking agreement of replanting/landscaping proposals for the affected area.

The Chair invited Lynsey Breen in further explanation of the tree felling. Ms Breen was then heard in answer to Members' questions.

The Chair then invited Cathy Hunter (objector) to address the Committee. Ms Hunter, was heard in support of her objections and in answer to Members' questions.

After discussion and having heard the Planning, Building Standards and Environmental Health Manager and Development Planning and Place Team Leader in further explanation, and in answer to Members' questions, the Committee agreed:-

- 1) to note the replanting/landscaping proposals attached as Appendix 3 to the report;
- 2) to agree the additional condition for planning application DC21/211 in Appendix 2 to the report with an adjustment for phasing; and that, in discussion with West Dunbartonshire Council and Miller Homes a heavy standing tree is planted within the vicinity of the new properties and close to boundary, to replace the felled mature sycamore.

#### **APPEAL NOTICE OF INTENTION – DC02/447: EXTENSION TO QUARRY, SHEEPHILL QUARRY, MILTON, DUMBARTON**

A report was submitted by the Chief Officer – Regulatory and Regeneration, providing an update regarding the appeal decision for the above application, and further information relevant to the Review of Minerals Permission application (ROMP) and the Scheduled Monuments Permission.

After discussion and having heard the Planning, Building Standards and Environmental Health Manager and the Legal Officer in further explanation, and in answer to Members' questions, the Committee agreed:-

- to note the intended outcome of the appeal and current situation regarding the ROMP and Scheduled Monument Consent.

#### **STREET NAME FOR NEW HOUSING DEVELOPMENT SITE AT FORMER BOWLING GREEN JOHN KNOX STREET CLYDEBANK**

A report was submitted by the Chief Officer – Regulatory and Regeneration seeking approval to allocate one street name within the new housing development at former Bowling Green, John Knox Street, Whitecrook, Clydebank

After discussion and having heard the Planning, Building Standards and Environmental Health Manager in further explanation, and in answer to Members' questions, the Committee agreed:-

- that Pavillion Court be the street name allocated.

## **DEVELOPER CONTRIBUTIONS**

A report was submitted by the Chief Officer – Regulatory and Regeneration seeking agreement for a process to report and allocate developer contributions received through the planning system.

After having heard the Team Leader, Development Planning and Place in further explanation, the Committee agreed:-

- 1) the proposed procedures for managing developer contributions as set out in Appendix 1 of the report ; and
- 2) the criteria for the allocation of developer contributions towards green network and green infrastructure projects/enhancement as set out in Appendix 2 of the report.

## **FRONTIERS OF THE ROMAN EMPIRE (ANTONINE WALL) WORLD HERITAGE SITE SUPPLEMENTARY GUIDANCE**

A report was submitted by the Chief Officer – Regulatory and Regeneration, seeking approval to consult on the draft Supplementary Guidance (SG) relating to the Frontiers of the Roman Empire (Antonine Wall) World Heritage Site.

After having heard the Planning, Building Standards and Environmental Health Manager in further explanation, , the Committee agreed;-

- to approve the publication of the Draft Frontiers of the Roman Empire (Antonine Wall) World Heritage Site Supplementary Guidance for consultation.

The meeting closed at 1.05 p.m.

**DC21/178/ADV – Range of advertisements include fascia signs and freestanding 8m high double sided pole sign (associated with proposed coffee shop and drive-thru facility subject to application DC21/176/FUL) at Morrison's Supermarket 36 Glasgow Road, Dumbarton, G82 1QZ by Trilogy (Leamington Spa) Ltd.**

**GRANT advertisement consent subject to the following conditions:-**

1. The proposed banners framed advertisements – Item M, as presented in drawing “Costa Coffee Drive Thru Dumbarton, Glasgow Road – Pack Revision 3”, shall be removed from site within 6 months of the date of opening of the associated drive-thru coffee shop premises.

**DC21/217/FUL – Development of a Plastics to Hydrogen Facility, Hydrogen Vehicle Refuelling Station and Associated Infrastructure and Landscaping at Vacant Land At Rothesay Dock, Cart Street, Clydebank by AXIS PED.**

**GRANT full planning permission subject to the following conditions:-**

1. Unless otherwise agreed in writing, no development shall commence on site until such time as full details of the design and location of all walls and fences to be erected on site have been submitted to and approved in writing by the Planning Authority, and these shall thereafter be implemented as approved.
2. Unless otherwise agreed in writing, no development shall commence on site until such time as exact details and specifications of all proposed external materials have been submitted to and approved in writing by the Planning Authority, and these materials shall thereafter be implemented as approved.
3. Unless otherwise agreed in writing, no development shall commence on site until such time as full details of all hard surfaces have been submitted to and approved in writing by the Planning Authority, and these shall thereafter be implemented as approved.
4. Unless otherwise agreed in writing, no development shall commence on site until such time as a landscaping scheme for the boundaries of the site has been submitted to and approved by the Planning Authority. Such scheme shall take account of BAA Advice Note 3 'Potential Bird Hazards from Amenity Landscaping & Building Design', and shall include details of the maintenance arrangements. The approved landscaping shall thereafter be implemented not later than the next appropriate planting season after the opening of the facility (or, in the case of landscaping which serves a noise attenuation function, not later than the opening of the facility), and the landscaping shall thereafter be maintained in accordance with the approved arrangements.
5. Unless otherwise agreed in writing, no development shall commence on site until such time as details of a pedestrian/cycle crossing facility on Dock Street for use by persons using the cycle track along the former railway line have been submitted to and approved in writing by the Planning Authority. Such crossing shall be completed prior to the opening of the facility.
6. No development (other than investigative works) shall commence on site until such time as a detailed report on the nature and extent of any contamination of the site has been submitted to and approved in writing by the Planning Authority. The report shall be prepared by a suitably qualified person and shall include the following:
  - a) A detailed site investigation identifying the extent, scale and nature of contamination of the site (irrespective of whether this contamination originates on the site);

- b) An assessment of the potential risks to:
- Human health;
  - Property (existing and proposed), including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - Groundwater and surface waters;
  - Ecological systems;
  - Archaeological sites and ancient monuments.
- c) An appraisal of remedial options, including a detailed remediation strategy based on the preferred option.
7. No development (other than investigative works) shall commence on site until a detailed remediation scheme for the site has been submitted to, and approved in writing by the Planning Authority. The scheme shall be prepared by a suitably qualified person and shall detail the measures necessary to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment. The scheme shall include details of all works to be undertaken, the remediation objectives and criteria, a timetable of works and/or details of the phasing of works relative to the rest of the development and its management procedures. The scheme shall ensure that upon completion of the remediation works of the site will not qualify as contaminated land under Environmental Health Protection Act 1990 Part IIA in relation to the intended use of the land after remediation.
8. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that requiring to carry out the remediation, unless otherwise agreed in writing by the Planning Authority. The Planning Authority shall be notified in writing of the intended commencement of remediation works not less than 14 days before these works commence on site. Upon completion of the remediation works and prior to the site being occupied, a verification report which demonstrates the effectiveness of the completed remediation works shall be submitted to and approved in writing by the Local Planning Authority.
9. The presence of any previously unencountered contamination that becomes evident during the development of the site shall be reported to the Planning Authority in writing within one week, and work on the affected area shall cease. At this stage, if requested by the Planning Authority, an investigation and risk assessment shall be undertaken and an amended remediation scheme shall be submitted to, and approved in writing by the Planning Authority prior to the recommencement of works in the affected area. The approved details shall be implemented as approved.

10. If the remediation plan requires it then a monitoring and maintenance scheme (including the monitoring of the long-term effectiveness of the proposed remediation) shall be submitted to, and approved in writing by the Planning Authority. Any actions/measures ongoing shall be implemented within an agreed timescale with the Planning Authority. Following completion of the actions/measures identified in the approved remediation scheme a further report which demonstrates the effectiveness of the monitoring and maintenance measures shall be submitted to and approved by the Planning Authority.
11. If there is a requirement to either re-use site won material on to import material then the assessment criteria and sampling frequency that would adequately demonstrate its suitability for use shall be submitted to and approved by the Planning Authority prior to any material being used, in addition to this and in accordance with BS3882:2015 and BS8601:2013, materials to be used in the top 300mm shall also be free from metals, plastic, wood, glass, tarmac, paper and odours. On completion of the works and at a time and or phasing agreed by the Planning Authority, the developer shall submit a verification report containing details on the source of the material and appropriate test results to demonstrate its suitability for use.
12. Prior to the commencement of development on site, details of the Sustainable Drainage System (SuDS) and its maintenance following installation shall be submitted to and approved by the Planning Authority. The SuDS shall be designed to ensure the contaminants present on the site are not mobilised and that pollution pathways are not created. The SuDS shall thereafter be formed and maintained on site in accordance with the approved details prior to development
13. Unless otherwise agreed in writing, deliveries shall take place between 0700 hours and 1900 hours and HGV vehicles shall visit the site hydrogen refuelling station only between 0700 hours and 2300 hours.
14. Unless otherwise agreed in writing, no development shall commence on site until a noise mitigation strategy as noted in Section 7.10 of the Noise Impact Assessment (25<sup>th</sup> June 2021) has been submitted to, and approved in writing by the Planning Authority and any measures arising from the approved strategy shall be implemented as approved.
15. Upon completion of the development hereby approved an independently sourced Verification Report shall be submitted for the written approval of the Planning Authority which shall demonstrate compliance with noise conditions of this planning permission. The report shall demonstrate that the projections as detailed within the approved Noise Impact Assessment are reliable and mitigate the noise sources.

16. Unless otherwise agreed in writing, no development shall commence on site until such time as a noise control method statement for the construction period has been submitted to, and approved in writing by the Planning Authority. This statement shall identify likely sources of noise (including specific noisy operations and items of plant/machinery), the anticipated duration of any particular noisy phases of the construction works, and details of the proposed means of limiting the impact of these noise sources upon nearby residential properties and other noise-sensitive properties. The construction works shall thereafter be carried out in accordance with the approved method statement unless otherwise approved in writing by the Planning Authority.
17. During the period of construction, all works and ancillary operations which are audible, at the site boundary (or at such other places(s) as may first be agreed in writing within the Planning Authority), shall be carried out between the following hours unless otherwise agreed in writing by the Planning Authority:
- |                              |            |
|------------------------------|------------|
| Monday to Fridays:           | 0800-1800  |
| Saturdays:                   | 0800-1300  |
| Sundays and public holidays: | No working |
18. No piling works shall be carried out until a method statement has been submitted to and approved in writing by the Planning authority. This statement shall include an assessment of the impact on the piling on surrounding properties, taking into account the guidance contained in BS6472:1992 "Evaluation of Human Response to Vibration in Buildings". It shall detail any procedures, which are proposed to minimise the impact of noise and vibration on the occupants of surrounding properties. This statement shall be prepared by a suitably qualified person, and the piling works shall thereafter be carried out in accordance with the approved method statement.
19. Unless otherwise agreed in writing no development shall commence on site, until an external lighting scheme shall be submitted to and approved in writing by the Planning Authority. The scheme shall take into account all of the lighting needs associated with the development during operational hours and shall be the minimum required to perform the relevant lighting task, it shall be specifically designed to minimise the risk of light spillage beyond the development site boundary and into the sky and to avoid dazzle of distract drivers on nearby road.

The scheme shall include:

- A statement settling out and justifying why the lighting scheme is required
- A report, prepared by a lighting engineer setting out the technical details of the luminaries and columns, including their location, type, shape, dimensions and expected luminance output and specifically explaining what design attributes have been chosen to minimise light pollution.

- A plan illustrating illuminance levels across the development site and at the boundary of the site. The level of illuminance shall be appropriate to the character of the surrounding area as a whole. Four environmental zones are internationally recognised, and the design will require to show that control of overspill light is limited to the level required by the particular environmental setting.
- A plan illustrating illuminance levels beyond the boundary or the site, together with the downward light output ratio of the lights.
- A statement which demonstrates how the lighting scheme will be viewed against the wider landscape and, where appropriate, the potential role of landscaping in minimising the day and night-time visual impact of the installation.
- An operational statement, the purpose of which is to ensure that the developer and the lighting designer have considered operational regimes that can provide energy savings.
- Details of the proposed house of operation (unless explicitly agreed in writing, all external lighting luminaires shall be turned off during daylight hours and when not actively required).

Applicants should have regard to the guidance document “Controlling light pollution and energy consumption” produced by the Scottish Executive (March 2007).

20. Unless otherwise agreed in writing, no development shall commence on site until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with Glasgow Airport. The submitted plan shall include details of the management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and loafing birds. The management plan shall comply with Advice Note 8: Potential Bird Hazards from Building Design. The Bird Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the lifetime of the development. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority in consultation with Glasgow Airport.

