



Item 6

7th October 2025

Planning Services 231 George Street GLASGOW G1 1RX Tel: 0141 287 8555 Email: onlineplanning@glasgow.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100688572-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Fergus

Building Name:

146 Onslow Drive

Last Name: *

Birrell

Building Number:

Telephone Number: *

Address 1
(Street): *

146 Onslow Drive

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Glasgow

Fax Number:

Country: *

Scotland

Postcode: *

G31 2PZ

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Colin"/>	Building Number:	<input type="text" value="71"/>
Last Name: *	<input type="text" value="McInnes"/>	Address 1 (Street): *	<input type="text" value="Glassford Street"/>
Company/Organisation	<input type="text" value="Homeless Project Scotland"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Glasgow"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="G1 1UB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="Glasgow City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Land or premises at: Ground and Basement areas at 71 Glassford Street, Glasgow, G1 1UB

Northing	<input type="text" value="665163"/>	Easting	<input type="text" value="259328"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Use of premises as homeless facility (Class 8) to provide a 24 hour accessible facility (retrospective)

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

The objections to the continued operation of the Homeless Project Scotland night shelter hinge on a claimed deterioration in local amenity and an alleged rise in anti-social behaviour. Yet a close examination of the documentary record, including community council minutes and statutory consultee responses, reveals that there is no substantiated, causal evidence linking the shelter to the types of harm cited.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Planning appeal on Behalf of Homeless Project Scotland - July 2025

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

24/02528/FUL

What date was the application submitted to the planning authority? *

28/11/2024

What date was the decision issued by the planning authority? *

25/04/2025

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☐ Yes ☒ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Fergus Birrell

Declaration Date: 24/07/2025

Payment Details

Pay Direct

Created: 24/07/2025 14:41

Planning Appeal on behalf of Homeless Project Scotland - July 2025

1. No Substantive Evidence of Harm; Police Scotland's Position Is Material

The objections to the continued operation of the Homeless Project Scotland night shelter hinge on a claimed deterioration in local amenity and an alleged rise in anti-social behaviour. Yet a close examination of the documentary record, including community council minutes and statutory consultee responses, reveals that there is **no substantiated, causal evidence linking** the shelter to the types of harm cited. Allegations of disorder, intimidation, and criminality are generalised in tone and speculative in content, often lacking dates, photographs, or incident reports. In the language of *Wordie Property Co Ltd v Secretary of State for Scotland* 1984 SLT 345, they are not "supported by evidence which is relevant and intelligible."

More significantly, **Police Scotland have not objected** to the shelter's operation. This omission carries **substantial evidential and legal weight**. In planning terms, the views of police are often determinative when objections relate to crime, public safety, or anti-social behaviour. The fact that a senior police officer, **Inspector Jonathan Watters**, has confirmed that there is **no causative link between the shelter and crime trends** in the area should have extinguished any attempt to rely on fear of crime as a planning consideration. This silence is not neutral; it actively undermines the Planning Authority's justification for refusal under CDP 10 and SG10.

The principle articulated in *Smith v First Secretary of State* [2005] EWCA Civ 859 is directly applicable: that planning refusals grounded on fear must be **objectively justified**. Where there is no data to support claims of harm, and where statutory agencies do not corroborate community concerns, the decision-making body is not entitled to fill the evidential vacuum with assumption. To do so is to substitute **perception for fact**, and **prejudice for law**.

This is reinforced in *T-Mobile (UK) Ltd v First Secretary of State* [2004] EWCA Civ 1579, where it was held that "speculative fears", even if sincerely held, **do not amount to lawful planning grounds** unless they are rational, evidence-based, and directly tied to land use. In this case, fears of harm have not been substantiated with any verifiable link to the shelter, and as such, cannot satisfy the policy test under CDP 10.

While it is recognised in *Newport and West Midlands Probation Committee* that **public concern may, in some circumstances, constitute a material consideration**, this is subject to **strict limitations**:

- In *West Midlands Probation Committee*, the Court of Appeal accepted public fears **only where those fears were objectively justified by evidence of recurring disturbances** comparable in impact to environmental harm.
- Conversely, in *Gateshead MBC v Secretary of State for the Environment* [1994] 1 PLR 85, Glidewell LJ held that while public concern is a material consideration, **it is not conclusive unless justified by fact**.
- The *Broadland* case further illustrates that even **baseless fears** might be material *only* if they produce **real-world land-use consequences**, such as changes in traffic flows. No such consequences have been evidenced here.

