



To: Planning and Property Policy Board
On: 25 August 2015

Report by: Director of Development and Housing Services

**Heading: Update on Statutory Appeals & Judicial Review – Renfrewshire
Local Development Plan and Braehead Planning Application**

1. Summary

1.1. This report seeks to update the Board on statutory appeals lodged with the Court of Session challenging the validity of the Adopted Renfrewshire Local Development Plan (LDP) and the outcome of the Judicial Review of the planning consent granted for Braehead.

2. Recommendations

2.1 It is recommended that the Board:

- (i) Notes the update in relation to the Statutory Appeals and Judicial Review submitted to the Court of Session.
 - (ii) Notes the effect of the ruling of the Court of Session on the Adopted Renfrewshire Local Development Plan and the consent issued in relation to Application 13/0049/PP.
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3. Statutory Appeals – Local Development Plan

3.1. On 11 November 2014 the Planning and Property Policy Board agreed to defend statutory appeals in relation to the Renfrewshire Local Development Plan which were lodged in the Court of Session by the following parties:

- (i) Retail Property Holdings Limited (“RPHL”), owners of Silverburn Shopping Centre. This appeal related to Braehead’s Town Centre status in the Local Development Plan; and
 - (ii) Mr Stuart McGregor. This appeal relates to needs of Gypsies and Travellers.
- 3.2. The appeal by RPHL in relation to Braehead being designated as a Town Centre was heard in the Court of Session from 23 to 25 June 2015. Submissions were made by RPHL, the Council, the Scottish Government and Intu Properties PLC (owners of Braehead).
- 3.3 The appeal was allowed and the sections in the Local Development Plan that refer to Braehead as a Town Centre have been quashed by the Court. The consequence of this is that certain parts of the Local Development Plan have been deleted from the Plan.
- 3.4 Under current Planning legislation an Adopted Local Development Plan cannot be amended by a Council in light of the Court’s ruling. The Local Development Plan is therefore partially quashed and will remain in that format until a fresh Local Development Plan is brought forward in accordance with the legislation.
- 3.5 The written reasons for the Court’s decision are still awaited but Appendix 1 is a copy of the Court’s order and Appendix 2 provides details to the Board on the effect of the Court’s ruling on the Adopted Local Development Plan.
- 3.6 The appeal by Mr Stuart McGregor, in relation to the needs of Gypsies and Travellers in the LDP is currently temporarily sisted. Dates for a full hearing in this appeal have not yet been fixed.

4 Judicial Review – Braehead Planning Consent

- 4.1 Separately from their appeal against the Local Development Plan, a petition for Judicial Review of the Council’s decision to grant planning permission in principle (13/0049/PP) for the development at Braehead was also lodged in the Court of Session by RPHL.
- 4.2 The petition for Judicial Review was timetabled to be heard in the Court of Session on 7, 8 and 9 July 2015. However, after taking advice of Senior Counsel following the judgement by the Court which quashed Braehead’s Town Centre status in the Local Development Plan, it was considered unadvisable to proceed to defend the petition for Judicial Review of Braehead’s planning consent.
- 4.3 As such the petition for Judicial Review was unopposed by both the Council and Intu Properties PLC. No expenses were due to or by the Council in relation to conceding this petition.
- 4.4 The effect of conceding the petition for Judicial Review is that the approved planning consent no longer stands. It is as though the Board did not reach a

decision on the planning application. The planning application is 'revived' and requires to be determined afresh. When reaching a decision on the application, account will require to be taken of the change in circumstances following the quashing of the part of Local Development Plan that related to Braehead's Town Centre status.

- 4.5 The concession of the petition for Judicial Review does not alter the Council's support for Braehead achieving Town Centre status in the future, nor its support for Braehead's further evolution and development as a Strategic Centre.