## **APPENDIX 3**

**DC22/052/FUL – Installation of decking (Retrospective) at No. 144 Mirren Drive, Duntocher, Clydebank, G81 6LD.**

**GRANT full planning permission subject to the following conditions:-**

None

**DC21/138/FUL – Residential development of 88 dwellings comprising of cottage flats, bungalows and flats with vehicular access, associated car parking and landscape works at land at the corner of Glasgow Road and Mill Road, Clydebank by West Dunbartonshire Council.**

**GRANT full planning permission subject to the following conditions:-**

1. Prior to the commencement of development on site, exact details, specifications and samples of all proposed external materials to be used for the dwellings/flats and associated hard landscaping, to include boundary treatments and waste storage facilities within the development site shall be submitted to and approved in writing by the Planning Authority. For the avoidance of doubt the brick to be used shall comprise of i) Ibstock Arden Weathered Grey, ii) Ibstock Himley Ebony Black, and iii) a glazed black brick. Full details the proposed glazed black brick and its exact location for use on the buildings shall be submitted to and agreed by the Planning Authority prior to works commencing on site. The development shall be completed in accordance with the approved material details and palette unless otherwise agreed by the Planning Authority.
2. Prior to the first occupation of the flats hereby approved details of the proposed cycle storage and refuse/recycling stores shall be submitted for the written approval of the Planning Authority. The approved details shall be installed prior to the first occupation of the flats hereby approved on an agreed phased basis. The constructed cycle stores and refuse/recycling stores shall be maintained for the lifetime of the development unless otherwise agreed by the Planning Authority.
3. Prior to works commencing on site a proposed planting schedule to include heavy standard tree planting shall be submitted for the written approval of the Planning Authority to be read in conjunction with the soft landscape arrangements approved under drawings XX – DR-L-90-002 Rev A and XX-DR-L-90-001. The planting schedule include native species and planting to increase the biodiversity value of the site. The approved landscape plans shall be implemented no later than the next available planting season or a phased scheme to be agreed with the Planning Authority. Any trees, shrubs or plants forming part of the approved landscape scheme which die, are removed or become seriously damaged or diseased, within a period of 5 years from the date of their planting, shall be replaced in the next planting season with others of similar sizes and species unless the Planning Authority gives written approval to any variation. The landscaping arrangements as approved shall thereafter be maintained in accordance with these details for the lifetime of the development unless otherwise agreed by the Planning Authority. It should be noted that the submitted landscape details must comply with Advice Note 3 'Potential Bird Hazards from Amenity Landscaping & Building Design' (available at [www.aoa.org.uk/publications/safeguarding.asp](http://www.aoa.org.uk/publications/safeguarding.asp)). No subsequent alterations to the approved landscaping scheme shall take place unless submitted to and approved in writing by the Planning Authority.

4. Prior to works commencing on site details of a children's play area to be incorporated in to the site's landscaping areas shall be submitted for the written approval of the Planning Authority. The children's play shall be installed upon occupation of the 30<sup>th</sup> dwelling unless otherwise agreed by the Planning Authority and shall be maintained for the lifetime of the development unless otherwise agreed.
5. Prior to works commencing on site details of public art to be incorporated in the site's landscaping scheme shall be submitted for the written approval of the Planning Authority. The agreed public art shall be installed upon completion of the development and shall be maintained for the lifetime of the development unless otherwise agreed.
6. No house/bungalow shall be occupied within the site until the vehicle parking spaces associated with that house unit have been constructed and provided within the site in accordance with approved site layout (drawing no. ABC-XX-XX-DR-A-0010-Rev J – Proposed site plan). The aforementioned parking shall thereafter be retained and be capable of use at all times and shall not be removed or altered without the prior written approval of the Planning Authority.
7. Twelve months after the full occupation of the dwellings hereby approved a Transport Statement and survey findings shall be submitted for the approval of the Planning Authority. The required submissions shall detail the use of the approved car parking provision and if necessary shall provide details of additional spaces to include location and a timescale for their implementation. Thereafter the additional parking, if constructed, shall be retained and be capable of use at all times and shall not be removed or altered without the prior written approval of the Planning Authority.
8. Prior to the commencement of development with the site, details of the location and design of an electric charging point(s)/unit(s) to serve the development shall be submitted to and approved in writing by the Planning Authority. The approved car charging point(s)/unit(s) and associated infrastructure shall thereafter be installed in accordance with the approved details at a timescale agreed by the Planning Authority and maintained as such thereafter.
9. Prior to the occupation of the first unit within the site, the developer shall install the necessary infrastructure to enable the full development and all associated properties to be connected to the existing fibre optic network, where available in West Dunbartonshire, and in accordance with the relevant telecommunications provider's standards.

10. Notwithstanding the plans hereby approved details of additional horizontal traffic calming measures throughout the development site shall be submitted for the written approval of the Planning Authority. The approved works shall be installed as agreed prior to the first occupation of the unit hereby approved or an alternative timeframe to be agreed by the Planning Authority. The constructed traffic calming measures shall be maintained thereafter for the lifetime of the development.
11. Notwithstanding the plans hereby approved full details of the junction between Mill Road, the development access and Yoker Train Station shall be submitted for the written approval of the Planning Authority. The works shall thereafter be carried out in accordance with the approved plans and maintained as such for the lifetime of the development unless otherwise agreed.
12. No development (other than investigative works) shall commence on site until such time as a detailed report on the nature and extent of any contamination of the site has been submitted to and approved in writing by the Planning Authority. The report shall be prepared by a suitably qualified person and shall include the following:
  - a) A detailed site investigation identifying the extent, scale and nature of contamination on the site (irrespective of whether this contamination originates on the site)
  - b) An assessment of the potential risks (where applicable) to:
    - a. Human health
    - b. Property (existing and proposed) including buildings, crops and livestock, pets, woodland and service lines and pipes
    - c. Groundwater and surface waters
    - d. Ecological systems
    - e. Archaeological sites and ancient monuments
  - c) An appraisal of remedial options, including a detailed remediation strategy based on the preferred option.
13. No development (other than investigative works) shall commence on site until such time as a detailed remediation scheme for the site has been submitted to and approved in writing by the Planning Authority. The scheme shall be prepared by a suitably qualified person and shall detail the measures necessary to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment. The scheme shall include details of all works to be undertaken, the remediation objectives and criteria, a timetable of works and/or details of the phasing of works relative to the rest of the development, and site management procedures. The scheme shall ensure that upon completion of the remediation works the site will not qualify as contaminated land under the Environmental Protection Act 1990 Part IIA in relation to the intended use of the land after remediation.

14. The presence of any previously unexpected contamination that becomes evident during the development of the site shall be reported to the Planning Authority in writing within one week, and work on the site shall cease. At this stage, if requested by the Planning Authority, an appropriate investigation and risk assessment shall be undertaken and a remediation scheme shall be submitted to and approved by the Planning Authority prior to the recommencement of site works. The approved details shall be implemented as approved.
15. If the remediation plan requires it then a monitoring and maintenance scheme (including the monitoring of the long-term effectiveness of the proposed remediation) shall be submitted to and approved by the Planning Authority. Any actions ongoing shall be implemented within the timescale agreed by the Planning Authority in consultation with Environmental Health. Following completion of the actions/measures identified in the approved remediation scheme a further report which demonstrates the effectiveness of the monitoring and maintenance measures shall be submitted to and approved in writing by the Planning Authority.
16. If there is a requirement to either re-use site won material or to import material then the assessment criteria and sampling frequency that would adequately demonstrate its suitability for use shall be submitted to and approved by the Planning Authority prior to any material being re-used or imported. In addition to this and in accordance with BS3882:2015 and BS8601:2013, material to be used in the top 300mm shall be free from metals, plastic, wood, glass, tarmac, paper and odours. On completion of the works and at a time and or phasing agreed by the Planning Authority the developer shall submit a verification report containing details of the source of the material and associated test results to demonstrate its suitability for use.
17. Prior to the commencement of development on site, details of the Sustainable Urban Drainage System (SUDS) and its maintenance following installation shall be submitted to and approved by the Planning Authority. The SUDS shall be designed to ensure that contaminants present on the site are not mobilised and that pollution pathways are not created. The Sustainable Urban Drainage System (SUDS) shall thereafter be formed and maintained on site in accordance with the approved details.

18. No development shall take place on site until such time as a suitably updated noise impact assessment has been submitted to and approved in writing by the Planning Authority. This noise impact assessment shall include an assessment of the potential for occupants of the development to experience noise nuisance arising from nearby sources including commercial premises, plant noise. Where a potential for noise disturbance is identified, proposals for the attenuation of that noise shall be submitted to and approved in writing by the Planning Authority. Any such approved noise attenuation scheme shall be implemented prior to the development being brought into use and shall thereafter be retained in accordance with the approved scheme. The noise impact assessment and any recommendations in respect of attenuation measures shall be prepared by a suitably qualified person. As this area is subject to noise from aircraft, assessment of this source must be detailed within the Noise Impact Assessment including detailed mitigation measures for this noise source. The development will require high specification acoustic roof insulation as a minimum and double/triple glazing.
19. No development shall commence on site until such time that a noise assessment has been submitted and approved by the Planning Authority in writing, the noise assessment shall determine the impact of road traffic noise on the development using the principles set out in 'Calculation of Road Traffic Noise' (DoT/Welsh Office, HMSO, 1988) or by a method to be agreed by the Planning Authority. The survey shall take cognisance of the Scottish Government Document: "Technical Advice Note Assessment of Noise". Where the submitted report identifies potential noise disturbance, it shall include a scheme for protecting residents of the proposed dwellings from road traffic noise. The scheme shall ensure that the internal levels do not exceed 40dB daytime and 35 dB night time and the external levels do not exceed 55dB daytime in any rear garden areas, when measured as LAeq.T. The approved mitigation measures shall be implemented prior to the first occupation of the dwellings hereby approved and shall be retained and maintained for the lifetime of the development.
20. No development shall commence until such time that details of noise attenuation/soundproofing works have been submitted to and approved in writing by the Planning Authority. The approved noise attenuation/soundproofing measures shall be implemented prior to the development being brought into use and shall thereafter be retained in accordance with the approved scheme.
21. Upon completion of the development hereby approved an independently Verification Report shall be submitted for the written approval of the Planning Authority which shall demonstrate compliance with noise conditions of this planning permission. The report shall demonstrate that the projections as detailed within the approved Noise Impact Assessment are reliable and mitigate the noise sources.

22. No development shall commence on site until such time as a noise control method statement for the construction period has been submitted to and approved in writing by the Planning Authority. This statement shall identify likely sources of noise (including specific noisy operations and items of plant/machinery), the anticipated duration of any particularly noisy phases of the construction works, and details of the proposed means of limiting the impact of these noise-sensitive properties. The construction works shall thereafter be carried out in accordance with the approved method statement unless otherwise approved in writing by the Planning Authority.
23. During the period of construction, all works and ancillary operations which are audible at the site boundary (or at such other place(s) as may first be agreed in writing by the Planning Authority), shall be carried out between the following hours unless otherwise approved in writing by the Planning Authority:
- Mondays to Fridays: 0800-1800
  - Saturdays: 0800-1300
  - Sundays and public holidays: No working
24. No piling works shall be carried out until a method statement has been submitted to and approved in writing by the Planning Authority. This statement shall include an assessment of and take into account the following:
- The impact of the piling on surrounding properties.
  - Detail any procedures which are required to minimise the impact of noise and vibrations on the occupants of surrounding properties.
- This statement as submitted shall be prepared by a suitably qualified person and shall take into account the guidance contained in BS6472:1984 'Evaluation of Human Response to Vibration of Buildings'. The piling works shall thereafter be carried out in accordance with the approved method statement until they are completed on site.
25. Unless otherwise approved in writing by the Planning Authority, no development shall commence on site until such time as a scheme for the control and mitigation of dust has been submitted to and approved in writing by the Planning Authority. The scheme shall identify likely sources of dust arising from the development or its construction, and shall identify measures to prevent or limit the occurrence and impact of such dust. The approved scheme shall thereafter be implemented fully prior to any of the identified dust generating activities commencing on site and shall be maintained thereafter, unless otherwise approved by the Planning Authority.

26. Prior to the commencement of development on site, an Air Quality Impact Assessment shall be submitted for the written approval of the Planning Authority. The report should use a method based on the principles set out in the Environmental Protection UK document Development Control: Planning for Air Quality (2010 Update), Scottish Government publication 'Local Air Quality Management Technical Guidance LAQM.TG (09)' and 'Delivering Cleaner Air for Scotland – Guidance from Environmental Protection Scotland and the RTPi Scotland – January 2017'. The recommendations within the approved Air Quality Report shall be implemented prior to the first occupation of the dwellings or an alternative timescale agreed by the Planning Authority.
27. Prior to work commencing details of the sites proposed lighting scheme shall be submitted for the written approval of the Planning Authority and should include details of lamp type and luminaire. The lighting installation shall thereafter be carried out in accordance with the approved details unless otherwise agreed by the Planning Authority.
28. No development shall commence on site until details for the storage and the collection of waste arising from the development shall be submitted to and approved in writing by the Planning Authority. The agreed details shall be in place prior the occupation of the first housing unit/property within the site and thereafter maintained for the lifetime of the development.
29. Should works commence on the development hereby approved after the start of the next bat breeding season (April 2022) then a further Bat Survey shall be undertaken and submitted for the written approval of the Planning Authority. In the event that bats are encountered during other works, all works should cease and Nature Scot or a licenced ecologist contacted.



