

# **Glasgow and the Clyde Valley Strategic Development Planning Authority**

**To: Glasgow and the Clyde Valley Strategic Development Planning Authority  
Joint Committee**

**On: 11<sup>th</sup> December 2017**

**Report by  
Stuart Tait, Manager**

## **Clydeplan Strategic Development Plan (July 2017) - Appeal to Court of Session**

### **1. Summary**

- 1.1 The purpose of this report is to update the Joint Committee on matters relating to the appeal by Gladman Developments Limited against the Scottish Ministers' decision to approve the Clydeplan Strategic Development Plan (July 2017).

### **2. Recommendation**

- 2.1 It is recommended that the Joint Committee
- note that an appeal has been lodged against the Scottish Ministers decision to approve the Clydeplan Strategic Development Plan (July 2017);
  - agree to support the Scottish Government in their defence of this appeal;
  - note the appointment of legal Counsel for Clydeplan and,
  - agree a report on the progress of the appeal through the Court of Session be presented to future Joint Committee meetings.

### **3. Appeal**

- 3.1 The appeal was lodged at the Court of Session on Thursday 26<sup>th</sup> October 2017 with Clydeplan's citation being served on Friday 3<sup>rd</sup> November 2017. The citation was circulated to Joint Committee members by email on 3<sup>rd</sup> November 2017.
- 3.2 The appeal is against the Scottish Ministers with Clydeplan cited as an *'interested body'*.
- 3.3 The appeal sets out 6 questions of law for the opinion of the court, namely;
- did the Scottish Ministers act outwith their powers under the Town and Country Planning (Scotland) Act 1997?
  - did the Scottish Ministers act unreasonably, perversely and irrationally in approving Clydeplan?
  - did the Scottish Ministers fail to give proper, adequate and intelligible reasons for their decision?

- in approving Clydeplan, did the Scottish Ministers err in law?
- were the Scottish Ministers materially misled?
- should Clydeplan be quashed?

- 3.4 In the context of the above questions having discussed the matter with the Joint Committee's Convenor and Vice Convenor along with the Chair of the Steering Group and Renfrewshire Council's Managing Solicitor (Litigation and Advice) formal legal Junior Counsel has been instructed and Answers to these questions of law were submitted on 24<sup>th</sup> November.
- 3.5 The estimated timescales for the appeal to be heard and a decision made by the Court are uncertain at this stage but advice from legal colleagues is that the process could potentially take up to a year.
- 3.6 On 30<sup>th</sup> November the Scottish Ministers were granted a motion at the Court of Session for the urgent disposal of the appeal and hearing dates of 6<sup>th</sup> and 7<sup>th</sup> February have been set aside by the Court of Session to hear the appeal.
- 3.7 At this stage it is difficult to give an indication of the cost of the appeal but it is considered there are sufficient funds in the Joint Committees 'earmarked balances' to cover any cost. In the event of the appeal being dismissed it would be anticipated that the recovery of costs would be sought.
- 3.8 Though the status of the SDP as published remains unchanged by this appeal there will be knock on issues for individual local authorities to consider in terms of progressing with Local Development Plans, Local Housing Strategies, planning applications and appeals.