5 Next Steps

- 5.1 In relation to the Local Development Plan, the Court's written reasons for its decision in the RPHL appeal against the Local Development Plan is awaited. An appeal from a decision of the Court of Session in this appeal can be made to the Supreme Court of the United Kingdom. Once the Court's written reasons for its decision are received, Senior Counsel's opinion will be sought on the prospects of success in appealing to the Supreme Court.
- 5.2 The Renfrewshire Local Development Plan remains the adopted plan against which all planning applications will continue to be assessed and determined. The Court's decision in RPHL's appeal against the Local Development Plan will be a material consideration when considering planning proposals and applications in and around Braehead centre.
- 5.3 The Board should also note that an opportunity to review the status for Braehead will be available through the Glasgow & Clyde Valley Strategic Development Plan, now known as "*Clydeplan*", which will reach its Proposed Plan stage in January 2016.
- 5.4 The Board will be kept up to date with the progress on the remaining statutory appeal from Mr McGregor through further reports.

Implications of the Report

1. **Financial** – None
2. **HR & Organisational Development** – None
3. **Community Planning** –

Jobs and Economy – The LDP is a key document in establishing a land use framework for supporting, encouraging and delivering economic development in Renfrewshire through investment and are regeneration.

4. **Legal** - The nature of the challenges are as detailed in the report.

5. **Property/Assets** – None.
 6. **Information Technology** - None
 7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
 8. **Health & Safety** – None
 9. **Procurement** – None
 10. **Risk** – None
 11. **Privacy Impact** – None
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List of Background Papers

- (a) None
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Author The contact officer within the service is Sharon Marklow, Assistant Manager (Policy), 0141 618 7835, email: Sharon.marklow@renfrewshire.gov.uk

Edinburgh 25 June 2015

Lord Eassie

Lord Menzies

Lord Malcolm

Act: Martin QC., Burnet

Alt: Mure Q.C. first respondents

Findlay second respondents

Thompson QC, Smith Interested Party

The Lords, having heard counsel on the Summar Roll, on the unopposed motion of the Interested Party, allow the inventory of productions for the Interested Party, no.24 of process, to be received late; Thereafter, having heard submissions, for the reasons to be given in writing at a later date, allow the appeal, quash in part the Renfrewshire Local Development Plan 2014 adopted by Renfrewshire Council on 28 August, 2014 insofar as it designates Braehead centre as a "town centre" and accordingly direct that the passages in the said Plan detailed in the appendix to this interlocutor shall be treated as delete; Continue the appeal on all question of expenses until after the opinion or opinions are available.

APPENDIX

The provisions of the Renfrewshire Local Development Plan 2014 specified in the table below shall be held to be delete:

Page n°	Location of the provision on the page	Text to be deleted
[11]	In Figure 9, in the entry for "Old Govan Road, Braehead" and in the right-hand paragraph (under the column headed at the top "Opportunities")	The word "Town" where it appears in each of the fourth and sixth lines respectively
[14]	In the leftmost column, under the subheading "Strategic Centres" occurring below the heading "Renfrewshire's Network of Centres"	The word "Town", appearing between "Strategic " and "Centres" in the second line
[14]	In the first paragraph to be found under the heading "Clyde Riverside – Braehead, Renfrew, Erskine, Bishopton", located in the second column from the left	The first and fourth sentences
[14]	In the final sentence of the third paragraph under the heading referred to in the preceding entry in this table (located in the third column from the left)	The word "its", where it first occurs, and thereafter the words "to reflect its Identification as a new town centre in Renfrewshire"
[16]	Figure 11: in the leftmost column, under the heading "Strategic Centres"	The word "Town", where it appears between "Braehead" and "Centre"
[16]	Figure 11: in the third column of text from the left (under the column "Challenges/Opportunities") in the paragraph laterally appropriated to the entry for Braehead , referred to in the immediately preceding entry	The word "the", occurring in the first sentence
{16}	Figure 11: in the far right hand	The word "Town", occurring

	column, at the foot of the page, in the paragraph appropriated to "Braehead Retail Park"	between "Braehead" and "Centre" in the first line
[17]	Figure 12: in the key to the plan constituting the figure	The word "Town" in the three entries in the key in which it occurs.
[5]	Figure 4: Spatial Strategy	As applied to the location "Braehead" at the right hand side of the figure, the circular icon or symbol which is defined in the Key to the figure as "Strategic Town Centre"

Following Court of Session Judgement



Renfrewshire Local Development Plan

November 2014

Town Centres are always in a state of evolution and their role and function has changed throughout the years. It is recognised that the current retailing trends will change our centres forever.