## PLANNING COMMITTEE

### NOTE OF VISITATIONS – 6 JUNE 2022

**Present:** Councillors Diane Docherty, Gurpreet Singh Johal, Lawrence O'Neil and Chris Pollock

**Attending:** Pamela Clifford - Planning, Building Standards and Environmental Health Manager; James Hall - Policy Planning Officer and Gillian Neil - Biodiversity Officer

### SITE VISITS

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

**144 Mirren Drive, Duntocher, Clydebank, G81 6LD**

DC22/052/FUL – Installation of decking (Retrospective)

**Supermarket 36 Glasgow Road, Dumbarton, G82 1QZ**

DC21/178/ADV – Range of advertisements include fascia signs and freestanding 8m high double sided pole sign (associated with proposed coffee shop and drive-thru facility subject to application DC21/176/FUL)

**TPO - Brucehill Cliffs**

Felling of trees within Brucehill Cliffs Tree Preservation Order area.



**WEST DUNBARTONSHIRE COUNCIL**

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

**Planning Committee: 03 August 2022**

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**DC22/058/FUL: Part use of restaurant car park for hand car-wash facility with associated works inclusive of office and canopy at Restaurant, Dumbarton Road, Milton, G82 2TN by Happy Lettings and Property**

**1. REASON FOR REPORT**

- 1.1** The application has been subject of an objection from a 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 planning permission subject to the conditions set out in Section 9 below.

**3. DEVELOPMENT DETAILS**

- 3.1** The application site is located within the eastern corner of the existing Black Rooster Peri Piri restaurant car park on the A82 Dumbarton Road in Milton. The site is bounded to the north by a wooded area, to the east by a petrol station and the restaurant car park to the south and west. There are also self-service laundrette machines also located in the car park to the west of the proposed development. The site takes access from the shared entry to the petrol station and restaurant from Dumbarton Road, through the car park and to the development site.

Permission is sought to change the use of part of the car park in order to form a hand car-wash facility. The development associated with the use will consist of:

- A corrugated metal office/store building located in the north east corner of the site measuring 2.43m wide, 6.05m long and 2.6m high
- A clear acrylic canopy which covers the office and site, in a right angled formation in the corner site, measuring 20m across the back of the site and 14m along the eastern boundary between the petrol station. The height of the canopy is 3m.

The cars enter at the western side of the site moving through the canopy area and out, back into the car park. Within the southern part of the canopy area there is a valeting

section and outside of the canopy a collection area. There are no proposals to change the boundary fences on either the north or east boundary.

#### **4. CONSULTATIONS**

- 4.1** Transport Scotland have no objections subject to a condition that there shall be no drainage connections to the trunk road drainage system.
- 4.2** West Dunbartonshire Council Roads Service have no objections. It is recommended that the applicant carries out a risk assessment for managing water/ice in the car park, and obtains the necessary permissions for waste water to be discharged into the appropriate drainage system.
- 4.3** West Dunbartonshire Council Environmental Health, Scottish Water have no objections to the proposed development.

#### **5. REPRESENTATIONS**

- 5.1** Two objections, including one from Bowling & Milton Community Council, were received in connection with the application. The concerns raised can be summarised as follows:
- Potential water run-off onto the A82 with resultant damage to the pavement and car park area of the restaurant.
  - Flooding on the road.
  - Queuing traffic backing up onto A82.
  - Increase in vehicles performing illegal U-turns.
  - Proximity to an existing hand car wash.
  - Labour practices of the business.
  - Negative amenity impacts.
  - Number of car washing facilities in Milton.
  - It would be an eyesore.
  - No benefit to the area.

The points raised in the objections received will be considered in the Section 7 below.

#### **6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

##### **West Dunbartonshire Adopted Local Plan 2010**

- 6.1** Policy T5 advises that within the roadside service areas designated on the Proposals Map there will be presumption that the existing petrol station, garage, tourist and other uses will continue. The Policy goes on to advise that any development proposal will be subject to an assessment against Policy GD1 with special consideration given to traffic impact and access. The Council will

encourage improvements to the environmental and design quality of such areas.

- 6.2 Policy GD1 seeks to ensure that all new development is of a high quality design, of an appropriate and compatible land use and that it respects the character and amenity of the surrounding area.
- 6.3 The proposal complies with the policies of the adopted Local Plan and is assessed fully in Section 7 below.

## **7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

### **West Dunbartonshire Local Development Plan (LDP2) Proposed Plan**

- 7.1 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 effected 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.
- 7.2 Policy E5 states that tourist related development, which will enhance roadside facilities at Milton, will be supported where it does not significantly impact on trade within and the vitality and viability of Town Centres.
- 7.3 Policy CP1 states that new development shall take a design led approach to creating sustainable places which put the needs of people first and demonstrate the six qualities of successful places.

### **Principle of Development**

- 7.4 The Proposals Maps and relevant policies of the adopted Local Plan and proposed LDP2 identify this area of Milton as an area for roadside services where there are clusters of facilities such as petrol stations, shops, cafes, restaurants and hotels. As such it is considered that the use of a car wash facility is in keeping with the other services provided within this area including petrol stations, cafe, restaurant and hotel. These provide convenient facilities for people visiting and passing through West Dunbartonshire and contribute to the local economy. The nature of the proposed development in providing a roadside facility would not draw trade away from designated centres. On the basis of the above, it is considered that this is an appropriate location for the proposed development and the proposal is in accordance with policy E5 of the adopted local plan, and E5 of the LDP2 Proposed Plan.

## Site Layout, Design and Appearance

- 7.5** The development consists of an office/store building and a clear acrylic canopy which sits at 3m high. The development is located within the rear corner of an existing car park. The area is one which has an array of different facilities immediately adjacent including self-service laundrette machines, a restaurant and a petrol station. No colour finishes have been noted for the office/store and it is recommended that any granting of permission should include a condition which requires an acceptable colour to be agreed prior to the development commencing. The car wash facility is small in scale compared to the surrounding development and situated within a suitable location for a roadside facility. Subject to condition, will not cause an unacceptable visual impact upon the surrounding area and there is no conflict with Policy CP1 of LDP2.

## Car Parking Requirements

- 7.6** The car wash uses the most western part of the facility for cars to enter and then further east along the canopy to exit, returning back into the existing car park. The capacity for the restaurant which the car park currently serves is 76 covers with four staff working at any time. The proposed development would leave 47 car parking spaces remaining which is sufficient that the removal of car parking spaces will not adversely affect the existing restaurant. Both Transport Scotland and the Council's Road Service have been consulted on the application proposal and neither offer any objection to this arrangement.
- 7.7** The car wash facility has the potential for water to run off from the development into the existing car park. Given the advice from the Council's Road Service it is considered appropriate that any granting of permission include a condition which requires a risk assessment for managing water/ice on the car park surface to be approved prior to the commencement of the development on site. This will ensure that no adverse impact is created for the existing use. The requirement to secure an appropriate drainage arrangement can also be addressed by condition.
- 7.8.** There are no objections from Transport Scotland subject to a condition stating that there shall be no drainage connections to the trunk road draining system. For the above reasons it is considered that, subject to conditions there will be no adverse impact upon the access to the roadside services or upon the existing car park.

## Representations Received

- 7.9** Bowling and Milton Community Council have objected to the proposal as well as one objection from a member of the public. The objection from a member of public focuses on the proposal bringing no value to the people of Milton and that it is designed for passing trade. Both the adopted Local Plan and the proposed LDP2 have identified this area as "roadside services". The LDP2 states that this area provides convenient facilities for people visiting and passing through West Dunbartonshire. For this reason it is considered that this is an appropriate location for the type of development.

- 7.10** The Community Council have objected on a number of points including the potential for run off from the development onto the A82. It is considered that the condition for a risk assessment will ensure that this will not become an issue. Queuing traffic onto the A82 is also a concern of the Community Council. Both the Council's Roads Service and Transport Scotland have no concerns on this matter. The development is located in an existing car park and any queuing vehicles would be stopped within the car park itself. An increase in vehicles performing illegal U-turns has been highlighted as part of the objection also. There is nothing to suggest that this would occur and again the Council's Roads Service and Transport Scotland have not highlighted this as an issue.
- 7.11** Further concerns raised by the Community Council include the proximity of another hand car wash facility. It is not, however, the purpose of the planning system to inhibit competition. The proposed location is an acceptable location and as such does not conflict with local planning policies. Labour practices of the development are a concern of the Community Council however this is not a material planning consideration and cannot be governed by a planning application. The existing laundry business has also been noted as a concern. This development has an existing permission and the addition of the car wash facility will further add to the provision of roadside services in accordance with the adopted and proposed Plans.

## **8. CONCLUSION**

- 8.1** The proposed development is considered to be in accordance with Policy T5 of the adopted Local Plan and Policy E5 of the proposed LDP2 as this is an area identified for road side services and the proposed development is in keeping with the types of services expected in such an area. There is also no conflict with the aims of Policy GD1 of the adopted Plan and Policy CP1 of the proposed LDP2. Subject to the conditions set out in Section 9 below, the proposal raises no issues in terms of the impact upon the trunk road, existing uses or upon visual amenity.

## **9. CONDITIONS**

1. Notwithstanding the approved plans, details and specifications of the proposed external colour of the office/store shall be submitted for the further written approval of the Planning Authority prior to any work commencing on site and shall be implemented as approved unless an alternative is otherwise agreed in writing by the Planning Authority.
2. Prior to works commencing on the development hereby approved, details of on-site drainage infrastructure shall be submitted for the written approval of the Planning Authority. The details shall ensure that no water shall be discharged onto the public road or into the road drainage system. The approved drainage infrastructure shall then be installed prior to the commencement of the use hereby permitted and maintained in an operational condition at all times.

3. Prior to works commencing on the development hereby approved, details of a risk assessment for managing water/ice on the car park surface shall be submitted for the written approval of the Planning Authority. Any recommendations and mitigations within the approved assessment shall then be followed at all times.
4. Prior to the commencement of the use hereby approved, details for the storage and the collection of waste arising from the proposed development hereby approved shall be submitted to and approved in writing by the Planning Authority. The agreed details shall be in place for the commencement of the use and thereafter maintained for the lifetime of the development.
5. Notwithstanding the approved plans, there shall be no drainage connection to the trunk road drainage system.

**Pamela Clifford**  
**Planning, Building Standards and Environmental Health Manager**  
**Date: 3rd August 2022**

**Person to Contact:** Pamela Clifford, Planning & Building Standards Manager  
Email: [Pamela.Clifford@west-dunbarton.gov.uk](mailto:Pamela.Clifford@west-dunbarton.gov.uk)

**Appendix:** Appendix 1 – Location Plan

**Background Papers:**

1. Application forms and plans
2. Consultation responses
3. West Dunbartonshire Local Plan 2010
4. West Dunbartonshire Local Development Plan 2 Proposed Plan
5. Representations

**Wards affected:** Ward 3 – Dumbarton

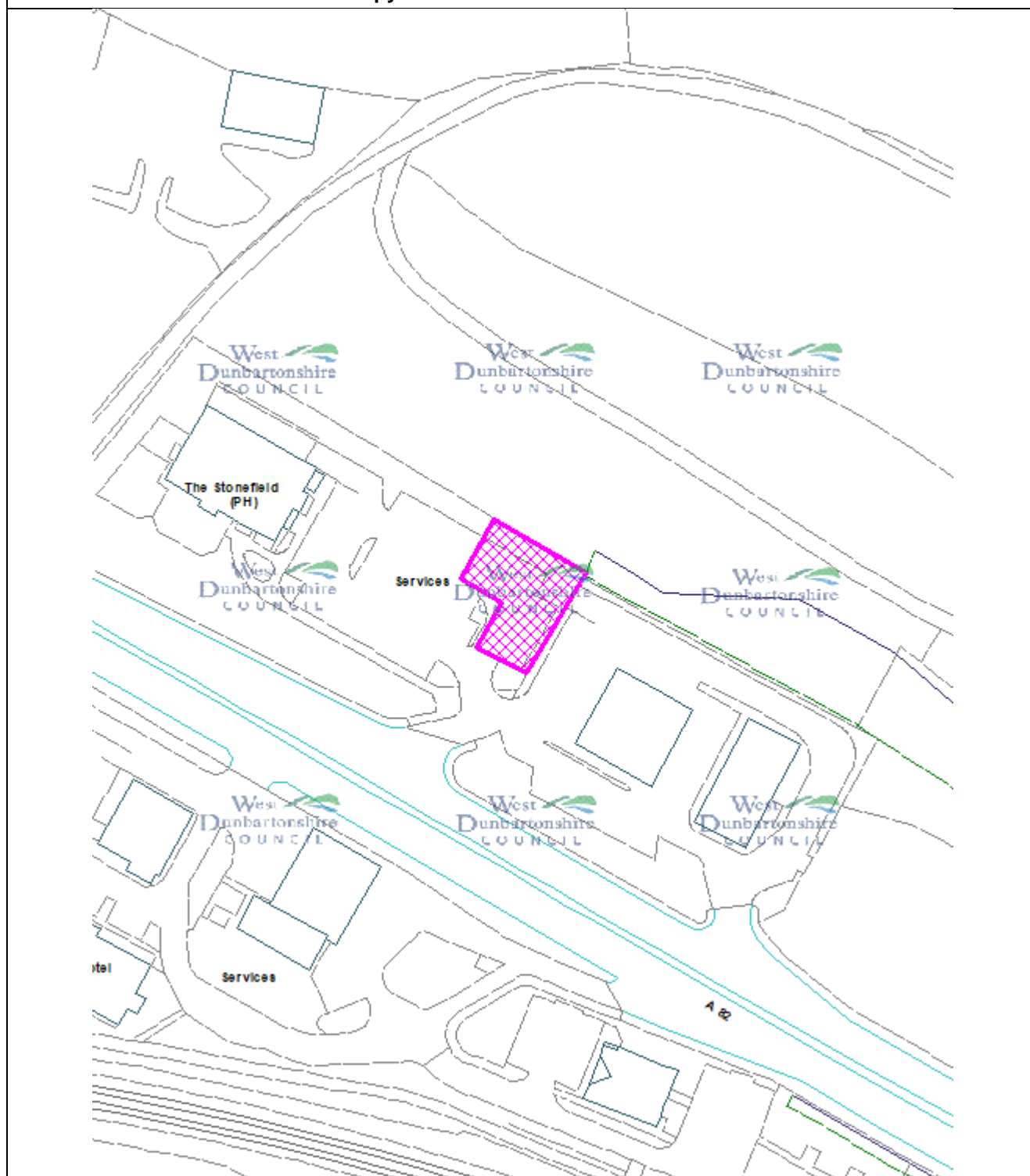
Map Register No: HQ671

Date: 18 July 2022

DC22/058/FUL

Part use of restaurant car  
park for hand car-wash  
facility with associated  
works inclusive of office  
and canopy