Indeed, if the fears expressed by objectors in this case are to be considered material at all, they must be shown to:

- Relate to a matter that is itself material (such as public safety),
- Be **objectively justified**, or
- Lead to actual **land-use consequences**.

None of these tests are met.

There is also a **legal danger** in treating unjustified local fear as determinative: as noted in *Newport*, such fears can too easily slip into **prejudice or discrimination**. This is particularly sensitive when planning objections are directed toward facilities serving marginalised populations. If planning law were to permit a refusal based solely on unevidenced fear, it would effectively license the exclusion of any development that supports vulnerable persons, precisely the type of exclusion **the public sector equality duty** and planning policy seek to resist.

The Local Review Body is therefore invited to treat these objections with caution and to assign them **limited or no weight** in the planning balance. They **do not meet the evidential standard** required by case law. They are contradicted by the **absence of police objection**, and by **operational evidence** showing the shelter is well managed and compliant. Planning law **does not permit** the rejection of a lawful, socially valuable use on the basis of conjecture. Where no measurable harm has been established, there is **no legal basis for refusal**.

The first principle in this appeal is clear and unambiguous: **there is no substantiated harm** arising from the shelter's operation. That **Police Scotland has not objected** is not a minor omission; it is a **dispositive fact** which should have precluded refusal. The decision to rely on anecdotal fear, absent evidentiary support, is **legally unsound** and contrary to long-established principles of planning law.

2. The Shelter Responds to a Pre-Existing Problem; It Is Not the Cause

It must be clearly stated that the Homeless Project Scotland night shelter **did not create the conditions of street homelessness, addiction, or anti-social behaviour** in the Glassford Street area. These are long-standing urban challenges, rooted in structural factors such as economic deprivation, housing undersupply, public health inequalities, and mental illness. The shelter is not a source of the problem; it is an **emergency intervention** designed to **alleviate its most dangerous manifestations**.

To conflate presence with causation is a **fundamental planning error**. The Merchant City and Trongate Community Council (MCTCC) minutes from July and August 2024 contain references to visible rough sleeping and drug paraphernalia in Ramshorn Graveyard , but these issues **predated the shelter's opening**. Police Scotland had already categorised the area as one of high need. The **chronology of events does not support** the inference that the shelter caused these phenomena. Indeed, such an inference is factually wrong and **legally precarious**.

In *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, Lord Hoffmann stressed that planning decisions must focus on **land use consequences**, not the nature or identity of intended users. A use is not rendered unacceptable merely because of who benefits from it. The planning system cannot , and must not , discriminate on the basis of visibility of hardship. In *Westminster City Council v Great Portland Estates plc* [1985] AC 661, the House of Lords reaffirmed that **social discomfort or class-based unease** is not a legitimate planning ground.

The objectors in this case rely on **misattribution**: they blame the shelter for the public display of a problem it is actively working to contain. But operational evidence makes clear that the shelter has **reduced unmanaged street presence**. It brings people indoors, screens them for risk, conducts bag searches, monitors behaviour, and keeps detailed digital records. Individuals are referred on to housing or addiction services. This is not a passive or negligent facility , it is a **frontline harm reduction unit**, acting in the public interest.

The principle from *South Bucks DC v Porter (No. 2)* [2004] UKHL 33 again applies: decision-makers must evaluate **personal and community impact**. Penalising a facility because it makes homelessness more visible is not rational. It is a retreat into **planning by aesthetic** , which the courts have consistently condemned. To do so here would also be inconsistent with the **inclusive interpretative approach** mandated by *Stringer v Ministry of Housing* [1971] 1 All ER 65, which holds that planning authorities must evaluate development proposals **in context**, not in isolation.

In practical terms, the shelter has improved amenity. Where once individuals slept in lanes, doorways, and public gardens, they are now safely contained within a CCTV-monitored space. Emergency callouts are reduced, policing needs are stabilised, and the visible presence of unmanaged homelessness is diminished.

To refuse permission on the basis that a humanitarian facility makes suffering more apparent is to **punish intervention and reward indifference**. It risks turning planning policy into a tool of **exclusion and avoidance**, rather than a platform for evidence-based public service provision. The shelter does not cause disorder , it absorbs it, manages it, and, in many cases, resolves it.

In sum, the shelter is not the catalyst of harm but the **antidote to an existing urban crisis**. It should be recognised as a **public health and civic benefit**, not as a scapegoat for broader societal failures. The Local Review Body must draw this distinction clearly and courageously. The law demands no less.