The strengthening of the vitality and viability of Renfrewshire's centres requires the channelling of investment to allow a diverse range of activities and uses to develop. The LDP will support existing and encourage new uses which contribute positively to the economic and cultural life of centres as well as improving the quality of offer, creating sustainable mixed communities and reducing the need to travel.

Encouraging a day and evening economy by creating vibrant and safe places will be an important consideration for all new developments. Well designed quality spaces, public realm and sustainable access will also be key to improving the economic potential as well as the environment of Renfrewshire's centres.

Renfrewshire's Network of Centres

Centres have evolved and changed over the years with each of Renfrewshire's centres providing a complementary role and function within the network. (See Figure 10 and Figure 11)

Renfrewshire's Network of Centres comprises of a mix of:

- **Strategic Centres**

The Network of Centres can be viewed as hierarchical. The Strategic ~~Town~~ Centres sit at the top of this hierarchy and have a significant role that extends to the whole of or beyond the boundaries of Renfrewshire. These centres provide an appropriate mix of activities and fulfil a strategic role as a retail location, or cultural and civic centre.

- **Core Town Centres**

Renfrewshire's Core Town Centres provide an important supporting role. Core Centres serve towns of significant size and provide local services for neighbouring settlements. They provide a mix of retail offer, commercial, leisure, civic and community services, which are important to Renfrewshire's places and the overall strength of the network.

- **Local Service Centres**

Local Service Centres perform a vital role in supporting many local communities within Renfrewshire. These centres have more localised catchment areas providing a range of goods and local services.

- **Commercial Centres**

These centres provide for retail development that typically cannot be located within town centres. They have a different and more specialised range of uses, physical structure, character and sense of place than the other network centres. Each centre provides a complementary role and function which together adds to the strength and diverse mix of uses within the network.

Spatial distribution of Renfrewshire's Network of Centres

To help explain the function of the network it has been split into 3 geographic clusters based on the linkages that exist between centres and the complementary uses that they share.

Clyde Riverside - Braehead, Renfrew, Erskine, Bishopston

The LDP recognises Braehead as a town centre. Braehead is identified in the SDP as a Strategic Centre however Scottish Planning Policy does make a distinction between town centres and other centres. The SDP seeks the development of a masterplan for the regeneration of the centre and wider area, as Braehead is central to the Clyde Waterfront regeneration initiative and the emerging community of Renfrew North. ~~The Council recognises that to secure this regeneration the policy backing of town centre status is very important.~~ The implication of this status would be to allow further retail development but the LDP will only support such expansion where it furthers the town centre status and character of Braehead. There is a need for Braehead as a place to develop a town centre rather than a shopping mall character and this must have a bearing on all proposals that emerge in the future.

Braehead has a particular role in Renfrewshire's network of centres. It is the main centre for comparison goods retailing in the area. As the role of Paisley, the traditional retail centre, changes within this network so Braehead

fulfils this function. In doing so Braehead therefore retains significant retail employment opportunities in Renfrewshire and retains retail expenditure within the area that might otherwise be met in further afield locations. Braehead benefits from being under single ownership and remains the only centre within Renfrewshire which has enough flexibility in its built fabric to accommodate future retailing trends.

It is important that Braehead does not provide local scale service and community uses. These are catered for in nearby Renfrew Town Centre. Development of Braehead should not impact on this role for Renfrew as a Core Town Centre, providing local civic and community services for Renfrew and the neighbouring settlements. There is a need for Braehead to continue to develop ~~its town centre character, to reflect its identification as a new town centre in Renfrewshire.~~

The LDP establishes a framework for a masterplan for Braehead, set out in Figure 12. This spatial strategy connects Braehead to its adjacent communities, improves accessibility around and through the centre, enhances its commercial and business functions and delivers substantive enhancements to its public realm. All of this should aim to meet an overall objective of creating a modern and exemplary town centre environment.

Renfrew Town Centre is the main local civic centre serving the Clyde Riverside area. It is an important local retail, leisure and commercial centre providing local community services for Renfrew and the neighbouring settlements. In recent years Renfrew Town Centre has seen the completion of major public realm and shopfront enhancement works. This has greatly benefited the quality of the environment of the centre helping to retain existing uses and promote new uses and development.

