
Report to: **Planning Committee**

Date of Meeting: **8th May 2014**

Subject: **Review of Planning Committee Decisions and Other
Areas of Service Delivery**

Report by: **Ian Duguid, Development Quality Team Leader**

1.0 Purpose

- 1.1. The purpose of this report is to provide the Committee with a position statement on previous Planning Committee decisions and other key areas of Development Quality Service delivery in 2013-2014. The report will be the first of a series of regular reports prepared on a 6 month cycle.

2.0 Recommendations

- 2.1. It is recommended that the Committee notes the progress on planned major developments in Clackmannanshire, and the other areas of work activity contributing to the Business Plan and Local Development Plan.

3.0 Considerations

- 3.1. Work is well advanced on the Community and Regulatory Service Business Plan for 2014-2015. This has informed the Development Quality Operational Plan for the same period, and in formulating this work plan and reviewing earlier versions, there has been an increasing awareness of the need to, and benefits from, providing members of the Planning Committee with a wider perspective on decision making on key issues within the Service. This includes updates on planning applications previously reported to Committee, but can also be extended to other major applications and significant developments that are "on the drawing board". In addition to this, there are other work areas, such as appeals and enforcement, where the same opportunity arises to bring the Committee up to date on decision making during the period.
- 3.2. It is therefore intended that this becomes a regular reporting arrangement. To ensure meaningful content and purpose, we propose a 6 month timeframe and reporting period, but have chosen for this first report, to commence the review period from 1st April 2013. This coincides with the Planning Performance Framework and other areas of work management and will therefore ensure consistency of wider reporting arrangements.

3.3. Progress On Planning Committee Decisions

13/00040/FULL - Change of Use of Open Space to Form Extended Car Park, Kilncraigs, Alloa. This application was approved on 11th April 2013. The development was been implemented and brought into use as part of the redevelopment of the Kilncraigs site. The car park is being used as a car share facility in accordance with the Council's Travel Plan.

13/00016/FULL - Erection of 28 Houses at The Glen, Coalsnaughton. This was an amendment to a planning permission for development of a larger housing site that involved land to the north. The amendment was approved, and the site is now under construction. The suspensive conditions of the planning permission have been discharged, and the first houses are complete.

13/00029/FULL - Erection of Primary School and Associated Works, Redwells Playing Field, Alloa. This application was approved in April 2013. Work is well advanced, and proceeding in accordance with the approved plans. It is due for completion in August this year. Some minor issues associated with environmental controls and final boundary treatments have been resolved.

12/00242/LIST - Conversion of Library to Form 3 Flats, 99 High Street, Tillicoultry. Following the grant of planning permission and listed building consent, the Council has proceeded to implement the development. A specification of works, including windows, was agreed with Historic Scotland and the conversion is due for completion within the next two months. There have been no significant monitoring issues arising from site works.

13/00015/FULL - Formation of Car Park, Fencing and Refuse Storage, The Woods Caravan Site, Fishcross. This proposal materialised following complaints from neighbours. The Committee approved the application based on minor changes to the plans. No further complaints have been received, although the Service is still awaiting finalised details for the site to enable completion of work.

11/00299/FULL - Extension to Burnfoot Hill Wind Farm (Six Additional Turbines and Access Road), Rhodders Farm, Tillicoultry. Officers had recommended approval of this application, which had been amended from its original nine turbines. The Committee refused planning permission for a number of reasons. The applicants appealed to Scottish Ministers, and in January this year, a Reporter from the Department of Planning and Environmental Appeals upheld the appeal, and granted planning permission, subject to conditions. No progress has yet been made on discharging these conditions, and therefore, no work has started on implementing the planning permission. The developer is however in the process of installing two other turbines which were approved by Perth and Kinross Council as a separate extension to the original 13 turbine wind farm. Another planning appeal by the same applicant, against a decision of Perth and Kinross to refuse planning permission for a windfarm at Frandy Hill, near Burnfoot Hill, was rejected by Scottish Ministers.

13/00150/FULL - 32 Houses and 16 Flats, Former Alva Academy Site, Queen Street, Alva. This application was approved in September 2013. Apart from some site investigation work, no development has taken place.

13/00189/FULL - Conversion of 8 Maisonettes to 16 Flats, 21-39 The Orchard, Tullibody. This development has not started. Development options are being re-examined, including demolition and new build.