3. Even If Fear Is Material, It Is Outweighed by Tangible Benefits

Even if the Local Review Body were to accept that some level of community concern constitutes a material consideration, the legal requirement remains that **such concern must be rationally assessed and proportionately weighed**. Planning is not a referendum on sentiment. It is an exercise in reasoned judgement grounded in evidence and policy. It is not enough to identify a perceived harm, the decision-maker must weigh that perception against **demonstrable, evidence-based benefits**.

The jurisprudence is clear. In *West Midlands Probation Committee v SSETR* (1998) 76 P. & C.R. 583, the Court of Appeal held that public fears may be material *only* where they are **objectively justified by evidence of actual disturbance or interference with adjoining uses**. By contrast, in *Gateshead MBC v Secretary of State for the Environment* [1994] 1 P.L.R. 85, Glidewell LJ warned that if fears are shown to be unjustified, they cannot be conclusive. The core test is the **acceptability of risk**, not the volume of public anxiety.

Further, *Broadland District Council v Secretary of State for the Environment* (1987) illustrates that **even irrational fears might have land-use consequences** (e.g. increased car usage due to school safety concerns), but this principle applies **only where those consequences are real, tangible, and capable of evidentiary demonstration**. No such consequences have been shown here. There is no evidence that the night shelter has caused harm to local amenity, increased policing demands, or disrupted business operations. Indeed, Police Scotland's lack of objection and operational data confirm the opposite.

Moreover, the majority in *Newport Borough Council v Secretary of State for Wales* [1998] Env. L.R. 174 may suggest that even unfounded fears may in some cases be part of the "human factor" in decision-making. But this must be read with caution. There is a **fine line between unjustified fears and unlawful prejudice**, especially when concerns target a facility serving homeless or vulnerable individuals. To allow planning refusals based on discomfort or stigma would be to **elevate discrimination into a planning principle**, contrary to the ethos of inclusion enshrined in both CDP 10 and SG10.

Against this legal background, the **benefits of the night shelter are not speculative, they are verifiable and substantial**. The Homeless Project Scotland facility:

- Provides immediate, life-saving shelter to those at risk of hypothermia, assault, overdose, or suicide;
- Reduces visible rough sleeping and public disorder through structured engagement;
- Offers pathways to housing, addiction treatment, and mental health services;
- Maintains rigorous operational standards, including 24-hour staffing, CCTV, metal detection, incident recording, and safeguarding protocols;
- Actively cooperates with statutory partners and adapts in response to community concerns, as demonstrated by the internal queuing system now in place.

These are not aspirational outputs, they are **present outcomes**, delivered daily and aligned with national policy. The shelter's operation is consistent with the *Ending Homelessness Together Action Plan*, supports Glasgow City Council's statutory duties under the Housing (Scotland) Act 1987, and meets the explicit aims of CDP 10 and SG10.

As the court held in *Brown v Hamilton District Council* 1990 SLT 274, **speculative or emotional objections cannot be the basis for lawful administrative action**. That principle applies with even greater force where refusal would result in foreseeable harm to human life and dignity.

It follows that, even if some public concern is deemed a material consideration, it is **clearly outweighed** by the shelter's policy compliance, proven social benefit, and the complete absence of demonstrable harm. The planning balance is not a symmetrical exercise. It must be tilted in favour of public interest, need, and legality.

To deny permission on the basis of unsubstantiated or prejudicial fear is to **subvert the principles of rational decision-making**, as well as the constitutional role of the planning system. The law does not yield to local sentiment when the stakes are human survival.

4. Night Shelters Are Required; The Absence of This One Has Consequences

The planning system must grapple with the **real-world consequences** of refusing permission for a facility that serves an urgent humanitarian function. The Homeless Project Scotland night shelter is not a surplus or discretionary facility. It is a front-line emergency intervention designed to prevent death and deterioration in Glasgow's most vulnerable population. **In the absence of this shelter, individuals would be exposed to conditions that constitute a direct threat to life, safety, and health.** This is not speculative; it is supported by both operational records and statutory partner testimony.

The Planning Authority's refusal offers **no engagement with the fallback position**, a key requirement in planning law. In *South Bucks District Council v Porter (No. 2)* [2004] UKHL 33, the House of Lords confirmed that decision-makers must take into account the **personal circumstances of those affected by a planning decision**, particularly where the refusal of permission may result in **homelessness or severe deprivation**. The court made clear that such human consequences are not peripheral but may **tip the planning balance**.