Erskine Town Centre is a retail, leisure and commercial centre serving Erskine, Bishopston and Inchinnan. The centre performs well and has experienced few or no vacancies in recent years; however, the role and function of the town centre could be strengthened, creating a place with a range and quality of facilities. The overall quality of the town centres' public spaces and linkages to the waterfront and the town's residential areas also require improvement to help it achieve a sustainable future.

Bishopston Local Service Centre provides local convenience retail, commercial and community uses. Residents however do make use of the services on offer within Erskine Town Centre. Bishopston has developed in a sporadic manner and lacks a focal point within the settlement. The development of Dargavel Village on the former Royal Ordnance Factory site provides an opportunity to strengthen the offer within the settlement and to develop a hub for retail and community uses.

Paisley Area - Paisley Town Centre, West End, East End, Neilston Road

Paisley Town Centre sits alongside Braehead at the top of the hierarchy of centres being the main civic and cultural hub within Renfrewshire. The centre offers a diverse mix of uses and a high level of attraction and accessibility. The centre provides a focus for business, community, leisure, heritage and educational uses and provides an attractive setting to live, work and visit.

While Paisley Town Centre has a rich mix of attributes its role is changing. Retail remains important to the future of the centre, however, this will focus more on convenience retailing and independent and local retailers. As the comparison retail offer contracts the strategy is to build on its strengths as a transport hub and a centre for community, cultural heritage, leisure, education and residential functions. Paisley Town Centre has a range of assets which are unique within Renfrewshire and are vital in supporting the overall strength of the Network of Centres. The spatial strategy for the centre is presented in Figure 13 showing a more concentrated retail area, with improvements to accessibility and circulation in and around the centre by potential enhancements to pedestrian, cycle and vehicular networks and the enhancement of attractions as well as heritage and cultural assets.

Paisley Town Centre is supported by the West End, East End and Neilston Road Local Service Centres. These centres fulfil an important role in supporting the local population providing retail and commercial uses which add to the range and choice of uses available in the Paisley area.

West Renfrewshire - Johnstone, Linwood, Bridge of Weir and Lochwinnoch

The West Renfrewshire area is well served by a mix of town, local service and village centres which relate to and reinforce each other's role and function.

Johnstone Town Centre is the largest and most diverse centre within West Renfrewshire. In addition to its local retail offer, it is a civic and commercial centre providing local community services for West Renfrewshire.

Johnstone Town Centre, in common with other similar sized centres faces a number of challenges. Importantly, it needs to continue to refresh and improve its offer to ensure that it retains a competitive edge and remains the service centre for the wider West Renfrewshire area. The Council are making a significant investment in Johnstone Town Centre, delivering a new town hall for Johnstone to be opened in 2015. This will be a catalyst for further development opportunities.

Linwood (on completion of planned redevelopment), Bridge of Weir and Lochwinnoch Local Service Centres provide convenience retail, commercial and local community uses to meet local demand. Proposals to redevelop Linwood will result in dramatic improvements in terms of the vitality and viability of this centre. This centre will play an important role in the provision and choice of convenience retailing in West Renfrewshire and will attract shoppers from the neighbouring settlements.

Bridge of Weir's centre provides a diverse mix of specialist independent convenience and comparison retailers, as well as local commercial uses that contribute to and meet the needs of Bridge of Weir and the neighbouring villages.

Lochwinnoch, due to its location, doesn't perform the same complementary role as the other centres within West Renfrewshire, although specialist uses within the village may attract visitors from the wider area. This centre is essentially independent providing local services for the village.

Although not included in the network of centres other villages within West Renfrewshire do offer complementary uses which add to the strength and diverse mix of uses within the network in this area. These villages do not form part of the network as often the settlement and its centre are very small, or the shops and services are dispersed throughout the settlement in such a way that they do not take the form of a centre.

Commercial Centres – Linwood Phoenix, Abbotsinch Retail Park, Braehead Retail Park

Within the Phoenix Commercial Centre and the Braehead Commercial Centre, there may be opportunities for some ancillary and / or enabling commercial development to complement the existing uses.