- 3.4 Members are reminded that details of all planning applications are available on Clacksweb. The files contain the approved drawings, decision notice and report of handling. There are a number of search tools to assist in sourcing the relevant information. In addition to this, the Service issues a Bulletin to all Elected members and other interested parties on a weekly basis. The first two sections of the Bulletin contain details of all applications received or decided.

3.5 Local Review Body (LRB) Decisions

13/00101/PPP - Development of Agricultural Land for Boarding Kennels and Manager's House, Shavelhaugh Loan, Alva. This application had been refused by officers under the Scheme of Delegation for Local Developments. The applicant requested a review of the decision. Following a site visit and a hearing to consider the new evidence, the LRB decided to refuse the application, principally for reasons associated with the location of the site in the countryside, and in the Green Belt, the absence of evidence to demonstrate the operational need for the development, the risk of flooding within the site and the potential road safety implications from vehicles entering and leaving the site.

3.6 Scheme of Delegation for Local Developments

Due to changes to planning legislation, a Scheme of Delegation for local planning applications, which comprises a significant majority of all applications submitted to the Council, was approved by Scottish Ministers in August 2009. The legislation requires the Scheme to be kept under review.

A review of the Scheme, and proposed changes, were reported to, and approved by, Committee on 31st October 2013. The main changes were to enable Council interest applications and those submitted by any elected member to be dealt with by officers where the proposal accords with the Development Plan and has not been the subject of representations against the proposal.

The Scheme was subsequently approved by Scottish Ministers on 25th February 2014.

While reporting to Committee, the opportunity was taken to streamline the procedure for members requesting an application to be referred to the Planning Committee for decision. The arrangements are again appended to this report.

3.7 Enforcement Activity

This Service receives a variety of enquiries regarding unauthorised development. In 2013/14, we received over 60 enquiries from members of the public in relation to development that allegedly did not have planning permission or was not proceeding in accordance with such permission. These enquiries were investigated in accordance with our Enforcement

Strategy and Planning Enforcement Charter (which itself is being reviewed in the coming year).

In the majority of cases, it was either found that there was no breach of planning control, or that where development had taken place without permission, the breach was relatively minor and would almost certainly be granted planning permission. Indeed, in a small number of cases, retrospective applications were submitted and approved, and as part of the forthcoming reviews of the Charter, we plan to increase the proportion of such applications where a breach has occurred to secure added confidence in the planning service.

Our enforcement enquiries did result in formal action in a small number of cases. These are summarised below.

1. Deposit of Material, Land South of Sandpiper Meadow, Alloa Park, Alloa - a Planning Contravention Notice was served to obtain information and facilitate an amended scheme of planting on this southern edge of the Alloa Park development. The developer did not respond and provide the information required by the Notice. However, plans have now been agreed to re-profile the land and undertake any necessary replacement tree planting.

2. Alterations to shopfront, Cash for Clothes, 19 Mill Street, Alloa - a Planning Contravention Notice was served to obtain information on unauthorised alterations to this shop within Alloa Glebe Conservation Area. The owner and occupier did not respond to and did therefore not comply with the Notice. Subsequently, the shop was re-painted in a manner sympathetic to the character of the street. We are separately dealing with unauthorised advertising.

3. Partial Change of Use of Woodland and Siting of Static Caravans, Cow Wood, by Forestmill - an Enforcement Notice was served to remedy this unauthorised development. The recipient appealed to Scottish Ministers. The appeal was unsuccessful and the Notice was upheld. The period for compliance expires on 10th June . One of the two caravans has been removed.

4. Engineering Operations and Siting of Static Caravan, Aberdona Wood, by Forestmill - an Enforcement Notice was served to remedy this breach of planning control within a woodland north of Forestmill. The period for compliance has expired, no action having been taken to remedy the matter. The landowner has been in communication with the Service, and we are monitoring the situation to assess the need for further steps to be taken, and a possible Fixed Penalty Notice.

5. Siting of Residential Chalet on Land Known as Birkhill Farm, Gartlove, by Clackmannan - an Enforcement Notice was served requiring the removal of the unauthorised development. This followed the submission and withdrawal of a planning application for the same development. The owner lodged an appeal against the Notice with Scottish Ministers. The Reporter dismissed the appeal and upheld the Notice. The owner has now applied again for planning permission and we are examining the merits of the proposal. This will inform any final decision on compliance with the Enforcement Notice.

