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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 8**

**11 November 2014**

#### **Cabinet**

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**Subject:** **Planning Controls, Pay Day Lending and Betting Offices - Scottish Government Consultation Paper on Changes to Planning Legislation**

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**Purpose:** To respond to the consultation from the Scottish Government.

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**Recommendation:** That the Cabinet (a) notes the content of the consultation response from North Ayrshire Council (Appendix 1); and (b) approves its submission to the Scottish Government.

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#### **1. Introduction**

- 1.1 The Scottish Government has issued a consultation paper on possible changes to the planning legislation in relation to pay day lending (PDL) and betting offices. The following report considers the matters raised by the consultation paper and sets out a recommended response.
- 1.2 The regulation of gambling and financial services is currently a reserved matter for the UK Government and Parliament. The Scottish Government and Parliament cannot at present legislate to regulate these matters directly to restrict the numbers of betting shops or premises selling payday loans, or regulate how these activities are conducted to address concerns about, for example, gambling addiction or excessive indebtedness. However, as described in its Action Plan of 8 August 2014, following the earlier Summit on Gambling and Pay Day Lending in Scotland's Town Centres and Neighbourhoods, the Scottish Government is taking steps within its current devolved powers to address concerns about these matters where it can.
- 1.3 This consultation implements the Scottish Government's commitment in the Action Plan to consult on changes to planning legislation. The planning issue relates to concerns about the negative impact of over provision or clustering of betting shops and pay day lenders on the character and amenity of town centres and shopping areas and the well-being of communities. The revised Scottish Planning Policy (SPP), published in June, recognised these concerns and the role of planning in addressing them.

- 1.4 The response to the consultation paper is required by the Scottish Government not later than 14 November 2014.

## **2. Current Position**

- 2.1 The Council currently has no planning powers to distinguish between any category of financial institution, professional or other service provided to members of the public. All of these uses are grouped together as "Class 2" in terms of the Town and Country Planning (Use Classes) (Scotland) Order 1997.
- 2.2 There are numerous existing Class 2 uses within our town centres. The Council does not have planning powers to prevent any business falling within Class 2 using premises currently or last used by another Class 2 user. For example, a betting office or pay day lender could use premises formerly occupied by a bank, solicitors or accountants office without the need to obtain planning permission.
- 2.3 When a retail shop closes down, planning permission is required for "change of use" to Class 2, as a change from Class 1. When considering an application for change of use, the Council is required to make decisions in accordance with the provisions of the development plan. Within North Ayrshire, the development plan comprises the adopted North Ayrshire Local Development Plan (LDP).
- 2.4 The town centre policies of the LDP fully support a wide range of uses in our town centres, including shops (Class 1), offices and financial services (Class 2) as well as a range of other uses such as restaurants (Class 3), public houses, amusement arcades, and flats.
- 2.5 If the Council receives an application for change of use from a Class 1 Shop to a Class 2 Office/financial service, it presently cannot take into account the type of financial service which the use would involve, as the Council is not assessing the applicant or their business practices, it is only assessing the use. Therefore, the Council cannot discriminate between a proposal being made for a bank, estate agent, solicitor, bookmaker, beauty salon, GP surgery, dental surgery, betting office or pay day lender - all of which are Class 2 uses. The Council can assess only if a Class 2 use would be acceptable at that particular location.
- 2.6 In terms of the LDP, town centre policies generally do not seek to exclude Class 2 uses. An application for Planning Permission to change the use of Class 1 retail shop to a Class 2 use would be considered in terms of Policy TC 1.2 of the LDP, which requires that (a) the proposed use would not undermine the retail function of the centre, (b) all reasonable steps have been taken to let or sell the property for retail purposes, and (c) no interest has been expressed at a similar rental level to other properties. It is considered that occupied business premises in town centres, which add to the vitality and viability of the centre, are preferable to empty shop units. Therefore an

application for a betting shops or pay day lender, which meets the criteria in Policy TC 1.2, would currently be supported.

- 2.7 The Scottish Government considers that the present scope of Class 2 is too broad and can lead to clusters of betting offices and pay day loan companies within town centres and neighbourhoods.
- 2.8 In order to provide Councils with planning powers to deal with the specific issues raised by pay day lenders and betting offices, the Scottish Government proposes to amend the Use Classes Order to enable consideration to be given to any proposals for new pay day lending offices and betting offices, which would prevent existing Class 2 premises being converted into pay day lenders or betting offices without planning permission. The consultation refers to the issues of 'over-provision' and 'clustering' of such uses. The Scottish Government believes that the introduction of such controls would assist the well-being of communities.
- 2.9 In the draft response to the consultation which has been prepared (see Appendix 1 to this report), it is considered that the proposed changes to the legislation would contribute to tackling the underlying problem of debt associated with pay day lending and betting offices, as part of a wider package of measures as described in the Government's Action Plan.
- 2.10 The response to the underlying problem is multifaceted and it is agreed that the introduction of planning controls, as part of a wider package of measures as described in the Government's Action Plan, would address the core issues of poverty and debt which have fuelled the growth of pay day lending and betting offices in recent years.
- 2.11 However, clarity of the definition of PDL premises and similar uses is required. In addition the amendment should also clarify the terms such as "over-provision" and "clustering" to reduce possible challenges at appeal since this may involve an arbitrary judgement over supply and demand.

### **3. Proposals**

- 3.1 The Cabinet is requested to (a) note the content of the consultation response from North Ayrshire Council (Appendix 1); and (b) approve its submission to the Scottish Government.

#### **4. Implications**

##### Financial Implications

- 4.1 The proposed changes to the legislation may generate fee income for the Council of £401 per application.

##### Human Resource Implications

- 4.2 The additional workload would be met by staff within Planning Services.

##### Legal Implications

- 4.3 N/A

##### Equality Implications

- 4.4 None.

##### Environmental and Sustainability Implications

- 4.5 N/A

##### Implications for Key Priorities

- 4.6 N/A

#### **5. Consultations**

- 5.1 None undertaken.

## **6. Conclusion**

- 6.1 The proposed changes to the planning legislation indicated in the consultation paper would introduce a new range of controls on betting offices and pay day lending shops, the aim of which is to reduce over-provision and clustering of such uses in town centres and neighbourhoods. As part of a wider package of measures as described in the Government's Action Plan, the measures are welcomed to address the concerns which have been expressed in recent years about the levels of problem gambling and personal indebtedness and the prevalence of betting shops and premises selling high interest short term loans.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Reference : AH

For further information please contact Mr Anthony Hume, Senior  
Development Management Officer on 01294 324318

### **Background Papers**

1. 'Planning Controls, Pay Day Lending and Betting Offices - Scottish Government Consultation Paper on Changes to Planning Legislation,' Planning & Architecture Division, Scottish Government-August 2014.