

Issues with P&R officer report

The Helensburgh waterfront consultation

Issues raised by HCC about the Officer Report

1. Misrepresentation of consultation outcome
2. Common Good status mischaracterised
3. Predetermination concerns
4. Misrepresentation of the JR outcome
5. No Analysis of Duty
6. Misleading Financial Assertions
7. Financial implications re historic CG revenue
8. Children's Rights and Wellbeing
9. Misrepresentation of Retail Impact
10. Masterplan presented as binding & consistent

1. Misrepresentation of consultation outcome

94.8% does not
equal “largely
oppose”

No analysis of
the reasons for
opposition

2. Common Good status mischaracterised

- **“It is considered that the site does not require the consent of the Court...it being considered to now have the character of CG, but of the **alienable** type.”**
- Report contains:
 - No title analysis
 - No legal opinion
 - No timeline of historical usage

3. Predetermination concerns

- Disposal and the proposed development is assumed to be appropriate
- Report uses phrases such as:
 - “final phase” of the Masterplan
 - The proposal will “support the town centre”

4. Misrepresentation of the JR outcome

- **“The Court of session found in the Council’s favour...confirming that the Council had robust processes”**
- But the JR did not consider:
 - Common Good status
 - Section 104 consultation duties
 - Fiduciary obligations
 - Disposal tests under the Common Good Act
- Lord Erich’s judgement explicitly stated that the land was not Common Good, and that this was a material factor in his decision that it was a commercial transaction

5. No Analysis of Fiduciary Duty

- Existing case law says the Council must act “**in the best interests of the inhabitants of the former Burgh**”
- The report:
 - Focuses almost entirely on the financial benefit of selling the land
 - No analysis of how selling the land aligns with those interests
 - How ignoring 94.8% satisfies fiduciary obligations

6. Misleading Financial Assertions

- **“Potential capital receipt of up to £1.3M...subject to deduction of abnormal costs”** with no quantification
- **“The Council has historically proceeded on the basis that a capital receipt would be received as a ‘contribution’ to the cost of the new Leisure Centre...”**
- But
 - “Historical” practice is not a lawful justification
 - Either:
 - The leisure centre is a Council asset. CG capital cannot be used to subsidise statutory services or Council capital projects
 - If it is used, then the leisure centre is partly CG. In which case revenue partially - > CG fund
 - or
 - It is a CG asset because it is built on CG land. In which case revenue -> CG fund

7. Financial implications re historic CG revenue

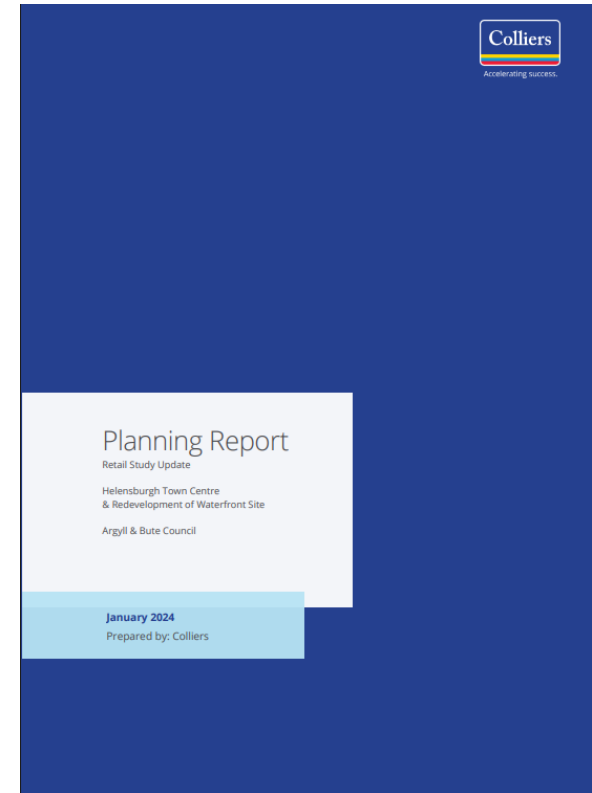
- Parking and event hire on the waterfront are CG revenue
- Community Empowerment Act 2015 must be applied
- But the report has no mention of:
 - How much historic revenue
 - Financial implications for Council budgets
 - Disposal would require:
 - Creation of a CG capital account
 - Transfer of historic revenue
 - Publication of accounts

8. Children's Rights and Wellbeing

- **“The previous community engagement process included the views of local schools and officers have also engaged with the skatepark group to achieve the best outcome.”**
- But
 - Engagement must involve children directly
 - Skatepark group's position not accurately represented:
 - They consistently wanted a larger site
 - The supermarket footprint prevents that
 - Their preferences have not been included.
 - Cove Park's film-making programme this summer demonstrated young participants' objection to a supermarket
 - No consideration of the impact of not providing additional leisure space