6. Erection of fence, 10 Cairnpark Street, Dollar - a fence was erected to replace a hedge in Dollar Conservation Area. An Enforcement Notice was served as it was deemed to have an adverse impact on the character of the area. The owner appealed to Scottish Ministers. The appeal was unsuccessful, and the Notice has been upheld. A short period of time remains to comply. The Service is monitoring the situation.

7. Installation of Gabion Baskets, Riverside Caravan Park, Dollar. As part of wider authorised developments at this caravan park, engineering works were carried out to the adjacent riverbank. The developer was asked to stop work. A notice was served requiring the submission of a planning application (a Section 33A Notice). A planning application has been submitted and is under consideration.

3.8 Comments and Complaints

In 2013-2014, Development Quality dealt with one complaint. This did not lead to a complaint to the local government Ombudsman.

In March of the preceding year, one complaint was referred to the Ombudsman, and we have this year been seeking to action the findings.

In summary, the complaint related to a planning application for alterations and rear extension to a house in Alloa Glebe Conservation Area. The complainant asserted that the Council had granted planning permission for a development that inappropriately overlooked a bedroom window of their neighbouring house. In a complex finding, the Ombudsman judged that officers had not taken proper account of the effect of a proposed upper floor side bedroom window when granting planning permission for the development and recommended that we consider our position in securing works to the approved window to remove overlooking.

There were a number of mitigating considerations material to this complaint:

- I. The proposed side window would on its own be permitted development and therefore not normally require planning permission. Only the designation of the Conservation Area altered this position. Our judgement is that matters of conservation would carry more weight, and take precedence over loss of privacy.
- II. There were two applications for the development, the second one amending the original scheme. Both clearly showed the proposed window. All neighbours, including the complainant, were notified of the applications. No representations were received regarding the window on either occasion.
- III. There is a 3 metre high boundary wall between the respective properties. In the absence of objections from the neighbour, the case officer did not enter the neighbouring property.
- IV. In relation to the Ombudsman's investigation over a period of 6 months, there was no communication with Development Services. We have received an apology for not having been contacted to discuss the merits of the complaint before the decision letter was issued.

- V. On receipt of the decision letter, there was no advice therein, nor on the Ombudsman's website, of the scope to request a review of the decision. This would have occurred. The Ombudsman's office now ensure such advice is provided on all decisions, and their website has been changed.

Notwithstanding the foregoing observations, we did comply with the recommendation in the decision letter. The applicant was not willing to allow any changes to his property. To resolve this case, we have agreed with the complainants to alter the position of their own bedroom window and therefore install new glazing.

3.9 Planning Performance Framework (PPF)

The Council's second Annual Report on its Planning Performance Framework was approved by the Planning Committee on 28th November 2013. The PPF model was developed by Heads of Planning Scotland as a means of evidencing quality of performance beyond planning application decision making and up to date Local Plan coverage.

We received the Scottish Government's feedback in December, and this will be used to inform the PPF for this coming year. The report contained three key conclusions:

- i. The PPF provides a clear picture of the Planning Service working well with its stakeholders to provide a focused, consistent and efficient service.
- ii. Much effort has gone into efficiency in planning application handling.
- iii. It is crucial that progress is made on the Local Development Plan through to adoption. Note: The Local Development Plan is being progressed on target. The response to representations for submission to Scottish Ministers is being reported to Council in June this year.

Performance on planning applications alone during the year continues to exceed our target figures and ensure we remain one of the top performing Councils in Scotland. The table in Appendix 2 summarises performance on different applications types. In all cases, the figures exceed the national average.

4.0 **Sustainability Implications**

- 4.1. None

5.0 **Resource Implications**

5.1. *Financial Details*

- 5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

Yes

5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

The area has a positive image and attracts people and businesses	<input checked="" type="checkbox"/>
Our communities are more cohesive and inclusive	<input type="checkbox"/>
People are better skilled, trained and ready for learning and employment	<input type="checkbox"/>
Our communities are safer	<input type="checkbox"/>
Vulnerable people and families are supported	<input type="checkbox"/>
Substance misuse and its effects are reduced	<input type="checkbox"/>
Health is improving and health inequalities are reducing	<input type="checkbox"/>
The environment is protected and enhanced for all	<input checked="" type="checkbox"/>
The Council is effective, efficient and recognised for excellence	<input checked="" type="checkbox"/>

(2) **Council Policies** (Please detail)

Not Applicable

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 - Procedures for referral/call-in of an application for decision by the Planning Committee