Renfrewshire's Commercial Centres will continue to reinforce the role and function of the Strategic Centres and Core Town Centres within the network and support will not be given to developments which could adversely impact upon the role and function of any other Network Centre, particularly the Strategic Centres.

Blythswood Retail Park is identified as a Transition Area in the LDP. The retail park is in a marginal retail location and has struggled to attract retailers since the loss of key anchor stores a number of years ago. A more flexible policy approach to allow for a greater mix of uses will help stimulate investment and improve the vibrancy of this area.

Figure 10 - Renfrewshire Network of Centres

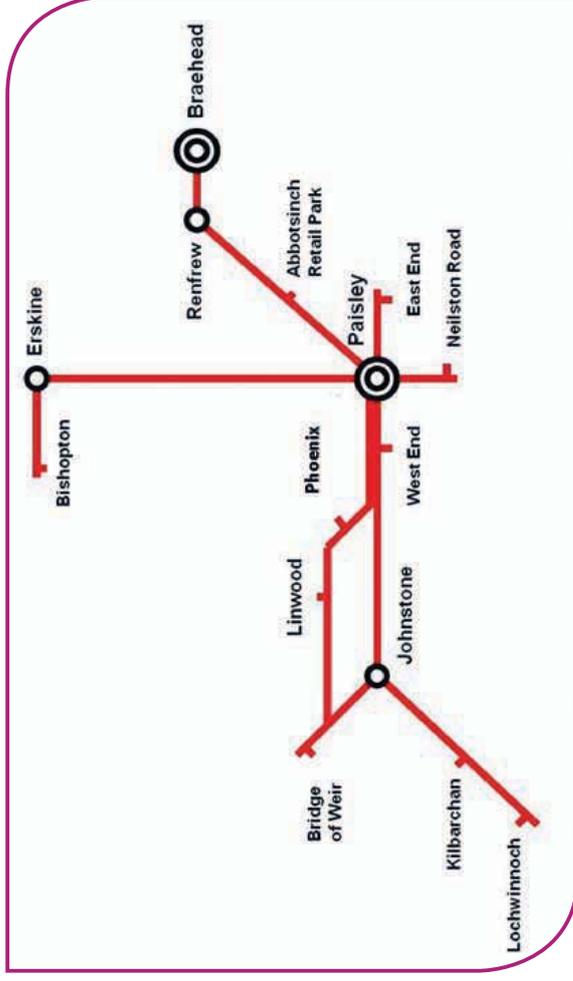


Figure 11 - Renfrewshire Network of Centres Role & Function

Centre	Role and Function	Challenges/Opportunities
Strategic Centres		
Paisley Town Centre	Renfrewshire's main civic and cultural centre. Offers the most diverse mix of uses and attributes providing a hub for transport, retail, business, community, leisure, heritage, health and educational uses.	Area regeneration and diversification as the retail offer contracts - reinforce community role, residential development and promote university and heritage areas. Improving circulation and access by enhancing the pedestrian, cycle and vehicular network.
Braehead Town Centre	Principal retail centre within Renfrewshire with strong supporting leisure, commercial, and business uses.	To develop the town centre character, creating a sense of place and increasing connectivity between Braehead and Renfrew while developing a hub for public transport. Significant opportunity for development of town centre uses that will continue to stimulate and complete the wider Clyde Waterfront regeneration.
Core Town Centres		
Renfrew Town Centre	Local retail, civic, leisure and commercial centre providing local community services for Renfrew and neighbouring settlements.	Opportunities to have better linkages and connections to Braehead for a range of uses and transport functions. Continue to strengthen and refresh the offer within the town centre to maintain its vitality and viability.
Johnstone Town Centre	Local retail, civic and commercial centre providing local community services for West Renfrewshire.	Opportunity to deliver regeneration - integrate new civic hub with existing role and function, improve public realm and encourage complementary uses within the town centre. Encourage residential regeneration into the town centre.
Erskine Town Centre	Local retail, leisure and commercial centre providing local community services for Erskine, Bishopston and Inchinnan.	Strengthen the role and function of the town centre, creating a place with a range and quality of facilities appropriate for a town of its size. Opportunity to improve overall quality of the town centres' public spaces and linkages to the waterfront. There is a need to demonstrate that development does not have an adverse effect on the integrity of the Inner Clyde SPA.
Local Service Centres		
Linwood	On completion of planned redevelopment, the centre will provide convenience retail, commercial and local community uses to meet local demand.	Deliver regeneration of the centre to significantly improve public realm and the range and quality of uses (primarily retail offer).
Commercial Centres		
Phoenix	Out of town retail and commercial centre.	Continue to ensure that buildings and built environment modernise and evolve to facilitate a range of commercial and retail uses appropriate in this location. Ensure centre continues to support the network and there is no significant impact on town centres.
Abbotsinch	Out of town retail centre.	A flexible approach to accommodate an appropriate range and choice of retail offer within centre to maintain an attractive and viable retail location. Ensure centre continues to support network and there is no significant impact on town centres.
Blythswood	Transition area.	Manage the change of Blythswood Retail Park from an out of town retail location to a mixed use transition area.
Braehead Retail Park	Edge of Centre Retail and Commercial Location.	Improve linkages with Braehead Town Centre and promote remaining development sites to improve range of commercial and retail offer appropriate in this location. Ensure centre continues to support network and there is no significant impact on town centres.
Challenges/Opportunities		
Bridge of Weir	Local convenience retail, commercial and community village centre.	Improvements in public realm as well as development of gap sites with appropriate uses to strengthen the quality of the centres' environment. Opportunity to strengthen local convenience retail offer within the village.
Bishopston	Local convenience retail, commercial and community village centre.	Protection and enhancement of village centre to support existing services.
Dargavel at ROF Bishopston	Local convenience retail, commercial and community village centre.	Opportunity to strengthen the offer within the settlement and develop a hub for retail, community and other complementary uses.
Lochwinnoch	Local convenience retail, commercial and community village centre.	Protection and enhancement of physical fabric of buildings and surrounding areas to support the existing services within the village.
Paisley West End	Local retail and commercial service centre.	Improve offer which would include a range of uses and reduce vacancy rate within the centre - improvements to the quality of the environment and area regeneration.
Paisley East End	Local retail and commercial service centre.	A flexible approach to development in this area to encourage other complementary uses in and around the centre.
Neilston Road	Local retail and commercial service centre.	Develop and refresh offer as well as extend area of the centre to build upon the diversification of the centre.