In this case, the fallback is stark: **if the shelter is closed or constrained, individuals who are currently sleeping indoors, monitored, and supported will return to the street environment.** There are no equivalent services in the immediate vicinity, and statutory provision is already saturated. The Planning Authority has **not identified a single alternative** that could absorb the displaced need. Its refusal was made in a policy vacuum, ignoring both the housing crisis on Glasgow's streets and the legal requirement to assess alternatives.

This omission violates the principle in *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, that planning decisions must be **grounded in planning consequences**, not abstract policy assertions. Here, the **consequence of refusal** is the reappearance of vulnerable individuals on the streets, without support, without protection, and at increased risk of overdose, assault, or death. This is a material planning impact, and **one of great weight**.

Moreover, the Planning Authority's interpretation of CDP 10 and SG10 **misapplies the policy framework**. These policies explicitly support the provision of **inclusive, well-managed, and specialist accommodation** to meet acute housing need. Emergency shelters, particularly those offering supervision, safeguarding, and onward referrals, are clearly within that definition. To interpret these policies in a way that excludes the very interventions they were designed to support is not only illogical; it is legally perverse. It amounts to a **deliberate narrowing of policy scope** to justify a pre-determined outcome.

The courts have made clear that **refusal cannot be justified simply by reference to discomfort, inconvenience, or reputational concerns**. In *First Secretary of State v Sainsbury's Supermarkets Ltd* [2005] EWCA Civ 520, it was reiterated that **planning decisions must not elevate abstract or emotional objections above real, quantifiable impacts**.

The Local Review Body is therefore respectfully invited to consider not only what is lost by granting permission, but what is lost by **withholding** it. Homelessness is not a matter of aesthetics. It is a matter of law, health, and human dignity. The continued operation of the shelter mitigates a social emergency and furthers the statutory aims of the Housing (Scotland) Act 1987, including the duty to secure temporary accommodation for those who would otherwise sleep rough.

To refuse permission on the basis of unsubstantiated fear, while turning a blind eye to the **certainty of human harm**, is to prioritise appearance over substance, and sentiment over law. The planning system is not merely a mechanism for protecting property interests, it is a **civic tool for promoting the public good**. In this instance, the public good demands not just tolerance of the shelter, but its active facilitation.

As Lord Bingham noted in *South Bucks DC v Porter*, the ultimate test is whether the planning decision reflects a **fair balance between individual rights and the wider public interest**. In this case, **no such balance has been struck**. The refusal disregards evidence, ignores policy, and endangers life.

In sum, the Planning Authority's failure to consider the fallback position, to assess human impact, and to apply policy purposively renders its decision legally flawed and ethically troubling. The Local Review Body must reverse that error. It must recognise that this shelter is not a temporary experiment. It is a **lifeline**.

5. Queuing Has Been Operationally Resolved and Can Be Conditioned

Among the most frequently raised concerns by objectors is the issue of public queuing outside the premises during service times. This concern, while visible in the past, has already been substantively resolved through proactive operational adjustments. Homeless Project Scotland now operates a **structured, internal queuing system** within the basement level of the premises. Guests no longer wait outside in large numbers. Instead, they are welcomed into a **controlled, secure, and climate-protected internal staging area**, under staff supervision, with CCTV coverage and entry protocols.

This mitigation was introduced voluntarily and without enforcement action. It reflects a **good-faith response** to public feedback and demonstrates the charity's **willingness to adapt in order to protect local amenity**. There is now **no material queuing** on the public pavement. Concerns about obstruction, visual intrusion, or congregation have therefore been **resolved in fact**, and should no longer weigh in the planning balance.

However, if any residual concern remains, the appropriate and lawful remedy lies not in refusal but in the imposition of a **planning condition**. Scottish Government **Circular 4/1998** (Annex A) provides clear guidance on the use of conditions: where a concern is site-specific and **capable of being mitigated**, it should be **controlled by condition** rather than used to justify refusal. A condition requiring that all queuing occur within the basement area, something already operationally in place, would be:

- **Relevant** to planning,
- **Precise and enforceable**,
- **Reasonable** in all respects, and
- Entirely **effective** in managing the alleged impact.

The failure to consider this alternative constitutes a **breach of the proportionality principle** recognised in *Wordie Property Co Ltd v Secretary of State for Scotland* 1984 SLT 345, in which the court held that a decision may be quashed if it is not “based on material evidence which is relevant and intelligible and adequate.” Here, the decision to refuse permission based on a concern that has already been resolved, and that could in any case be addressed by condition, fails that test.