Restaurant  
Dumbarton Road  
Milton  
G82 2TN





## WEST DUNBARTONSHIRE COUNCIL

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

**Planning Committee: 3<sup>rd</sup> August 2022**

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**DC22/096/FUL:**      **Change of use to allow fitting of tyres to motor vehicles together with associated works (retrospective) by Mr K Connelly, KMC Tyres & Recovery.**

#### **1. REASON FOR REPORT**

- 1.1** A previous planning application for the site, which was subsequently the subject of an appeal, was considered by the Committee and the application thus raises issues of local significance. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

#### **2. RECOMMENDATION**

- 2.1** Refuse planning permission for the reasons set out in Section 9.

#### **3. DEVELOPMENT DETAILS**

- 3.1** The application site relates to an area of land on the corner of Dumbarton Road and Beeches Road, Duntocher, Clydebank. The site is bounded by Beeches Road to the east with flatted properties beyond and by Dumbarton Road to the south with a large area of open space on the opposite side of the road. To the west, the site is bounded by a public house and car park, and to the north there is an area of open space which separates the site from the library and community centre. The site measures approximately 640 square metres and was previously used as a car park associated with the adjacent public house.
- 3.2** In June 2021, the Planning Committee refused planning permission (DC21/012/FUL) for the siting of 3 containers on the existing car park to accommodate tyre fitting business as the Committee considered that the proposed development would result in the introduction of a type of use that would be out of character with the surrounding area and would have a significant detrimental impact on the amenity and appearance of the surrounding area. Additionally, it was considered that the proposal would not be compatible with adjacent residential uses. The Committee was therefore of the view that the proposal was unacceptable and contrary to Policy H5 of the adopted West Dunbartonshire Local Plan, Policy BC4 of the West Dunbartonshire Local Development Plan 1 (Proposed Plan 2016) and Policy H4 of the West Dunbartonshire Local Development Plan 2 (Proposed Plan 2020).
- 3.3** Following refusal, the applicant submitted an appeal. In considering the appeal, the Reporter assessed both the impact on the character and appearance of the immediate locality together with the amenity of nearby residents. The Reporter found the containers to be utilitarian structures which appear out of place in this area and considered that that they were visually harmful. The Reporter also found that the site was not located within a fundamentally commercial area and the activity would be out of place. The Reporter went on to find that the containers were positioned a relatively

short distance from adjacent residential properties and visible to residents of upper flats and this would adversely impact upon their amenity. Overall, the Reporter considered that the proposed development did not accord with the relevant provisions of the development plan and was not supported by Policy H5 of the adopted Local Plan, Policy BC4 of proposed Local Development Plan 1 and Policy H4 of proposed Local Development Plan 2. The Reporter found that there were no material considerations which would justify granting planning permission.

- 3.4** The current application is for the same use of the site as previously refused planning permission and seeks to address the previous reasons for refusal with the containers re-positioned on the site and largely enclosed behind a 2.4 metre high timber screen. It remains that the site is enclosed by a green weld-mesh fence. Despite the previous refusal of planning permission, the site remains in use for the purposes of tyre fitting and the timber screens have already been erected around the containers. Accordingly, the application is considered in retrospect.

#### **4. CONSULTATIONS**

- 4.1** West Dunbartonshire Council Roads Service have no objections to the proposed development
- 4.2** West Dunbartonshire Council Environmental Health Service have indicated that a Noise Impact Assessment (NIA) Report for this site was received under for the previous, planning application reference number DC21/012/FUL, however there are concerns regarding level of noise from the tyre fitting operations since going into operations. It is noted that there is a generator in use for the operation. If planning consent is to be grant the applicant must ensure that only the plant and equipment assessed/mentioned in the previously submitted NIA can be used, otherwise the applicant must submitted another Noise Impact Assessment to include the new set of plant and equipment.

#### **5. REPRESENTATIONS**

- 5.1** Three objections have been received from nearby residents. The concerns raised can be summarised as follows:
- The development and use of the site has already been refused on appeal.
  - There is little difference between the current proposal and the previous one.
  - The location is not appropriate for this use.
  - Noise levels from the operation adversely affect local residents.
  - Significant noise results from the generator on site with residents unable to open windows.
  - The proposal will result in an increase in traffic at an existing busy junction causing disruption to public transport and to cars entering the adjacent housing scheme.
  - Increased risk of accidents for both vehicles and pedestrians.
  - Vehicles may park on the road and this may adversely impact upon road and pedestrian safety.
  - Adjacent property values may be adversely impacted upon.
  - The proposal is contrary to the principles of good placemaking.
  - The use of the site continues to operate without planning permission.
  - The Enforcement Notice issued has not been complied with.

The concerns raised shall be assessed in the Section 7 below.

## **6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

### West Dunbartonshire Local Plan 2010

- 6.1** Policy GD1 seeks to ensure that all new development is of a high quality design, of an appropriate and compatible land use and that it respects the character and amenity of the surrounding area. Policy H5 seeks to ensure that the character and amenity of existing residential areas are safeguarded where new development is proposed. Where non-residential uses are proposed consideration should be given as to whether the use can be considered ancillary or complementary to the residential area. Developments should not result in a significant loss of amenity to surrounding properties, such as through increased traffic, noise, vibration, smell artificial light, litter, hours of operation and general disturbance.
- 6.2** The proposal cannot be considered to be of a high quality design, of an appropriate and compatible land use and one which respects the character and amenity of the surrounding area. It is not supported by Policy GD1. The proposal also would also fail to safeguard the character of the existing residential area and is not supported by Policy H5. Accordingly, the proposal cannot be considered to comply with the Adopted Local Plan and is assessed fully in Section 7 below.

## **7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

### West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

- 7.1** Since the previous refusal of planning permission, LDP1 had ceased to be a material consideration in the assessment of planning applications. The modified LDP2 was approved by the Council in August 2020 and the Council then advised the Scottish Ministers of its intention to adopt the Plan. The Scottish Government issued a direction to the Council on 18<sup>th</sup> December 2020 requiring modifications to the housing parts of LDP2. None of the policies considered in the determination of these applications is affected by the Direction. LDP2 is therefore the Council's most up to date policy position and has significant weight in the assessment and determination of planning applications at this time.
- 7.2** Policy H4 of LDP2 focuses on the safeguarding of amenity in existing residential areas and sets a requirement for developments to protect, preserve and enhance their residential character and amenity. There is a general presumption against the establishment of non-residential uses which potentially have detrimental effects on local amenity or which cause unacceptable disturbance to local residents. Similarly to Policy H4, Policy CP1 seeks to ensure that all development takes a design lead approach and demonstrate the six qualities of successful places. Policy ENV8 seeks to ensure that developments do not have a significant impact on established residential areas and properties by way of air, noise or light pollution. Where required, proposals that have the potential to impact, will require to demonstrate that their impact is not significant and provide adequate mitigation where necessary.
- 7.3** The proposal cannot be considered to take a design lead approach which responds to the local context and be compatible with local amenity. It also fails to safeguard the amenity of the residential area. Accordingly, the proposal cannot be considered to comply with proposed LDP2.

#### Principle of Development

- 7.4** The site is located within a residential area as defined by the adopted Local Plan and proposed Local Development Plan 2. Overall, the area is residential in character with residential properties immediately opposite the site. Notwithstanding this, a variety of other uses are also found within the vicinity of the site providing local facilities within the area. These include a retail shop, hairdressers, and dog groomers together with a public house immediately adjacent to the site to which the car park forming the application site was previously associated. Areas of open space also lie in close proximity to the site. In paragraph 8 of the appeal decision for the previous application, the Reporter is clear that in accepting that whilst this is a convenient location for motorists to stop, the site is positioned within a location that is not fundamentally a commercial area and the Reporter considered that the activity would be out of place. It is therefore clear that the principle of the development is not supported by the appeal decision.
- 7.5** Notwithstanding the Reporter's concerns regarding the principle of the activity being undertaken on site, there were also significant concerns in respect of the appearance of the site. The Reporter was concerned that the use of shipping containers was inappropriate at this location, noting in paragraph 8 of the appeal decision that they were utilitarian structures which appear out of place in this area and that they are unattractive. Overall the Reporter found them to be visually harmful. Shipping containers are also more readily associated with industrial areas, a point that the Reporter considered to be important.
- 7.6** In seeking to address the concerns raised in the previous appeal decision, the containers and storage areas within the site are now largely enclosed behind a timber screen. The forward part of the container which is not enclosed behind a screen is covered by a camouflage netting. Whilst acknowledging the applicant's efforts to screen the containers and storage area within the site, it is considered that this does not address the fundamental concerns regarding the development. The site still has an industrial appearance which is not considered to respond to the locality and the use and activity of the site remains incompatible with the residential character of the wider area. The revised proposal cannot be held to adequately address the previous reasons for refusal both in terms of the visual appearance of the site and that overall, the activity was considered to be out of place.

#### Impact on Residential Amenity

- 7.7** Residential properties lie to the opposite side of Beeches Road. Noise disturbance is raised as a concern in the objections received. In considering the appeal, the Reporter noted that a tyre changing machine and a wheel balancing machine would be accommodated within one of the two larger containers and that with a diesel generator and compressor within the third, smaller container. The Reporter also noted the noise impact assessment which the applicant had commissioned. Whilst noise impact Monday to Saturday would not be adverse, it would be more significant on Sundays. The Reporter considered that this could, however, be overcome by re-positioning the containers from what is shown in the application plan and this could be addressed by condition if required. Overall, the Reporter did not believe there can be a substantial case against the development in terms of noise.
- 7.8** The consultation response for this application from the Council's Environmental Health Service references the Noise Impact Assessment (NIA) Report received under for the previous planning application, which the applicant has also submitted in support of this application. The repositioning of the containers since the previous application is, however, noted. Whilst the concerns raised by Environmental Health are noted, in light of the position taken by the Reporter in the previous appeal decision, it is not

considered that the refusal of planning permission on noise disturbance alone could be justified. Ensuring equipment that was not assessed as part of the NIA undertaken is not used on site could be addressed by condition if required.

In further assessing the impact on local residents, the Reporter sets out in paragraph 12 of the appeal decision that the containers are utilitarian in appearance and are designed to be useful and practical, rather than attractive. The Reporter went on to consider the proximity of neighbouring residential windows and that the containers would be very obvious features, at relatively short distances, as residents of upper flats look out from their windows. Notwithstanding the applicant's efforts to address these concerns with the additional screening on site, it remains that the site still has an industrial appearance and the adverse impact on neighbouring residents is not diminished.

#### Parking and Access

- 7.9** Concerns have been raised regarding the proposed development's potential to cause an increase in traffic at an existing busy junction, causing disruption to public transport and other road users. Further concerns in respect of on street parking and increased risk of accidents for both vehicles and pedestrians are highlighted. In considering roads matters including road safety, the assessment is guided by the consultation response from the Council's Road Service who, having fully considered the proposal, offer no objections. The previous appeal decision also raised no road matters of concern. There are thus no issues in respect of road safety which arise that would justify refusal.

#### Other Matters

- 7.10** As assessed in determining the previous planning application, the site is located near to the Antonine Wall, the setting of which is protected as it is a Scheduled Ancient Monument. The Wall at this location is not visible as it passes under existing buildings. The proposal would not involve any ground excavation works there is no risk to archaeological remains.

#### Representations Received

- 7.11** Turning to the outstanding points raised in the submitted objections which have not been assessed above, it is acknowledged that the application is considered in retrospect and that the site operates despite the previous refusal of planning permission on appeal. Whilst this situation is disappointing, it would be inappropriate to refuse planning permission solely on this basis. An Enforcement Notice and Stop Notice were issued in April of this year. These were issued to KMC Tyres and Recovery Ltd as the occupier of the site. However, following the issue of the Notices, it has been established that this company has been dissolved. Accordingly, the Notices have been withdrawn whilst the situation is reviewed and the matter will be revisited following the determination of this application. It is noted that whilst no longer a Limited Company, it is advised that the applicant still trades under the name KMC Tyres and Recovery. Whilst concerns regarding the loss of property values is noted, this is not a material planning consideration.