FIGURE 12 - Braehead

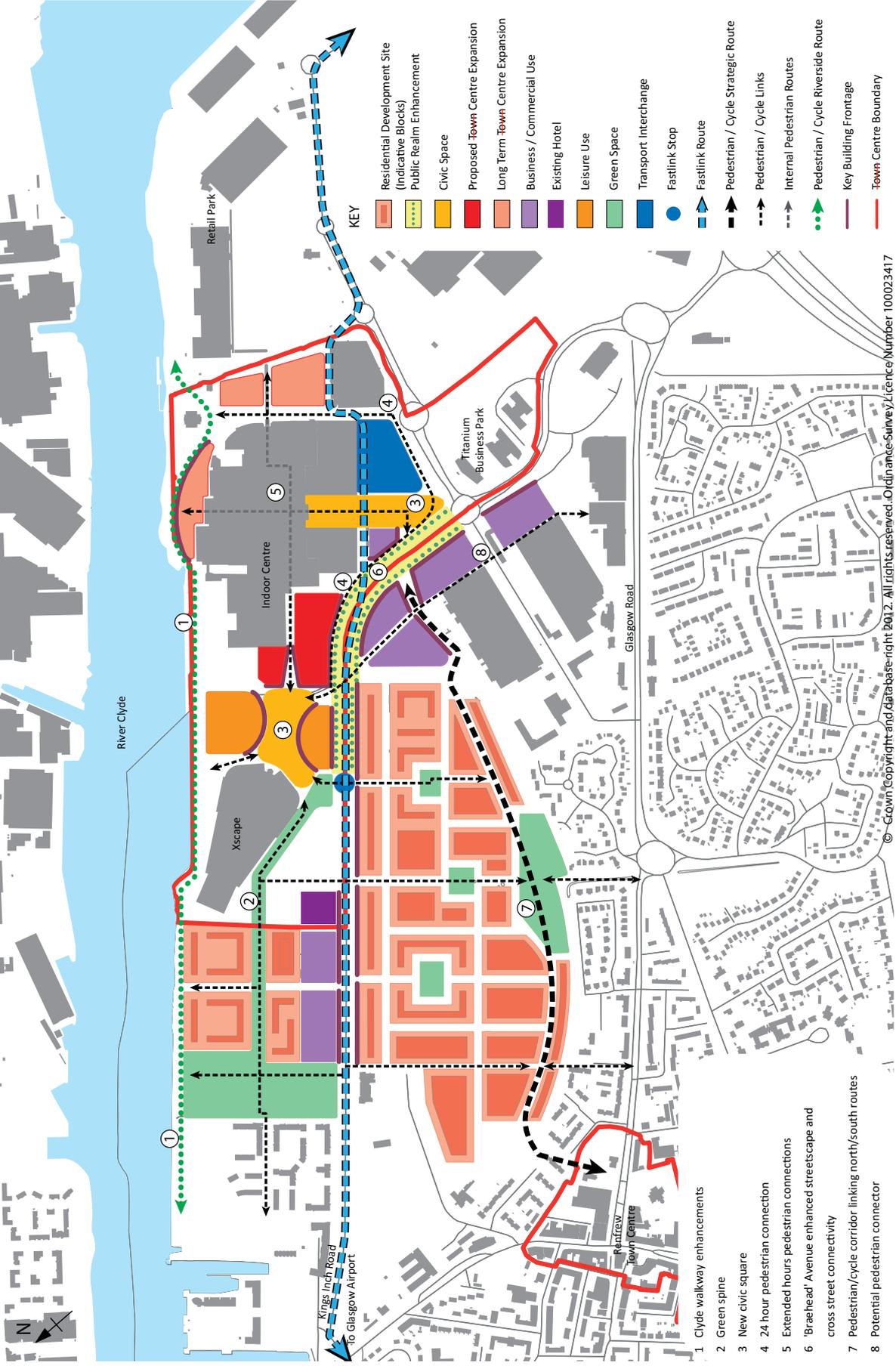