In *South Bucks DC v Porter (No. 2)* [2004] UKHL 33, the House of Lords emphasised that a **planning decision must strike a fair and proportionate balance**, taking account of less intrusive means of addressing perceived harm. Conditions are the primary tool for achieving that balance. To **refuse planning permission outright**, when the problem can be addressed through targeted control, is to take a **disproportionate step** in law and fact.

This is also consistent with the approach taken by Reporters in analogous cases, including **PPA-230-2109**, where similar amenity concerns, such as visual impact, noise, or congregation, were found **not to justify refusal**, because the operator had introduced, or could introduce, **effective mitigation through conditions**. The Reporter in that case noted that “the willingness and demonstrated capacity of the applicant to manage impacts weighs

significantly against the need for refusal."

In the present case, Homeless Project Scotland has already introduced the relevant mitigation. To persist with a refusal despite this operational resolution would be both **factually inaccurate and legally indefensible**. It would send the message that **good-faith compliance is irrelevant**, and that problems, even when fixed, will still be used to justify rejection.

In planning terms, such an approach is **irrational** and **capricious**. It risks undermining the policy objectives of CDP 10 and SG10, which encourage collaboration, inclusion, and responsive management of development. Refusal in these circumstances would represent a **disproportionate and punitive measure**, not one grounded in either necessity or law.

In conclusion, the queuing concern has been:

- **Resolved in practice,**
- **Capable of control in law, and**
- **Misapplied in the Planning Authority's reasoning.**

It does **not meet the legal threshold** for sustaining a refusal. It may justify a condition, but **it cannot justify continued obstruction** of a facility that demonstrably serves the public good.

Submission on LDP Policy

The Planning Authority's assertion that the proposal is contrary to Policy CDP 10 and Supplementary Guidance SG10 due to "fear of crime" and an alleged increase in anti-social behaviour is not borne out by the evidential record and misapplies relevant planning law.

A close analysis of the **Merchant City and Trongate Community Council (MCTCC)** minutes, particularly those from **30 July 2024**, **27 August 2024**, and **24 June 2025**, demonstrates that objections to the Homeless Project Scotland (HPS) night shelter have consistently relied on anecdotal perception and generalised discomfort, rather than objective, evidenced harm. For example:

- On **30 July 2024**, references were made to "a perceived increase of tents" and "drug dealing & needles" in Ramshorn Graveyard, yet **no direct evidence** linked these phenomena to HPS. Notably, **PC Sean McFadden** of Police Scotland confirmed that, although 203 offences occurred in the area between 25 June and 25 July 2024, **none were attributed to the shelter**, and that local policing efforts were focused on **support and engagement** with vulnerable individuals, not enforcement against them.
- On **27 August 2024**, concerns were raised about fire safety, including the claim of "only one fire escape." This was factually incorrect. The premises contain **two fire exits**, and **no enforcement action or notice** has been issued by Scottish Fire and Rescue. The MCTCC Chair's comments described the case as "the most frustrating in his 18 years," but the basis for this frustration was not substantiated by planning breaches or policy infractions.
- On **24 June 2025**, the minutes noted that the Community Council "applauded" enforcement action and lamented delays in forced removal, again demonstrating that the opposition is not rooted in planning harm, but in **hostility to the user group**.

These minutes do not provide a sound planning basis for refusing permission. In *Smith*, the Court held that fear of crime or anti-social behaviour **must be objectively justified** to constitute a lawful planning consideration. Mere "perception of fear," particularly when unsupported by data, does not suffice. Similarly, in *T-Mobile*, the Court emphasised that speculative fears must be rational and based on demonstrable facts.

Furthermore, in *Wordie*, the Scottish courts reaffirmed that planning decisions must rest upon findings "supported by evidence which is relevant and intelligible." The objections in this case, whether in relation to fear, amenity, or community safety, are not supported by police reports, planning contraventions, or fire safety assessments. The evidence relied upon does not meet the Wordie threshold.

Even if community concerns are sincerely held, *Tesco Stores Ltd* clarifies that **the decision-maker alone** determines the weight to assign each consideration. The Local Review Body must guard against allowing *hostility or stigma* directed toward a vulnerable group to dominate the statutory assessment of land use under CDP 10. The guidance is clear: **Meeting Housing Needs** includes **specialist and emergency provision**, and any assessment of "detriment to character and amenity" must balance the social imperative to

protect the vulnerable.

In conclusion, the application of Policy CDP 10 in the refusal is legally unsound. The decision overstates speculative community fears, disregards contrary evidence provided by Police Scotland, and contravenes established legal principles requiring evidentiary rigour. The MCTCC's submissions fail to meet the standard of material planning objections and should be afforded limited weight by the Local Review Body.