## **8. CONCLUSION**

- 8.1** It remains that the revised proposal introduces a commercial use with industrial characteristics into a primarily residential area. Whilst acknowledging the applicant's efforts to screen the containers and storage area within the site, this does not address the fundamental concerns regarding the development. The site still has an industrial appearance which is not considered to respond to the locality, and the use and activity of the site remains incompatible with the wider area. The revised proposal cannot be held to adequately address the previous reason for refusal both in terms of the visual

appearance of the site and that overall, the activity is out of place. The adverse impact on neighbouring residents is also not diminished. It remains that the proposal is not supported by Policies GD1 and H5 of the adopted West Dunbartonshire Local Plan and Policies CP1 and H4 of the proposed West Dunbartonshire Local Development Plan 2.

## **9. Reasons for Refusal**

1. The proposed development would result in the introduction of a use that would be out of character with the surrounding area, would have a significant detrimental impact on the amenity and appearance of the surrounding area and would fail to protect, preserve and enhance the residential character and amenity of the area. This is contrary to the requirements of Policy H5 of the adopted Local Plan and Policy H4 of the proposed West Dunbartonshire Local Development Plan 2.
2. The development is not of a high quality design and does not respect the character and amenity of the area in which it is located. With reference to the local area, it is also inappropriate in terms of the land use and design and is thus not supported by Policy GD1 of the adopted Local Plan.
3. The development does not take a design led approach which responds to the locality and cannot be held to reflect the six qualities of successful places, contrary to the requirements of Policy CP1 of the West Dunbartonshire Local Development Plan 2.

**Pamela Clifford**  
**Planning, Building Standards and Environmental Health Manager**  
**Date: 3<sup>rd</sup> August 2022**

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**Person to Contact:** Pamela Clifford, Planning, Building Standards and Environmental Health Manager  
Email: [Pamela.Clifford@west-dunbarton.gov.uk](mailto:Pamela.Clifford@west-dunbarton.gov.uk)

**Appendix:** Location Plan

**Background Papers:**

1. Application documents and plans
2. West Dunbartonshire Local Plan 2010
3. West Dunbartonshire LDP - Proposed Plan 1
4. West Dunbartonshire LDP - Proposed Plan 2
5. Consultation responses
6. Representations
7. Planning Appeal Decision PPA-160-2035

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

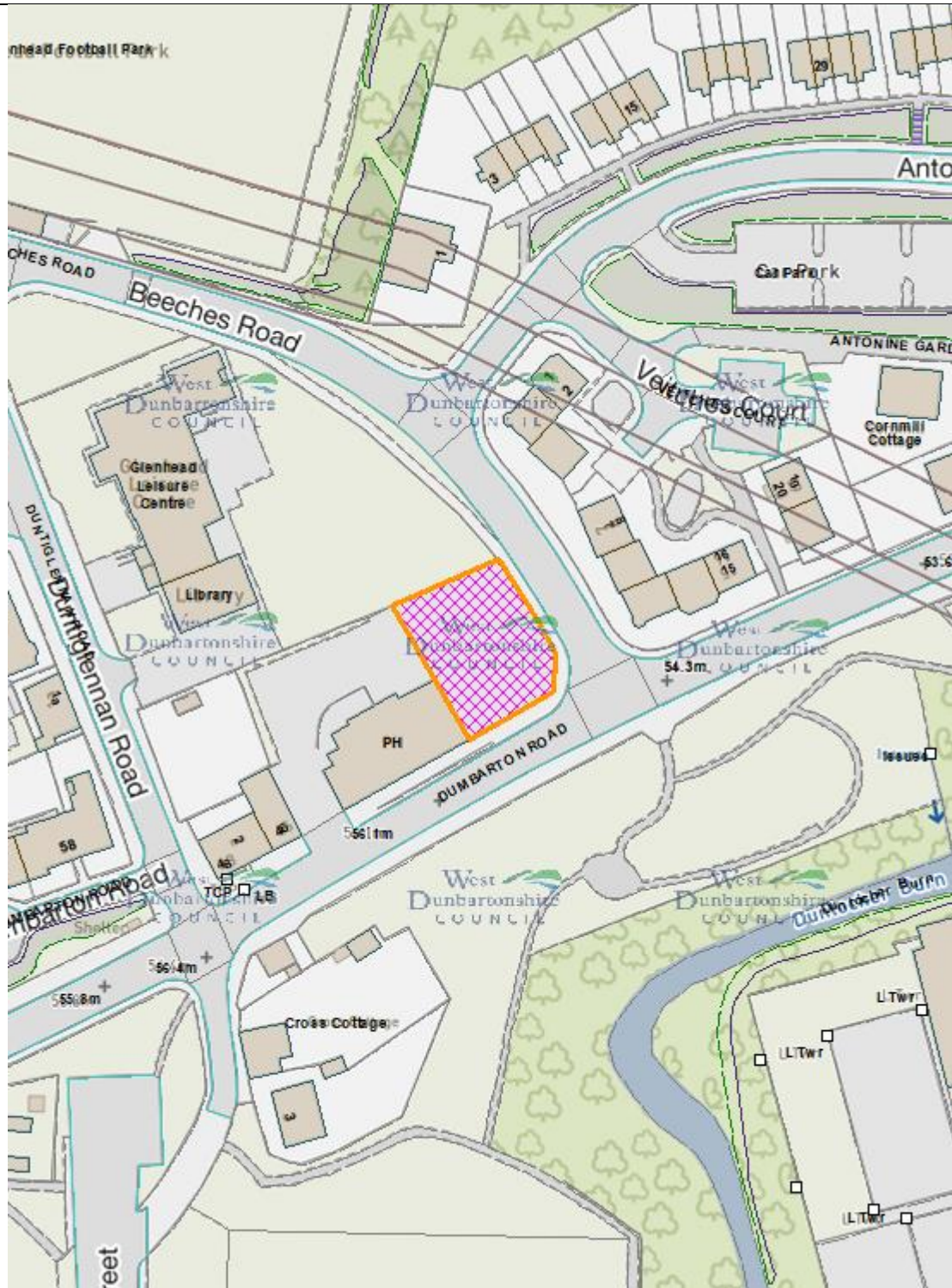
Map Register No: HQ672

Date: 18 July 2022

DC22/096/FUL

Change of use to allow  
fitting of tyres to motor  
vehicles together with  
associated works  
(retrospective)

Land Adjacent To Public House  
Dumbarton Road  
Duntocher  
Clydebank



## WEST DUNBARTONSHIRE COUNCIL

Report by Planning, Building Standards and Environmental Health Manager

Planning Committee: 3<sup>rd</sup> August 2022

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**DC21/039/FUL:**      **Extension to existing shop unit for use as a hot food takeaway at 40 Mountblow Road, Clydebank by Mrs Shaneen Majeed**

### 1. REASON FOR REPORT

- 1.1 The application has been subject of a significant level of objection. Under the terms of the approved Scheme of Delegation it therefore requires to be determined by the Planning Committee.

### 2. RECOMMENDATION

- 2.1 Grant planning permission subject to the conditions set out in Section 9.

### 3. DEVELOPMENT DETAILS

- 3.1 The application property is a commercial unit located on the eastern side of Mountblow Road, Clydebank, within a primarily residential area. A group of three high-rise blocks, north east of the site, is within walking distance from the unit. A convenience store currently occupies the unit which is a flat-roofed detached building and is the only local shop along the length of Mountblow Rd, and is located next to the western entrance to Dalmuir Park. The plot where the existing shop is located is trapezoidal in shape, narrowing towards the side facing the road; the rear curtilage measures approximately 430sqm. There is no dedicated parking, however a parking layby is outside of the shop in Mountblow Rd near the signalised pedestrian crossing and the bus stop; free parking in the nearby residential streets is also available a short walking distance away. The unit currently features a single entrance with a large shop window adjacent to it; however, the window is blocked out with advertising.
- 3.2 The planned works will consist of a creation of an extension to the existing shop unit for use as a hot food takeaway.
- The proposed extension would have an irregularly shaped footprint of 212sqm against 214.5sqm of the host property, out of which 59sqm

would be allocated for the customer area, accessed from Mountblow Road through a newly formed front door (located next to a newly formed shop window). The remainder of the new floorspace would be used as a 'deli area' for the final preparation of food and serving customers, followed by a kitchen area with shelving, a walk-in fridge, dry storage and an accessible toilet for staff. The extension will be designed with a flat roof to a height of around 4 metres.

- A fire exit would be formed in the northern gable, leading into the rear curtilage where bin storage would be located. The other gable would feature a new window serving the aforementioned toilet.
- No information has been provided on the choice of materials and finishes. There will be no additional parking facilities as a result of the development.

The existing unit will continue to operate as a retail shop.

#### **4. CONSULTATIONS**

- 4.1** West Dunbartonshire Council Environmental Health Service have no objection subject to conditions addressing ventilation, grease filters and provision for waste.
- 4.2** West Dunbartonshire Council Roads Service have no objections to the proposed development on the basis of road safety, parking requirements and flooding.

#### **5. REPRESENTATIONS**

- 5.1** Eight objections have been received from seven individuals in response to the application. The main grounds of objection are summarised below:
- Overprovision of hot food takeaways in the area.
  - Congregations of customers of the proposed use forming outside the proposed premises.
  - Rat infestation issues due to burger van operation in the vicinity in the past.
  - Amenity issues as a result of odours and litter and food waste from the proposed use.
  - Insufficient parking provision, traffic increase and resulting road safety issues on Mountblow Rd and the streets of the adjacent residential estate.
  - Anti-social behaviour occurring in the near vicinity of the existing shop and its potential increase due to the proposed introduction of a hot food takeaway use.

## **6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

### West Dunbartonshire Adopted Local Plan 2010

- 6.1** Policy H5 seeks to protect, preserve and enhance the residential character and amenity of existing residential areas at all times. The proposal should be considered against the criteria of the need to reflect the character of the surrounding area in terms of scale, density, design and materials as well as the requirement to avoid overdevelopment which would have an adverse effect on local amenity, access and parking or would be out of scale with surrounding buildings. Policy GD1 seeks to ensure that all new development is of a high quality design, of an appropriate and compatible land use and that it respects the character and amenity of the surrounding area.
- 6.2** It is considered that the proposal is of an acceptable design and the position ensures that the hot food takeaway use does not immediately adjoin residential properties or result in any adverse impact on residential amenity. The proposal complies with the policies of the adopted Local Plan and is assessed fully in Section 7 below.

## **7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

### West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

- 7.1** 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<sup>th</sup> 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 these applications is affected by the 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.
- 7.2** Policy H4 seeks to protect, preserve and enhance the residential character and amenity of existing residential areas which reflects the requirements of Policy H5 of the Adopted Plan. Policy CP1 seeks to ensure that all development takes a design lead approach and demonstrate the six qualities of successful places. Policy ENV8 seeks to ensure that developments do not have a significant impact on established residential areas and properties by way of air, noise or light pollution. Where required, proposals that have the potential to impact, will require to demonstrate that their impact is not significant and provide adequate mitigation where necessary.

### Principle of Development

- 7.3** The site is located within a residential area as defined by the adopted Local Plan and proposed Local Development Plan 2. Overall, the area is residential in character with the existing unit providing local shopping facilities. The provision of local neighbourhood shopping facilities within a mainly residential area is commonplace and can provide for local shopping provision and other services for residents within the communities they serve. In this instance, it is proposed to extend the unit to form a hot food takeaway. Whilst careful consideration requires to be given to a range of matters including the impact on residential amenity, the provision of a hot food takeaway at this location will expand local facilities available at this location and create a hot food takeaway within walking distance of a range of residential properties, reducing the need for residents to travel to other locations. There would be no clustering of similar uses at this location with the proposed hot food takeaway being the only such use on Mountblow Road. In principle, the extension to the unit to form a hot food takeaway is considered to be acceptable in the context of the wider Mountblow area.

### Design and Appearance

- 7.4** The development consists of an extension to an existing standalone retail unit which is of a functional design with flat roof. The proposed extension responds to this and is considered to be of an appropriate scale and massing. The extension has a stepped side elevation following the angled boundary line, however this in itself is acceptable. The proposed new shopfront reflects the appearance of the shopfront on the existing unit. As no information on the materials and finishes has been provided, this matter is addressed by condition to ensure an appropriate finish and palette of materials.