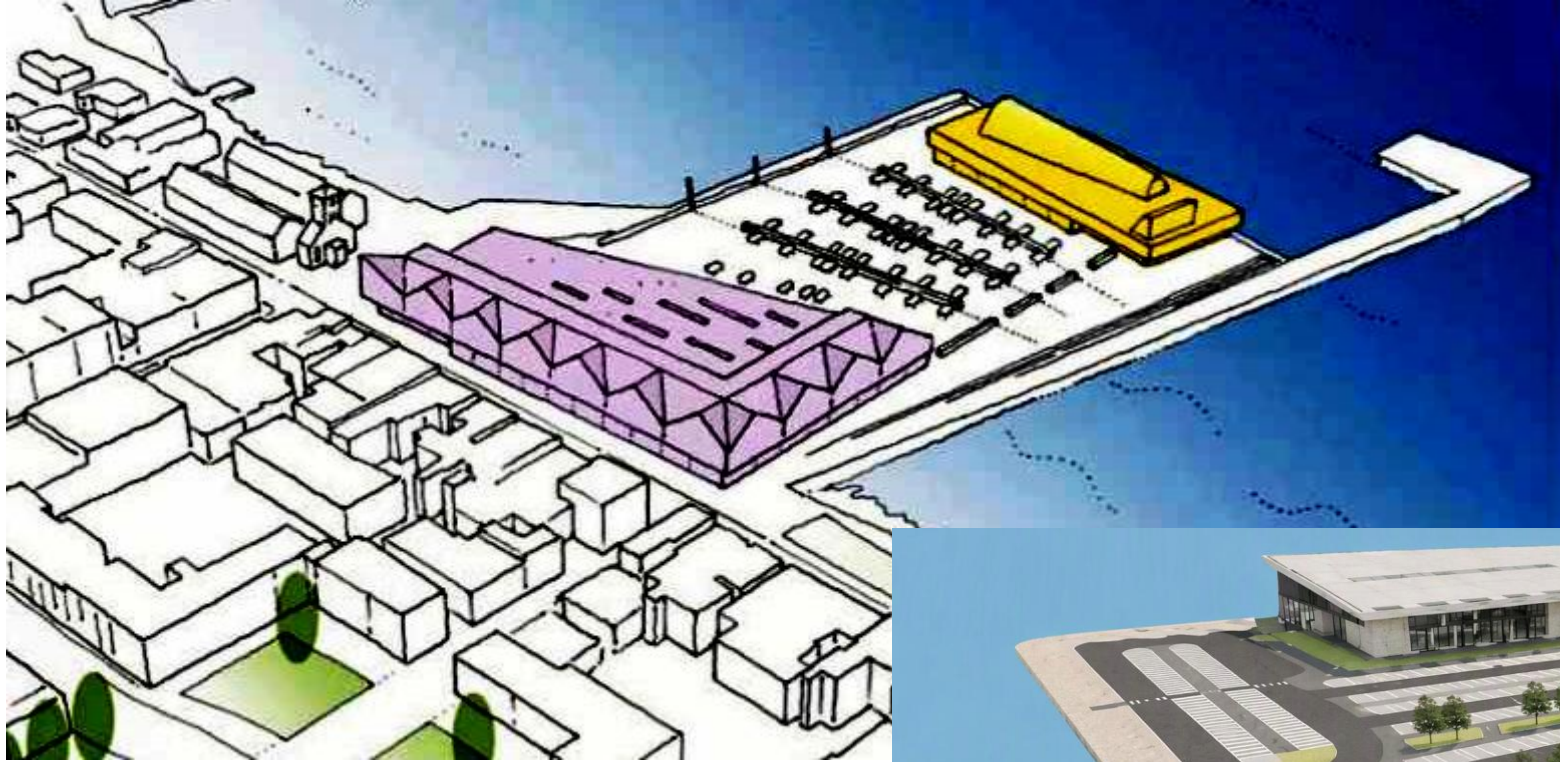
9. Misrepresentation of Retail Impact

- Colliers retail study (2024)
 - Relied on out of date (2007) data
 - Significantly underestimated existing floorspace
- Our analysis showed that the town was already *over-capacity*
- Colliers own (2012) analysis, regarding Waitrose, concluded:
 - **“There is insufficient convenience goods expenditure capacity in Helensburgh to support two new main food stores in the town”**
- Report asserts that it will “support the town centre”
 - No evidence provided for this