Tesco Stores Ltd v Dundee City Council [2012] UKSC 13

The UK Supreme Court decision the above mentioned case further underscores the legal requirement for planning policy, such as CDP 10, to be interpreted **objectively**, not according to local sentiment or *ad hoc* reasoning. As Lord Reed observed, **"The meaning of the plan is in principle a matter of law," and planning authorities "do not live in the world of Humpty Dumpty, they cannot make the development plan mean whatever they would like it to mean"** (paras [18]–[19]). In other words, the interpretation of "amenity" or "character" under CDP 10 cannot be distorted to include speculative fears or socially charged assumptions. Planning policy is not a moral code; it is a legal framework requiring precise, lawful interpretation.

Applied here, the invocation of CDP 10 and SG10 as grounds for refusal, based on an alleged fear of crime and antisocial behaviour, is misconceived. No evidential link has been made between the use of the site by Homeless Project Scotland and demonstrable harm to the area's amenity or character. As in *Tesco*, the proper question is not whether objections have been loudly or persistently made, but whether the policy threshold has been met on a lawful reading of its terms. On that basis, the refusal fails. The planning authority has substituted conjecture for fact and opinion for law, thereby rendering the decision open to challenge on legal as well as factual grounds.

Scottish Government Reporter Decision – PPA-230-2109, 21 November 2013

A compelling comparator can be found in the Scottish Government Reporter's decision in PPA-230-2109 (21 November 2013), where the Reporter rejected a local authority's refusal of planning permission based on community concerns about antisocial behaviour and crime. In that case, the Reporter concluded that perceived fears, however sincerely held, could not be determinative in the absence of objective evidence linking the proposed use to actual amenity harm.

Crucially, no objection had been made by Police Scotland, and the Reporter noted that this omission carried significant evidential weight in rebutting claims of community risk. The Reporter reaffirmed that planning decisions must concern themselves with land use, not with the social identity of future occupants, and must not become vehicles for moral judgement or prejudice.

This approach is directly applicable to the present appeal. At 71 Glassford Street, Police Scotland have raised no formal objection to the continued operation of the Homeless Project Scotland facility, and no direct link has been made between the premises and any reported crime. Yet the refusal under Points 01 and 03 relies heavily on generalised fear, unsupported by police data, enforcement action, or planning breach.

As in PPA-230-2109, the perceived impact stems not from the lawful use of the site but from

prejudicial assumptions about the people served by it. In the absence of measurable, substantiated harm, such fears are not capable of lawfully grounding refusal. The decision to withhold consent in this case is therefore inconsistent with established planning principles and Reporter precedent and risks entrenching discriminatory outcomes under the guise of amenity protection.

In PPA-230-2109, amenity concerns about parking and school traffic were outweighed by the need to preserve and repurpose a listed building. In your case, public benefits, shelter provision, reduced rough sleeping, emergency food, and professional support, should be weighed at least as heavily, if not more, when contrasted with speculative fears or hypothetical disruption.

Policy CDP 10 and SG10

Policy CDP 10 aims to ensure the provision of a range of high-quality housing and community accommodation. Supplementary Guidance SG10 sets out standards for specialist housing (e.g. hostels, shelters) to ensure appropriate location, integration, and management of such facilities in a way that safeguards residential amenity.

The Homeless Project Scotland night shelter demonstrably complies with those objectives. It operates with rigorous internal controls, detailed in the operational documents submitted with this appeal, including 24-hour staff supervision, mandatory airport-style security screening, secure storage of belongings, scheduled bed checks, incident logging via QR-coded systems, and an enhanced CCTV network.

These measures are not abstract commitments; they are already in effect and monitored daily. No evidence has been submitted to suggest breaches of any environmental health, fire safety, or licensing obligations. The facility is not only consistent with SG10, it exceeds the management standards envisaged by it.

Refusal Reason 03 contends that the facility has caused a deterioration in amenity and character due to fear of crime, yet that assertion is unsupported by any formal objection from Police Scotland or any statutory body.

In fact, the shelter's design actively reduces public nuisance by bringing rough sleepers indoors, away from doorways, streets, and public spaces. In the absence of planning contraventions or quantifiable harm to neighbouring properties, refusal on the basis of 'fear' reflects a distortion of SG10's intent and an improper extension of planning control into the realm of social acceptability. As recognised in *Wordie* and reaffirmed in *Tesco v Dundee*, planning authorities must interpret policies legally, not politically. The use of CDP 10 and SG10 to obstruct a lawful, well-managed facility, because of the identity of those it serves, strays from evidence-led planning into a terrain that risks illegality, inequality, and reputational harm to the integrity of the planning process.