### Impact on Residential Amenity.

- 7.5** In assessing residential amenity, a variety of considerations arise. Such uses can generate cooking odour and the assessment is guided by the consultation response from the Council's Environmental Health Service. There is no objection in principle to the proposed use with conditions recommended in respect of the ventilation system to control and disperse cooking odour together with grease filters. As the consultation response indicates that cooking odour can be satisfactorily controlled, it would be inappropriate to refuse planning permission on this basis. Turning to noise and activity, hot food takeaway uses can often generate additional noise and activity within the vicinity of the premises, particularly from increased pedestrian and vehicle movements into the area. Concerns regarding increase activity and associated noise disturbance is raised in the objections. There are no residential properties immediately adjoining the application site with the nearest residential properties opposite the property, across a busy road. This, together with the provision of parking

laybys on the same side of the road as the hot food takeaway will limit any additional activity occurring directly outside nearby residential properties. The existing retail shop and busy road will already result in a degree of activity in the area. It is recognised that hot food takeaways often operate late into the evening. Notwithstanding that Environmental Health do not recommend any conditions regarding hours of operation together with delivering and collections from the premises, it is considered appropriate to control the hours of operation to avoid disturbance late into the night.

- 7.6** The position of the extended building which is detached and not in direct proximity to other buildings ensures that it has no impact on the overshadowing and overlooking of the neighbouring residential properties. There would be no privacy loss to the nearby residential properties due to the creation of new door and window openings. Overall, it is considered that the proposal presents no conflict with Policy H5 of the adopted Local Plan and Policies H4 and ENV8 of proposed Local Development Plan 2.

Parking and road safety

- 7.7** Concerns have been raised regarding the proposed development's potential to cause an increase in traffic and on-street parking at this location. In considering roads matters including road safety and parking, the assessment is guided by the consultation response from the Council's Road Service who, having fully considered the proposal, offer no objections. It is noted that the existing parking provision in the form of a parking bay in Mountblow Road will provide parking for the development. Furthermore, there is a likelihood of combined trips to both the existing convenience shop and the proposed hot food takeaway, which would limit pressure on the traffic and parking. There are thus no issues in respect of parking and road safety which arise that would justify refusal. Overall, the proposal does not raise concern in relation to parking and road safety.

Flooding

- 7.8** The Flood Risk Assessment provided by the applicant raises no issues that would suggest that the development needs to manage this risk in any particular way. The Council's Road's Service in their capacity as Flooding Authority offer no objections on the grounds of flooding. The proposal does not therefore raise concern in relation to flood risk.

Representations Received

- 7.9** Turning to the outstanding points raised in the objections received a variety of concerns have been raised including the past presence of a snack van in the near vicinity resulting in congregations of customers leading to anti-social behaviour, as well as issues relating to vermin infestation. While anti-social behaviour is ultimately a police matter, given the proposed layout of the hot food takeaway with an indoor customer

waiting/food pickup area, it is expected that any queues of customers that may form would be contained to the interior of the proposed use, thus limiting the likelihood of congregations of patrons outside the business. As for the presence of rats and other vermin, food and hygiene standards are not a planning matter and instead they are enforced by separate legislation. It would be inappropriate to assume that past performance of a snack van formerly parked near the application site serving food outdoors could be indicative of the issues that may arise from the operation of a hot food takeaway contained within enclosed premises. There is nothing to suggest an increase in litter would occur however the requirement to provide a litter bin can be addressed by condition.

## **8. CONCLUSION**

- 8.1** The proposed development will have a limited and managed effect on the residential amenity and character of the area while allowing for the formation of a new commercial use to benefit the wider neighbourhood. Environmental matters will be subject to appropriate controls enforced through condition. The proposal is considered acceptable with reference to Policies GD1 and H5 of the adopted West Dunbartonshire Local Plan and Policies CP1, H4 and ENV8 of the proposed West Dunbartonshire Local Development Plan 2.

## **9. CONDITIONS**

1. That prior to the commencement of works on site, full details of all proposed external finishing materials, including roofing materials and the frame of the shopfront, shall be submitted to and approved in writing by the Planning Authority. Works shall then proceed as approved unless an alternative is otherwise agreed in writing by the Planning Authority.
2. Before the proposed development is brought into use, the proposed method of ventilation shall be submitted to and approved in writing by the Planning Authority. The proposed development shall not be brought into use until the ventilation systems are operational in accordance with the approved details.

All odours, fumes and vapours generated on the premises shall be controlled by best practicable means to prevent them causing nuisance to occupants of nearby dwellings or premises.

The ventilation system shall:

- a) Incorporate systems to reduce the emission of odours and pollutants and shall thereafter be maintained as necessary.

- b) Be constructed by employing best practical means to minimise noise and vibration transmission via plant and the building structure.
  - c) Noise associated with the business shall not give rise to a noise level, assessed with the windows open, within any dwelling or noise sensitive building, in excess of the equivalent to Noise Rating Curve 35, between 07:00 and 20:00 hours, and Noise Rating Curve 25 at all other times.
  - d) If applicable, the discharge stack shall:
    - i) Discharge the extracted air not less than 1m above the roof ridge of any building within 20m of the building housing the commercial kitchen.
    - ii) Alternatively, the extracted air shall be discharged not less than 1m above the roof eaves or dormer window of the building housing the commercial kitchen.
3. Prior to the commencement of development on site details of an adequate sized grease trap shall be submitted to and approved by the Planning Authority. It shall be installed as approved and maintained thereafter.
4. Details for the storage and the collection of waste arising from the proposed developments shall be submitted to and approved in writing by the Planning Authority. The agreed details shall be in place prior to the development being brought into use and thereafter be satisfactorily maintained.
5. The hot food takeaway use hereby permitted shall not operate outwith the hours of 8am to 10pm daily with no delivering or collections to the premises outwith these hours.
6. That prior to the commencement of the hot food takeaway use hereby permitted, details of a bin to be provided outside the premises for use by patrons shall be submitted to and approved in writing by the Planning Authority. The bin shall then be provided and remain available for use by patrons of the premises at all times thereafter.

**Pamela Clifford**  
**Planning, Building Standards and Environmental Health Manager**  
**Date: 3<sup>rd</sup> August 2022**

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

Email: [Pamela.Clifford@west-dunbarton.gov.uk](mailto:Pamela.Clifford@west-dunbarton.gov.uk)

**Appendix:** Location Plan

**Background Papers:**

1. Application forms and plans;
2. West Dunbartonshire Local Plan 2010;
3. West Dunbartonshire Local Development Plan 2  
Proposed Plan;
4. Representations.

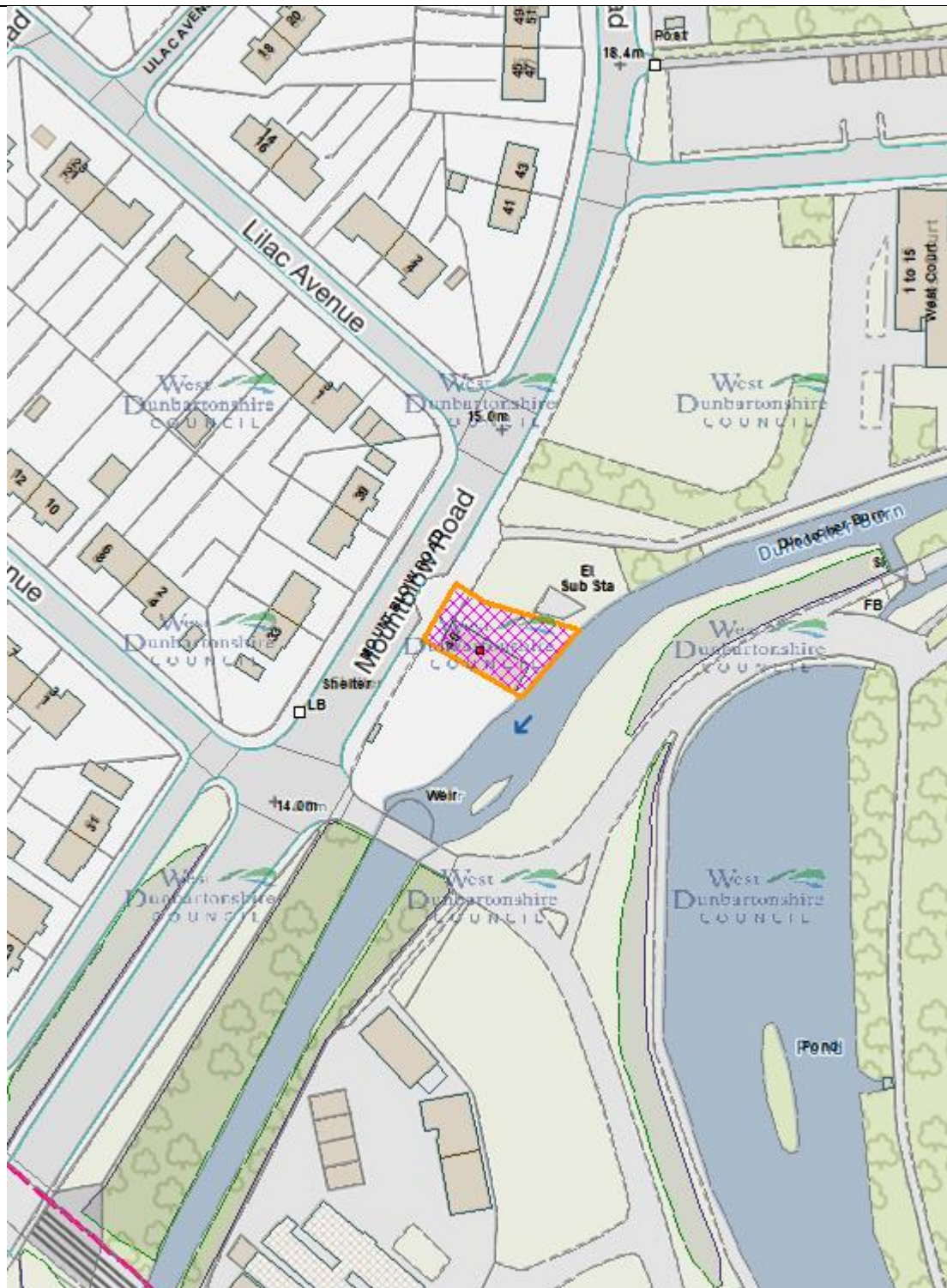
**Wards affected:** Ward 5 – Clydebank Central

Map Register No: HQ673  
Date: 18 July 2022

DC21/039/FUL

Extension to existing shop  
unit for use as a hot food  
takeaway

40 Mountblow Road  
Clydebank  
G81 4NL





**WEST DUNBARTONSHIRE COUNCIL****Report by Planning, Building Standards and Environmental Health Manager****Planning Committee: 3<sup>rd</sup> August 2022**

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**Subject: Review of Permitted Development Rights consultation****1. Purpose**

- 1.1** To seek the agreement of the Committee to submit a response to the Scottish Government consultation on the review of permitted development rights.

**2. Recommendations**

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

**3. Background**

- 3.1** Permitted development rights refer to forms of development which are granted planning permission through national legislation, meaning they can be carried out without an application for planning permission having to be submitted to the relevant planning authority.
- 3.2** The definition of “development” under planning legislation includes making a material change to the use of land or buildings, meaning material changes of use require planning permission. However, the Use Class Order groups together various land uses with broadly similar planning impacts into separate “use classes”, and legislation provides that a change of use within a use class, or between certain classes, does not constitute development for planning purposes, and so no planning permission is required.
- 3.3** Permitted Development Rights are set out in the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 and Use Classes are set out in the Town and Country Planning (Use Classes)(Scotland) Order 1997. Both are kept under review.
- 3.4** The Scottish Government commenced a programme of reviewing and extending permitted development rights, as part of its wider planning reform programme, in November 2019. A Phase 1 consultation was undertaken in October 2020 and focused on permitted development rights for digital telecommunications infrastructure, agricultural development, peatland restoration and active travel.

## **4. Main Issues**

- 4.1** Phase 2 of the Scottish Government's review of permitted development rights was published in May 2022 and focuses on electric vehicle charging infrastructure, changes of use in centres and port development. The consultation document can be found at the following link:

<https://www.gov.scot/publications/review-permitted-development-rights-phase-2-consultation/documents/>

- 4.2** The proposed Council response to the consultation is attached as Appendix 1. A summary of the Council's response is provided under the relevant headings below.

### Electric Vehicle Charging Infrastructure

- 4.3** The consultation seeks views on the following matters with regard to Electric Vehicle (EV) Charging Infrastructure:

- The removal of restrictions on the installation of wall mounted and pedestal EV charging infrastructure in a site of archaeological interest; a national scenic area; a historic garden or designed landscape; a historic battlefield; a conservation area; a National Park; and a World Heritage Site.
- The removal of restrictions on the attachment of nameplates to wall mounted and pedestal EV charging infrastructure.
- An increase in the height of EV charging pedestals which can be installed in off-street parking areas without requiring planning permission from 1.6 metres to 2.5 metres.
- Provision of solar canopies, battery storage and equipment housing within off-street parking areas without the requirement of planning permission.
- Clarification of permitted development rights for local authorities.
- Permitted development rights for the provision of EV charging infrastructure in roads for parties other than local authorities.

- 4.4** On the issue of the removal of restrictions for the installation of wall mounted and pedestal EV charging infrastructure in certain areas, the Council is supportive as the removal of this restriction could encourage a wider roll out of EV charging infrastructure within these areas to be benefit of tackling climate change. The visual impact within the specific areas currently listed would be limited. Where specific concerns from such developments arise, the option to introduce an Article 4 Direction remains whereby a Council could take forward the removal of permitted development rights in certain areas.