Appendix 2 - Table of Planning Application Performance - 2013-2014

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

Planning Enforcement Charter

2012/13 Planning Performance Framework

SPSO (Ombudsman) Decision Notice - 201103842

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Approved by

NAME	DESIGNATION	SIGNATURE
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APPENDIX 1 - PROCEDURE FOR REFERRAL OF PLANNING APPLICATIONS FOR LOCAL DEVELOPMENTS TO COMMITTEE FOR DECISION

1.0 Purpose

- 1.1 This paper provides advice on the procedure to be followed for the Planning Committee to decide an application for planning permission which is otherwise delegated to officers for decision making under the Council's approved Scheme of Delegation for Planning Applications

2.0 Background to the Scheme of Delegation

2.1 STAGE 1

Where an Elected Member wishes an application which would otherwise be delegated, to be decided by the Planning Committee, the Member will complete the proposal form attached to this procedure note, forward it to the Director of Services to Communities, and send a copy to the Development Quality Team Leader. The form shall be received within 21 days of the date of validation of the application. Planning application details are available on Clacksweb, and assistance can also be obtained from the Development Quality Team. The Elected Member can seek advice from Legal Services on the reasons to refer the application for decision by Committee. These reasons, for example, might include unique or unexpected circumstances associated with the application site, an abnormal level of public/community interest, or a planning history of committee decision making in relation to the site or the proposal. Relevant planning policy or the planning merits of the proposal will not be regarded as a proper reason for a referral to Committee.

2.2 STAGE 2

The proposal to refer the application for decision by the Committee will then be considered by the Director of Services to Communities (or the Head of Community and Regulatory Services in the Director's absence). The Director will rely upon the information provided in the proposal form and contained in the planning application file.

2.3 STAGE 3A

Where the Director (or Head of Service) decides that the application is to be referred to the Planning Committee, the decision and reasons for it will be notified to the Member who submitted the proposal, the Convenor of the Planning Committee and the Development Quality Team Leader, who will arrange to serve Notice of the decision on the applicant in accordance with Section 43A(7) of the Act. The planning application will be scheduled for the first available planning committee meeting following completion of the assessment of the proposed development.

OR

STAGE 3B

In circumstances where the Director (or Head of Service) decides that there is insufficient reason to refer the application for decision by the Committee, this decision will be taken in consultation with the convenor of the Planning Committee. The decision will be notified to the Member who submitted the proposal and to the Development Quality Team Leader, who will arrange for the application to be decided by Appointed Officers under the Scheme of Delegation, **without prejudice to the right of any Elected Member to bring a related motion to Council for decision.**

- 2.4 The decision of the Director of Services to Communities (or the Head of Community and Regulatory Services in the Director's absence) will be final and will be the decision of the planning authority for the purposes of Section 43A(6) of the Planning etc (Scotland) Act 2006.
- 2.5 Notwithstanding the terms of the Scheme, occasions will occur where a case officer will encounter abnormal circumstances associated either with the proposed development itself, the particular location, or a measure of public/community interest that could not have been reasonably foreseen. In those circumstances, the existing arrangements which allow the officers to refer an application to Committee rather than it to be decided under the Scheme of Delegation will continue. To comply with Section 43A(7), the officer's reasons for referring the application for decision by the Committee will be notified to the applicant and a courtesy notification will also be given to the Convenor of the Planning Committee and Ward members for their information. The reasons for the referral of the application for decision by the Committee will be explained in any subsequent committee report.

PLANNING APPLICATIONS - SCHEME OF DELEGATION FOR LOCAL DEVELOPMENTS

PROPOSAL TO REFER APPLICATION TO THE PLANNING COMMITTEE FOR DECISION



Clackmannanshire Council

APPLICATION DETAILS

Reference Number

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Description of Development

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Location Address

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REASONS FOR REFERRAL OF APPLICATION TO COMMITTEE FOR DECISION

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Name:

Ward

Date:

DECISION

The reasons described above are sufficient/insufficient to refer this planning application to the Planning Committee for decision

Signed

Date:

Director of Services to Communities

APPENDIX 2

Planning Application Performance 2013-2014

	% of All Applications Decided in 2 Months	% of Householder Applications Decided in 2 Months	Average No of Weeks for Local Planning Application Decisions	Average No of Weeks for Householder Application Decisions
Apr - June	86.3	97.1	8.8	5.8
Jul - Sep	84.7	89.5	9.0	5.4
Oct - Dec	98.6	96.3	5.5	5.2
Jan - Mar	85.5	88.5	6.5	6.3