10. Masterplan presented as binding & consistent

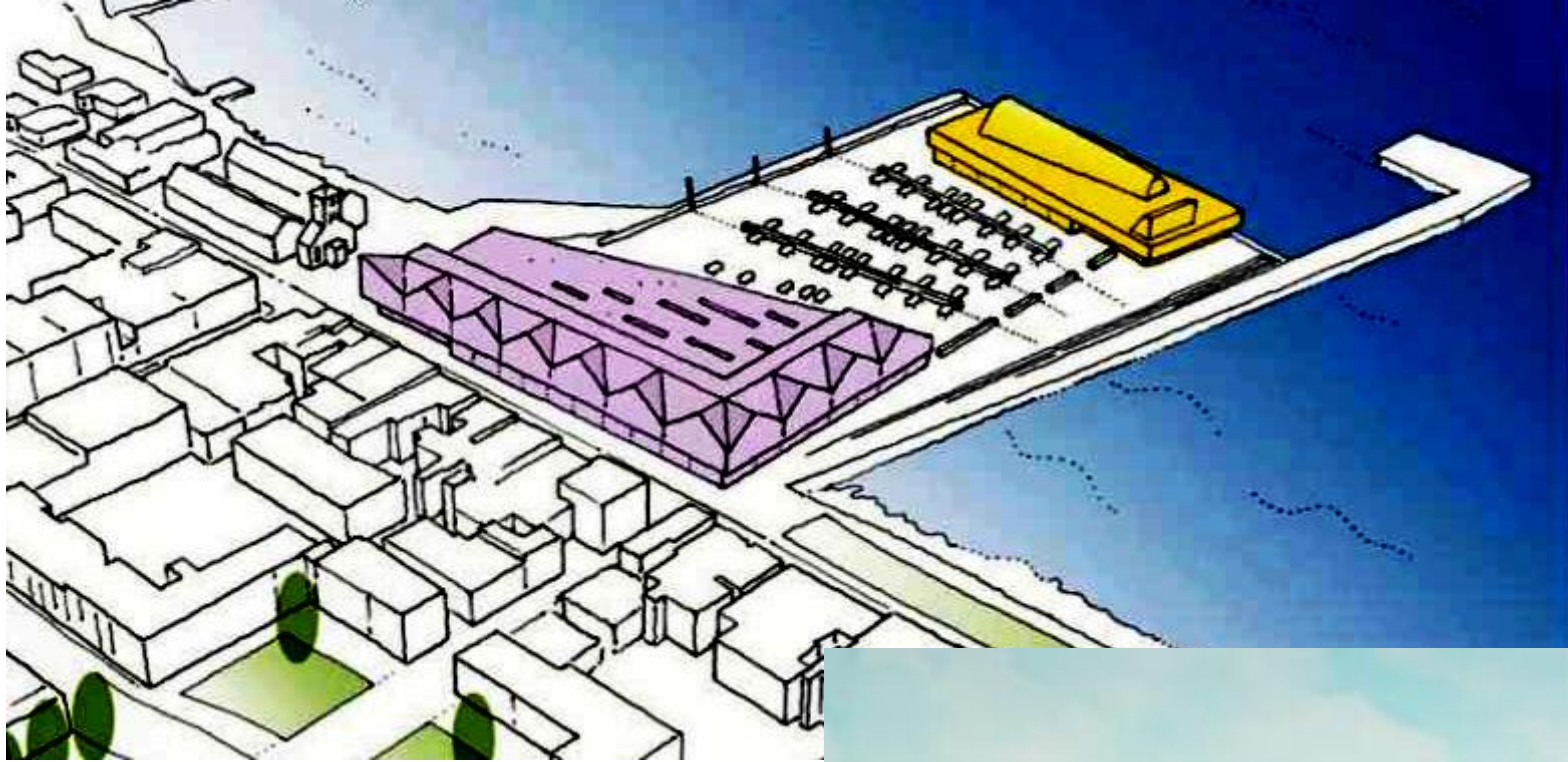
- But the 2012 Masterplan **removed** the supermarket
- **“The proposed mixed-use development was developed following extensive community consultation and supported by Helensburgh Community Council at that time.”**
- Wrong.
 - Only 29 people responded to the 2012 Masterplan consultation
 - HCC supported the leisure centre, public realm and waterfront improvements
 - Not a supermarket
- Common Good duties supersede all policy documents



A&BC 2024 Marketing

Rejected 2011 Masterplan





Proposed supermarket

Rejected 2011 Masterplan



Next steps

The Helensburgh waterfront consultation

What can you do?

1. Raise a Complaint with Argyll and Bute Council
 - https://argyllandbute.custhelp.com/app/LAP_Forms/LAP_Complaints
 - Using the category “Development and Infrastructure Services”
2. Attend the Policy & Resources meeting on Thursday
<https://www.argyll-bute.gov.uk/moderngov/ieListDocuments.aspx?CId=544&MId=17072>
3. Email your Councillor



Q&A