- 4.5** On the issue of the removal of restrictions on the attachment of nameplates to wall mounted and pedestal EV charging infrastructure, the Council is of the view that nameplates on EV charging upstands would be unlikely to result in extensive visual clutter. However in order to retain an element of control, any nameplates or other identifiers would require to be accommodated solely on the charging infrastructure and not be either free standing or attached to walls etc adjacent infrastructure.
- 4.6** Considering the increase in height for EV charging upstands in existing off-street parking areas, the Council considers that it would be unlikely to have any additional or significant visual impacts beyond the upstand infrastructure that can currently be installed under existing permitted development rights. The proposed increase would encourage the roll out of this technology encouraging the switch to EVs to the benefit of tackling climate change. Any increase in height should be balanced with a restriction regarding the proximity of an upstand to residential properties to balance the impact on residential amenity.
- 4.7** With regard to the provision of solar canopies, battery storage and equipment housing within off-street parking areas, the Council supports infrastructure to power charging points by renewable means. The provision of solar canopies within off-street parking areas would result in them being provided where land has already been subject of development. The restriction to four metres would ensure that the canopies were not overly dominant structures and the very nature of canopy structures is their openness which again would limit visual impact. The potential impact of glint and glare from a large number of solar canopies in close proximity would require to be considered. Any related battery storage and equipment housing would be typical of other transport infrastructure and other installations such as telecommunication cabinets for example and it is not considered they would be out of place in off-street parking areas. The restriction on the size and number of such installations is supported by the Council. It would not be appropriate in all locations and the restrictions in paragraph 2.24 of the consultation document in respect of there not being permitted development rights in sites of archaeological interest; National Scenic Areas; historic gardens or designed landscapes; historic battlefields; conservation areas; National Parks; World Heritage Sites; and the curtilage of dwellinghouses are supported as are the height and size restrictions together with the restrictions on the distance from residential properties
- 4.8** On the clarification of permitted development rights for local authorities, clarity on the legislative position with regard to permitted development rights is welcomed by the Council and this would be useful in ensuring no confusion occurs. Changes to permitted development rights to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement is not

considered to be required as permitted development rights are not limited by the funding source of a development.

- 4.9** On the question of whether permitted development rights for the provision of EV charging infrastructure in roads should apply to parties other than local authorities, the Council considers that other non-planning controls can ensure that such developments themselves do not result in infrastructure causing an obstruction etc. However, the very nature of EV charging infrastructure means that it is associated with vehicles which are parked. Other non-planning controls may not be sufficient to ensure that infrastructure is not provided in locations where it would be inappropriate for vehicles to be parked (for example adjacent to junctions). Equally, there is concern that there could be a risk of such developments being undertaken immediately adjacent to residential windows to the detriment of residential amenity.

#### Changes of Use in Centres

- 4.10** The consultation seeks views on the following matters with regard to centres:

- The merging together of several use classes to create a town centre use class - this would bring together a number of separate use classes, such as shops, services, and food and drink, into a single use class, with no planning permission required to change between these uses.
- Whether Masterplan Consent Areas could be a useful tool for introducing more flexibilities to town centres - a Masterplan Consent Area would enable whole or parts of town centres to be identified as areas within which certain changes of use could take place without requiring planning permission.
- Permitted development rights to encourage Class 4 business use in town centres - the change being consulted on is whether town centre uses should be permitted to change to business use (up to 300 square metres) without needing planning permission.
- Permitted development rights for moveable outdoor furniture – there is a suggestion of permitted development rights being granted to moveable furniture associated with food and drink uses.
- Permitted development rights for residential accommodation – England has permitted development rights for some uses to change to residential use without the need for planning permission. The consultation seeks views on whether this should apply to Scotland.

- 4.11** On the issue of creating a town centre use class, the proposed response recognises that this would introduce additional flexibility that may support investment and increase unit occupancy in centres. However, it identifies risks such as that the permitted development rights would also exist outwith centres, and that there would be the removal of controls that communities

are supportive of planning authorities having, including for example the identification of core retail areas (West Dunbartonshire has these in Clydebank and Dumbarton) and the prevention of the clustering of certain uses, for example food and drink uses. The response indicates that Masterplan Consent Areas would provide a more targeted means for planning authorities to introduce change of use flexibility within centres or selected parts of centres.

- 4.12** On the issue of permitted development rights for change of use to Class 4 business, the proposed response recognises that such a change would introduce flexibility that may support investment in, and the creation of new business premises, although this could create business premises in locations that could compete with centres and established business locations. On whether the proposed 300 square metre limit is appropriate, the response indicates that a key consideration will be whether this would offer a worthwhile investment to developers and create space that would be attractive to users. Parking provision would also be a consideration.
- 4.13** On the issue of moveable furniture outside of Class 3 food and drink uses, this should be permitted development but restricted to town centres. These permitted development rights should also apply to Class 7 uses, hotels and hostel and with caution, to public houses.
- 4.14** On whether permitted development rights should exist for residential development in Scotland's centres, it is considered that residential development should be plan-led or achieved through the full consideration of a planning application, so that amenity and impact on other uses and infrastructure can be considered.

#### Port Development

- 4.15** The consultation seeks views on the following matters with regard to Ports:
- Whether in respect of permitted development rights, there should be a level playing field between English and Scottish ports.
  - With respect to the recent amendments in England, what the practical effect of making an equivalent change to Class 35 permitted development rights would be.
  - Whether there is scope to widen permitted development rights further.
  - Whether Masterplan Consent Areas could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's ports.
- 4.16** On the question on parity with the position in England, the Council considers that the creation of a level playing field with England would be beneficial to

the economic development of the area and support growth and the movement of goods.

- | **4.17** On the practical effects of amending permitted development rights to match those in England, this will widen the scope of the types of development that can be undertaken and who can undertake it. This will allow greater flexibility to undertake development. Allowing for development to be undertaken by the statutory undertakers agents of development would give further flexibility with development being able to be undertaken through Permitted Development Rights by others on their behalf. The Council supports the requirement for development to be subject of consultation with the local authority.
- | **4.18** On the question on widening permitted development rights further, the Council considers that the proposed alignment with England to provide the most appropriate approach in balancing the operation of Ports together with growth and movement of goods against protecting the interests of the wider area in terms of the level of development that can be undertaken.
- | **4.19** Considering the use of Masterplan Consent Areas, the Council considers that masterplan consent areas could be a useful tool in providing planning flexibility in the development of Scotland's ports. Such an approach could create certainty in developments and reduce costs relating to individual developments and front-loading the process in terms of technical surveys and assessments, reducing complexity further down the line. The use of Masterplan Consent Areas could also simplify the approval processes for individual developments where they are essential to the operational development of a Port.

## **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** There are no risks associated with this report.

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

**8.1** The Scottish Government has undertaken an equalities impact assessment of the consultation documents. This has concluded that where there are impacts, these are positive.

## **9. Consultation**

**9.1** The views of Regeneration, Roads and Transportation, Licensing and Environmental Health were sought in the preparation of this report.

## **10. Strategic Assessment**

**10.1** The review of permitted development rights and use classes is relevant to the Council's strategic priority of a strong local economy and improved job opportunities as it seeks to introduce more flexibility into the planning system in order to increase investment.

**Pamela Clifford**

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

**Date: 3 August 2022**

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<b>Person to Contact:</b>	<p>Pamela Clifford, Planning &amp; Building Standards Manager <a href="mailto:pamela.clifford@west-dunbarton.gov.uk">pamela.clifford@west-dunbarton.gov.uk</a></p> <p>James McColl, Acting Development Management Team Leader <a href="mailto:james.mccoll@west-dunbarton.gov.uk">james.mccoll@west-dunbarton.gov.uk</a></p> <p>Alan Williamson, Development Planning and Place Team Leader <a href="mailto:Alan.williamson@west-dunbarton.gov.uk">Alan.williamson@west-dunbarton.gov.uk</a></p>
<b>Appendix:</b>	Appendix 1: West Dunbartonshire Council response to Permitted Development Rights consultation
<b>Background Papers:</b>	Scottish Government Review of Permitted Development Rights - <u><a href="http://www.gov.scot">Planning - permitted development rights review - phase 2: consultation - gov.scot (www.gov.scot)</a></u>
<b>Wards Affected:</b>	All

**West Dunbartonshire Council response to Scottish Government Review of Permitted Development Rights**

**Electric Vehicle Charging Infrastructure**

**Q1. Do you agree with the removal of restrictions on Class 9EPDR, for wall-mounted EV charging outlets, in the specified areas currently listed in Class 9E(3)? Please explain your answer**

Agree – The Council notes that an electrical outlet mounted on a wall for the charging of EVs is limited to 0.5 cubic metres by Class 9E(2)(a) and cannot face on to a road (Class 9E(2)(b)). Accordingly the Council considers that the visual impact within the specific areas currently listed in Class 9E(3) would be limited. The Council is of the view that the removal of this restriction could encourage a wider role out of EV charging infrastructure within these areas to be benefit of tackling climate change. Where specific concerns from such developments arise, the option to introduce an Article 4 Direction to restrict permitted development rights in certain areas remains.

**Q2. Should the conditions regarding nameplates be withdrawn from Class 9E on wall-mounted EV charging outlets? Please explain your answer.**

Agree – The Council is of the view that nameplates on EV charging outlets themselves would be unlikely to result in extensive visual clutter. However in order to retain an element of control, any nameplates or other identifiers would require to be accommodated solely on the charging outlet casing and not on adjacent walls for example.

**Q3. Do you agree with the removal of current restrictions on Class 9F PDR for EV charging upstands in the specified areas currently listed in Class 9F(3)? Please explain your answer.**

Agree – Off-street parking areas typically include a variety of items and infrastructure including lighting for example and the additional visual impact of provision of EV charging upstands would unlikely be adverse. The Council considers that the removal of this restriction could encourage a wider role out of EV charging infrastructure within these areas to be benefit of tackling climate change. Where specific concerns from such developments arise, the option to introduce an Article 4 Direction restricting permitted development rights in certain areas remains.

**Q4. Should the conditions regarding nameplates be withdrawn from Class 9F on EV charging upstands? Please explain your answer.**

Agree – The Council is of the view nameplates on EV charging upstands would be unlikely to result in extensive visual clutter. However in order to retain an element of control, any nameplates or other identifiers would require to be accommodated solely on the charging upstands and not be free standing adjacent to the upstands.

**Q5. Do you agree with the proposed increase in height allowable for EV charging upstands under Class 9F PDR from 1.6 metres to 2.5 metres in all off-street**

**parking locations, except within the curtilage of a dwelling? Please explain your answer**

Agree – Considering the increase in height for EV charging upstands in existing off-street parking areas such as public car parks, the Council considers that it would be unlikely that such an increase to have any additional or significant visual impacts beyond the upstand infrastructure that can currently be installed under existing PDR rights. The proposed increase would encourage the roll out of this technology encouraging the switch to EVs to the benefit of tackling climate change.

Notwithstanding this, areas lawfully used for off-street parking would include residents parking areas within residential developments. Whilst the retention of the existing height limit within the curtilage of residential properties is welcomed in providing the balance between the roll out of new EV infrastructure and protecting residential amenity, the Council notes off-street parking areas within residential developments can often be found in close proximity to residential properties and residential windows whilst being outwith the curtilage of the adjacent residential properties. The Council considers that any increase in height must be balanced with a restriction regarding the proximity of an upstand to residential properties to balance the impact on residential amenity.

**Q6. Do you agree with the proposal to introduce PDR for solar canopies and related battery storage and equipment housing for EV charging upstands in off-street parking areas? Please explain your answer.**

Agree – The Council supports infrastructure to power charging points by renewable means. The provision of solar canopies within off-street parking areas would result in them being provided where land has already been subject of development. The restriction to four metres would ensure that the canopies were not overly dominant structures and the very nature of canopy structures is their openness which again would limit visual impact. The potential impact of glint and glare from a large number of solar canopies in close proximity would be a concern to the Council and this would require to be considered.

Off-street parking areas within residential developments can often be found in close proximity to residential properties and residential windows whilst being outwith the curtilage of the adjacent residential properties. Any PDRs for such canopies would require to include an appropriate restriction on the proximity of a solar canopy to residential properties to balance the impact on residential amenity. The Council considers the suggested 10 metre stand off from any dwelling is appropriate.

Any related battery storage and equipment housing would be typical of other transport infrastructure and other installations such as telecommunication cabinets for example and it is not considered they would be out of place in off-street parking areas. The restriction on the size and number of such installations is supported by the Council.

The Council is in agreement that this infrastructure would not be appropriate in all locations and the restrictions in paragraph 2.24 of the consultation document in respect of there not being permitted development rights in sites of archaeological interest; National Scenic Areas; historic gardens or designed landscapes; historic

battlefields; conservation areas; National Parks; World Heritage Sites; and the curtilage of dwellinghouses are supported.

**Q7. Do you agree with the proposal to introduce PDR for equipment housing for EV charging upstands in off-street areas where solar canopies are not provided? Please explain your answer.**

Agree – The Council considers that any related battery storage and equipment housing would be typical of other transport infrastructure and other installations such as telecommunication cabinets for example and it is not considered they would be out of place in off-street parking areas. The restriction on the size and number of such installations is supported.