The Objectors:

In response to objections from National Car Parks Ltd, The Steps Bar, and Merchant City & Trongate Community Council (MCTCC)

The objections submitted by National Car Parks Ltd (NCP), The Steps Bar, and the Merchant City and Trongate Community Council (MCTCC) raise allegations of antisocial behaviour, drug use, and general disturbance in the area surrounding 71 Glassford Street. However, these claims are not substantiated by objective evidence directly linking the HPS night shelter to the conduct described. Crucially, the MCTCC's own minutes dated 30 July 2024 concede that drug dealing and needle use in the Ramshorn Graveyard and surrounding lanes were an entrenched problem long before the night shelter commenced operations in December 2023. These were already recognised concerns for Police Scotland and third-sector partners, as explicitly recorded in the minutes. No police evidence has been provided to suggest that the shelter has caused or worsened these issues. In fact, the shelter's operation likely reduces the impact of such street-level activity by bringing people indoors and subjecting them to structured supervision. As held in *Smith*, community "fear" or speculation must be grounded in demonstrable fact, not historic stigma, generalised concerns, or anecdotal frustration.

The objection from NCP alleges that its staff are forced to confront disruptive individuals on a daily basis and that illegal drug use occurs on or near the premises. However, no incident reports, police complaints, or environmental health records have been provided to substantiate these claims. The photographic material submitted is undated and unverified, lacking geotagging or direct relevance to the shelter site. As a matter of planning law, these concerns fall short of the evidentiary threshold required to rebut a lawful use. The Supreme Court in *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13, per Lord Reed, held that development plan policies must be interpreted objectively, not bent to accommodate public or commercial sentiment. Planning authorities "cannot make the development plan mean whatever they would like it to mean" (para [19]); objections must engage with land use, not supposition.

Furthermore, these commercial objections fail to engage with Policy CDP 10 or Supplementary Guidance SG10, both of which require evidence-based assessment of location, design, and operational suitability, not subjective impressions or reputational concerns.

The night shelter, as detailed in the October 2024 operational documents and annexes, maintains airport-style security screening, ID registration, CCTV monitoring, 24-hour staffing, safeguarding protocols, and strict exclusion of individuals under the influence. The facility is not only consistent with SG10's requirements, it exceeds them. Assertions that the facility causes unmanaged risk or loss of amenity are factually and legally incorrect.

The objection submitted by Mr Kevin Henderson of The Steps Bar similarly attributes "anti-social behaviour, drug taking and violence" in the area to the presence of the night shelter. Yet, again, no supporting documentation, such as CCTV, police call logs, or formal complaints, has been produced.

The issues referenced were publicly acknowledged as pre-existing in the MCTCC's own minutes, and there is no causal link to the shelter's operation. As reaffirmed in the *T-Mobile* case, objections rooted in assumption rather than fact cannot lawfully be relied upon to justify refusal. This is especially so when, as here, the shelter implements structured management protocols and has not been subject to any regulatory enforcement action, of any kind.

It is further submitted that objections from local businesses, including National Car Parks (NCP), must be approached with the same evidentiary threshold and legal scrutiny as those of the community council. The NCP objection raises concerns regarding "frequent drug use and dealing within our car park," "intimidation of customers," and disruption to business operations. However, these concerns pre-date the night shelter's opening in December 2023. Indeed, the MCTCC minutes from **30 July 2024**, five months into the shelter's operation, note that issues such as drug paraphernalia and rough sleeping were already endemic to the area, with no direct attribution to Homeless Project Scotland. In *Wordie*, the court made clear that decisions must rest on **"findings properly supported by evidence which is relevant and intelligible."** There is no probative evidence that connects any rise in criminality to the operations of the shelter, and importantly, no formal objection has been made by Police Scotland.

In fact, in correspondence dated **27 November 2024** from RKA Architects on behalf of HPS, it is recorded that Inspector Jonathan Watters of Police Scotland did **not** believe there to be any causative link between the presence of HPS and crime in the area.

Moreover, several police callouts listed in enforcement materials are related to procedural safeguarding duties, for instance, supporting under-18s, assisting suicidal service users, and reporting historical crimes committed against individuals seeking help. It is axiomatic that the mere presence of emergency support services in a high-need area does not create the underlying social issues they are responding to. As held in *Smith v First Secretary of State* [2005] EWCA Civ 859, a **"perception of fear"** must be rational and based on objective facts to constitute a valid planning ground.