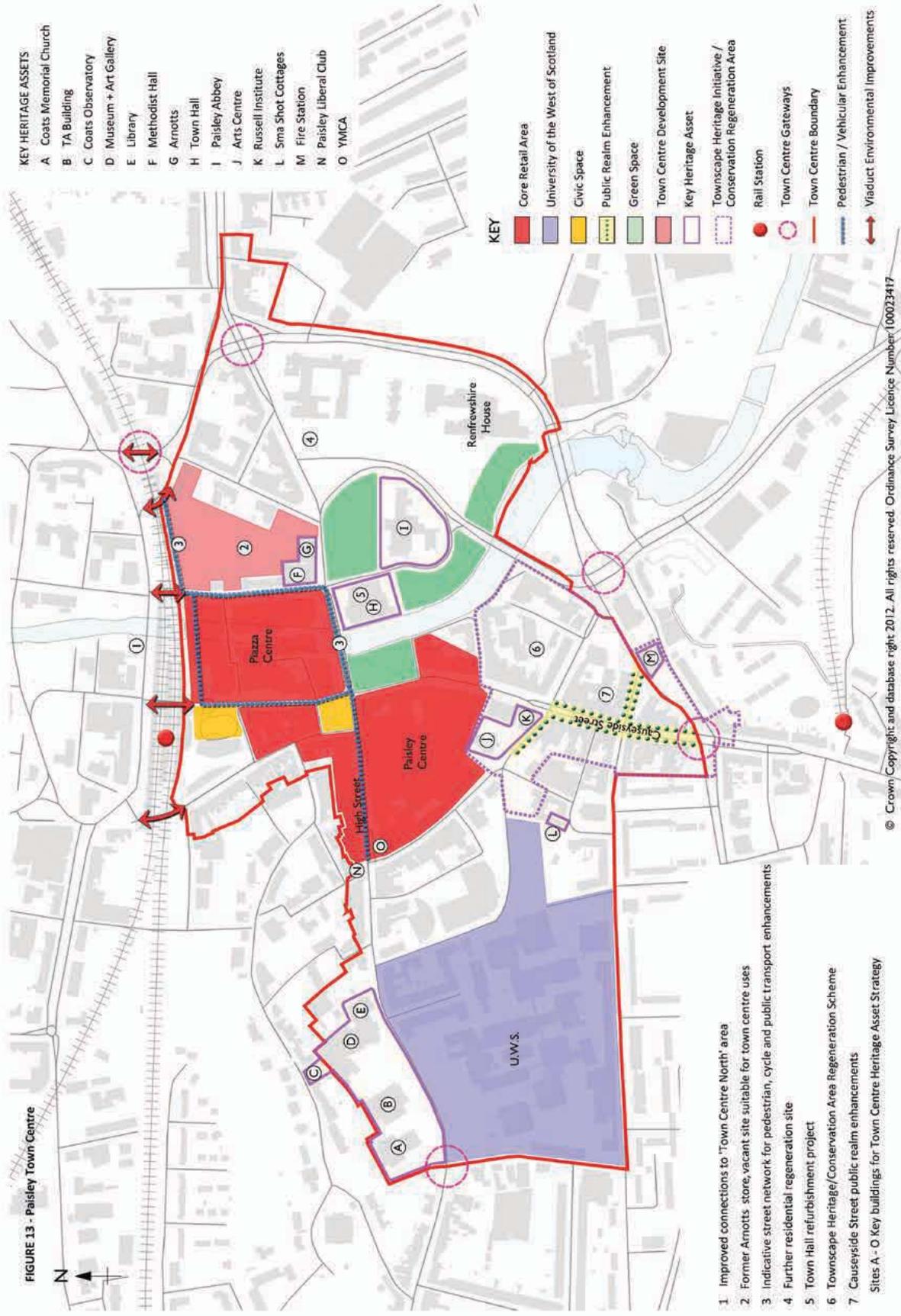