**Q8. Do you agree with the list of areas within which new PDR for such solar canopies and related battery storage and equipment housing should not apply? Please explain your answer.**

Agree – The Council is of the position that this infrastructure would not be appropriate in all locations and the restrictions are supported. The potential impact on the setting of listed buildings also raises concerns for the Council and it is considered that the list of areas should be expanded to include the curtilages of listed buildings.

**Q9. Do you agree with the suggested height limit of 4 metres on PDR for solar canopies for EV charging upstands in off-street parking areas? Please explain your answer.**

Agree – The Council supports the restriction to 4 metres which would ensure that the canopies were not overly dominant structures

**Q10. Do you agree with the proposal that any new PDR for solar canopies, battery storage and equipment housing for EV charging upstands in off-street parking areas should not apply within 5 metres of a road and 10 metres of the curtilage of a dwelling? Please explain your answer**

Agree – Infrastructure requires to be set back from the road to ensure that it does not interfere with sightlines and visibility splays and also to limit visual impact. A distance of 5 metres is considered appropriate by the Council. Off-street parking areas within residential developments can often be found in close proximity to residential properties and residential windows whilst being outwith the curtilage of the adjacent residential properties. Any PDRs for such canopies would require to include an appropriate restriction on the proximity of a solar canopy to residential properties to balance the impact on residential amenity. The Council considers the suggested 10 metre distance from any dwelling is appropriate.

**Q11. Would it be helpful to amend Class 30 PDR for local authorities to make clear they apply to EV charging points and any associated infrastructure? Please explain your answer.**

Agree – Clarity on the legislative position with regard to PDRs is welcomed by the Council and this would be useful in ensuring no confusion occurs. Alternatively, clarity could be provided within an appropriate Circular.

**Q12. Do local authority PDR need to be amended to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement? Please explain your answer.**

Disagree – The Council notes that local authority PDR are not limited by the funding source of a development. If the works are being undertaken by or on behalf of a Local Authority, existing PDR would apply.

**Q13. Should PDR for EV charging infrastructure in roads apply to parties other than local authorities? Please explain your answer.**

Disagree – The Council considers that other non-planning controls can ensure that such developments themselves do not result in infrastructure causing an obstruction etc. However, the very nature of EV charging infrastructure means that it is associated with vehicles which are parked. Other non-planning controls may not be sufficient to ensure that infrastructure is not provided in locations where it would be inappropriate for vehicles to be parked (for example adjacent to junctions).

Equally, the Council is concerned that there could be a risk of such developments being undertaken immediately adjacent to residential windows to the detriment of residential amenity.

It maybe that an arrangement where such developments could be taken forward under PDRs providing these rights were linked to some form of other Local Authority authorisation on position. But strict controls would be required.

**Q14. If so, would such PDR for other parties need to be linked to some arrangement with local authorities or other form of authorisation? Please explain your answer.**

Agree – As per question 13 above.

**Q15. What conditions and limitations would need to be placed on any additional PDR for EV charging infrastructure in roads? Please explain your answer.**

Given the potential visual impact, the Council is of the view that this infrastructure would not be appropriate in all locations and restrictions on areas where PDRs do not apply would be required. This would require to include Conservation Areas. PDRs for parties other than Local Authorities would require to be linked to some form of other Local Authority authorisation on position and installation. It could be that a submission to whether the Prior Approval of the Planning Authority is required to ensure control. To further ensure appropriate control, a specific register of installers / operators should be created to ensure that such installations are undertaken and operated by an appropriate manner.

**Q16. In relation to extending PDR for EV charging infrastructure in roads, what issues need to be considered regarding existing PDR, and rights to access the roads network, for infrastructure which are available to other sectors, such as electricity undertakers? Please explain your answer.**

In order to ensure that there is no gaps in the regulatory environment, PDRs for other sectors such as electricity undertakings should be adjusted to ensure that EV charging infrastructure is not included and that such infrastructure is covered under a single Class.

**Q17. Do you agree in principle with having PDR for changing existing petrol/diesel stations to EV charging only? Please explain your answer.**

Agree – The Council agrees with the principle with having PDR for changing existing petrol filling stations to EV charging only. The Council considers that changes in the overall form of the existing petrol filling station should not be permitted of existing height, buildings and generalities of the layout inclusive of access arrangements. However, the conversion or part conversion of existing filling stations to EV charging only could be undertaken without any detriment either visually or in respect of road access and road safety.

**Q18. If so, what, if any, further specification of the conditions and limitations identified, or additional ones, would be required for such? Please explain your answer.**

The Council considers that PDRs for the provision of solar canopies / solar panels should be limited in a similar way to that proposed for off-street parking areas in order to avoid adverse visual impacts and potential impacts from glint and glare.

#### Changes of Use in Centres

**Q19. Do you consider that a merged use class bringing together several existing classes would help to support the regeneration, resilience and recovery of Scotland's centres? Please explain your answer.**

The Council considers that a merging of uses to create a Town Centre Use Class would introduce additional flexibility that may support investment and increase unit occupancy in Scotland's centres. However as an application for planning permission forms only part of the process, investment and decision-making involved in undertaking a change of use, it may be that if implemented this change is not significant.

**Q20. What do you consider to be the key risks associated with such a merged use class, and do you think that non-planning controls are sufficient to address them? Please explain your answer.**

The Council considers the key risks to be as follows:

- the application of the Town Centre Use Class to areas outwith centres – as the consultation paper sets out, it would not be possible to restrict PDR associated with a town centre use class to just town centres.

- the removal of planning controls that communities are supportive of planning authorities having - for example many traditional food and drink uses now have a significant takeaway operation increasing footfall and vehicle visits to the premises. Communities would expect Councils to have a degree of control over the location of such uses.
- the creation or loss of clusters of certain uses – some planning authorities still identify core retail areas where there is a presumption against a loss of Class 1 uses in order to ensure the centre continues to have a strong retail offer. Such an approach would not be possible with a town centre use class. Similarly, some planning authorities operate policies to prevent the clustering of certain uses, and again this might not be possible with a town centre use class, although uses such as hot food takeaways and pay day lending are sui generis.
- Loss of control of amenity issues where no planning application is required for changes between uses with different characteristics and the associated negative impact on neighbouring properties.

**Q21. Are there any other changes to the UCO which you think would help to support Scotland's centres? Please explain your answer.**

The Council has no comments in relation to this question.

**Q22. Do you agree that Masterplan Consent Areas could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's centres? Please explain your answer**

The Council considers that Masterplan Consent Areas would provide a more targeted tool that planning authorities could use to introduce change of use flexibility in selected centres or areas of centres.

**Q23. Do you think that a PDR providing for a change of use to Class 4 (business) would help to support the regeneration, resilience and recovery of centres – as well as the establishment of 20-minute neighbourhoods? Please explain your answer.**

The Council considers that PDR for the change of use to Class 4 would introduce additional flexibility that may support investment in, and the creation of new business premises. However this flexibility would not be limited to centres and could create alternative investment locations, competing with centres. Again, as an application for planning permission forms only part of the process, investment and decision-making involved in undertaking a such change of use, it may be that if implemented the impact may not be significant.

**Q24. If a PDR of this nature were taken forward, what existing uses should it apply to? Please explain your answer.**

If the purpose of the change is to enhance town centres then the uses it should be applied to are Classes 1, 2 and 3, which are primarily found within centres.

**Q25. Would 300 square metres be an appropriate maximum floorspace limit? Please explain your answer.**

A key consideration here is what the market would support i.e. is the creation of 300 square metres of business premises a worthwhile investment and would it create premises that would be attractive to users.

**Q26. What (if any) additional conditions or limitations should such a PDR be subject to? Please explain your answer**

Given that the PDR would apply to locations in and out of centre including locations that may not be accessible by public transport, the provision of parking would need to be a consideration.

**Q27. Do you agree with the proposed introduction of a PDR for moveable furniture placed on the road outside of (Class 3) food and drink premises?**

Agree – The Council is of the view that the use of parts of the road/pavement outside Class 3 Uses can assist in supporting existing businesses, make places more vibrant and encourage patrons to both particular premises and areas in general. This would require to be carefully balanced with controlling issues relating to pedestrian safety and residential amenity for example and in certain locations this may be unacceptable.

**Q28. Are there any conditions or limitations that you think such a PDR should be subject to? Please explain your answer.**

Class 3 uses are found in a variety of locations. In town centres, fairly high levels of activity throughout the day and evening will already result. The Council notes that whilst residents choosing to reside in such locations may benefit from the proximity to local shops and services, they cannot reasonably expect the same degree of quietude as would be experienced within a wholly residential area. However, a balance must be sought between protecting the amenity of nearby residents by seeking to prevent undue noise and disturbance above what could be reasonably expected, whilst at the same time promoting the vitality of existing businesses. Outwith town centre or otherwise busy locations, the level of background activity would likely be less and the potential for disturbance to residents would be greater. Equally, a Class 3 use could be remote from any residential properties. Taking account the variation in the circumstances of Class 3 uses, the Council considers the following limitations would provide an appropriate balance:

- Hours of use limited from 9am to 9pm. The area must be vacated by 9pm.
- No amplified music to be played in the seating area.
- The creation of the area without physical development.
- The outdoor seating area be within 10 metres of the principle elevation of the associated premises to avoid remote outdoor seating areas, the control of which may be difficult.
- Consideration given to a restriction on the size of an area and / or the number of tables.
- No tents, marquees or other similar installations.

**Q29. Are there any uses other than (Class 3) food and drink premises which you consider such a PDR should apply to? Please explain your answer.**

Hotels (Class 7) often offer similar food and drink availability to Class 3 uses. Public houses could potentially be included as again they often offer similar food and drink availability to Class 3 uses. However, the nature of a public house use could result in additional amenity implications over a Class 3 use. Accordingly, the Council considers that if public houses were to be included, then the hours of operation together with the size of the area would require to be very strictly controlled.

**Q30. Do you agree that important matters such as safety and inclusive access could continue be controlled through other regimes?**

Agree – Retaining control over where structures are places on the public road and footway can be achieved with the requirement for consent from the relevant Roads Authority and licencing requirements can provide additional controls. To ensure access is retained, a restriction requiring a clear 2 metres of footway to remain at all times and could be added to any PDRs introduced.

**Q31. Do you agree that new residential development in Scotland's centres should be plan-led rather than consented through new PDR? Please explain your answer.**

Agree - The Council is supportive of greater residential development in town centres, however the type, location and proportion of residential units in relation to other town centre uses requires to be carefully considered and balanced to ensure vibrant and viable centres. The Council's view is that new residential development in Scotland should be plan-led or achieved through the full consideration of a planning application. This will ensure that matters such as achieving acceptable residential amenity, impact on the operation of other uses, and the provision of adequate infrastructure, including green infrastructure, is achieved. All new homes must also be fit for purpose, sustainable and suitably located. Creating new residential development through PDRs could undermine the role of local authorities in shaping communities, public spaces and buildings. The Council is concerned that such an approach would result in poor quality homes in inappropriate locations Whilst supportive of residential development in centres, they need to be carefully considered and planned given the mixed use of centres if the new homes are to be successful and sustainable for many years after occupation.

**Q32. Are there any other PDR changes which you think could support the regeneration, resilience and recovery of centres? Please explain your answer.**

The Council has no comments in relation to this question.

Port Development

**Q33. Do you agree that, with respect to the PDR, there should be a level playing field between English and Scottish ports? Please explain your answer.**

Agree - The Council considers that the creation of a level playing field with England would be beneficial to the economic development of the area and support growth and the movement of goods.

**Q34. With respect to the amendments in England (see Box 5), what do you think the practical effect of making an equivalent change to Class 35 PDR would be – in terms of developments/activities that would be permitted which are not currently? Please explain your answer.**

The Council considers that with respect to the amendments in England, an equivalent change to Class 35 would widen the scope of the types of development that can be undertaken and who can undertake it. This will allow greater flexibility to undertake development. Allowing for development to be undertaken by the statutory undertakers agents of development would give further flexibility with development being able to be undertaken through PDRs by others on their behalf. The Council supports the requirement for development to be subject of consultation with the local authority.

**Q35. Do you think there is potential to widen the scope of Class 35 PDR further? Please explain your answer.**

The Council considers that the proposed alignment with PDRs in England to provide the most appropriate approach in balancing the operation of Ports together with growth and movement of goods against protecting the interests of the wider area in terms of the level of development that can be undertaken via PDRs.

**Q36. Do you agree that Masterplan Consent Areas could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's ports? Please explain your answer.**

Agree in principle. The Council considers that masterplan consent areas could be a useful tool in providing planning flexibility in the development of Scotland's ports. Such an approach could create certainty in developments and reduce costs relating to individual developments and front-loading the process in terms of technical surveys and assessments, reducing complexity further down the line. The use of MCAs could also simplify the approval processes for individual developments where they are essential to the operational development of a Port.

#### Assessment of Impacts

**Q37. What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A? (Respondents are asked to avoid restating their views on the November 2019 and Phase 1 consultations, as these views have already been taken into account.**

The Council notes the findings and has nothing further to add.

**Q38. Do you have any comments on the partial and draft impact assessments undertaken on these draft Phase 2 proposals?**

The Council has no comments on the partial and draft impact assessments undertaken.

**Q39. Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?**

The Council has no suggestions for additional sources of information.