FIGURE 13 - Paisley Town Centre



POLICY C1 - Renfrewshire Network of Centres

Each of the centres in Renfrewshire form part of a diverse, interconnected network of places to live, shop, work, enjoy entertainment, leisure and cultural activities and gain access to important transport connections. The Council welcomes development that will strengthen the network and enhance its centres, ensuring they are places which are vibrant, inclusive, accessible and complementary, as well as compatible with surrounding land uses. All proposals will be considered in line with the hierarchy and role and function of centres detailed in Figure 11 and against the development criteria set out within the New Development SG.

POLICY C2 - Development Outwith the Network of Centres

Proposals for retail and commercial developments out with the network of centres require to demonstrate that the following has been considered and that the location is appropriate for the use/development. Proposals out with the network of centres should:

- Provide clear justification as to why sites within the network of centres have been discounted, demonstrating a sequential approach has been undertaken to site selection;
- Demonstrate that the development will contribute to the area without significantly impacting on the vitality and viability of the centres within the defined network;
- Demonstrate that proposals are of an appropriate scale and do not significantly impact upon the function, character and amenity of the surrounding area; and
- Demonstrate that the development would tackle deficiencies in qualitative or quantitative terms that cannot be met in the network of centres.

All development proposals will be assessed against the relevant criteria detailed in the New Development SG.



LDP Objectives

- The regeneration and evolution of the Strategic Development Plan strategic centres and other town and village centres as places of municipal, commercial and community value
- An enhancement in the natural and built heritage environment of Renfrewshire in support of the health of its communities, attractiveness of its places and setting for economic recovery
- Regeneration and renewal of existing urban areas as energy efficient, healthy and safe places

Programme of Delivery

The spatial strategy will be implemented through a number of key actions including:

- Work in partnership to develop Centre Strategies, Action Plans and Management Plans for centres to strengthen the role, function and diversification of uses within Renfrewshire's Network of Centres
- Continue to promote and develop initiatives such as Paisley Townscape Heritage Initiative to help building restoration and enhance public realm as well as leveraging in additional resources for investment
- Continue to develop initiatives targeted at promoting improvements to frontages and the fabric of our centres
- Develop more partnership approaches to tackling priority stalled sites and buildings such as joint venture arrangements, leveraging in more resources and skills to implement projects and proposals

(Please refer to the LDP Action Programme for full implementation and delivery details)