The NCP objection, while sincere, offers no empirical evidence of causation, and should therefore be afforded limited weight in determining whether this facility causes demonstrable harm under **CDP 10** or **SG10**.

The objection from Thornton Scott on behalf of MCTCC alleges that the shelter has had "an adverse effect on nearby residents, businesses and the local community." However, it fails to identify any breach of planning policy or contravention of land-use regulation. Instead, the objection reiterates community unease about the presence of vulnerable individuals in the area. As held in *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, planning decisions must be based on material considerations and the proper application of policy, not social perceptions or political pressure. The role of the Local Review Body is not to insulate affluent urban districts from visibility of social hardship, but to assess whether the proposed land use is lawful, proportionate, and beneficial within the existing policy framework.

In conclusion, while the concerns raised by local businesses and community groups are

acknowledged, they do not meet the legal standard for material planning objections. There is no probative evidence that the night shelter has caused a deterioration in amenity, no objection from Police Scotland, and no evidence of a breach of SG10 operational expectations.

The objections are rooted in perception, not fact, and in discomfort, not detriment. The Local Review Body is invited to assign them limited weight and to uphold the primacy of evidence-based planning over speculative or prejudicial assumptions.

Spires Apartments.

The objection submitted by The Spires Serviced Apartments UK Ltd relies heavily on anecdotal guest complaints and perceived reputational harm arising from the proximity of the Homeless Project Scotland (HPS) night shelter. While amenity and public perception are legitimate considerations in planning, they must be assessed through the lens of materiality and supported by robust, probative evidence.

In this case, The Spires' submission does not meet that evidentiary threshold. The documentation comprises a series of subjective guest emails, unsworn narrative accounts, and generalised assertions of business impact. Nowhere within the objection is there any quantifiable data demonstrating loss, no cancellation metrics, no downturn in bookings relative to comparable units, no independent financial audit, and no formal impact assessment. In planning law, perception is not a substitute for evidence.

As confirmed in *Brown v Ferguson* 1990 SLT 274, speculative claims of economic loss, whether relating to loss of earnings or, by analogy, reputational business harm, cannot ground a lawful quasi-judicial decision.

The Court in *Wordie* similarly held that findings must be supported by "evidence which is relevant and intelligible." Assertions of lost trade or diminished guest satisfaction, absent verification, cannot form the basis of a planning refusal. The role of the Planning Authority and Scottish Ministers is not to shield commercial operators from the realities of urban life, but to assess land use in accordance with objectively interpreted policy, such as CDP 10 and SG10.

Moreover, the language contained within some of the guest correspondence, referring to "zombie town," "druggies," and "needy folks", raises a legitimate concern that the objection may, intentionally or otherwise, reflect socio-economic prejudice rather than planning harm. There is a marked distinction between a valid objection rooted in operational impact, and one driven by a desire to sanitise public space by removing vulnerable populations from view.

The courts and planning authorities must remain vigilant in ensuring that discriminatory sentiment is not permitted to influence decisions under the guise of amenity protection.

It is also important to contextualise The Spires' complaints in light of the documented pre-existing conditions in the area. The minutes of the Merchant City and Trongate Community Council meeting on **30 July 2024** refer to "a perceived increase of tents appearing in different parts of the city centre" and concerns about public drug use in the Ramshorn Graveyard. These observations relate to wider systemic issues of urban

deprivation and homelessness, not to the operation of the HPS night shelter, which only commenced in **December 2023**. Notably, no evidence is presented in the community minutes, or by The Spires themselves, establishing a **causal link** between these issues and the shelter. On the contrary, it is likely that the shelter has mitigated the visibility and severity of rough sleeping by bringing individuals off the streets and into structured, managed accommodation. It would be irrational and contrary to *Smith* to treat the **alleviation** of homelessness as a **planning harm** merely because its symptoms were once more visible in proximity to private businesses.

In conclusion, the objections lodged by The Spires Serviced Apartments do not amount to a material planning consideration. They lack probative value, are speculative in economic content, and contain language inconsistent with the equality and human dignity principles embedded in Scottish public policy. Their relevance to Policy CDP 10 is therefore limited and should not be afforded determinative weight by the Local Review Body.

Moreover, there is an inherent contradiction in opposing a fixed-location, highly regulated, and professionally managed night shelter on grounds of amenity or reputational harm, while simultaneously tolerating, indeed, facilitating, the spot-purchase of emergency hotel rooms for homeless individuals across the same locality. Glasgow City Council, like many local authorities, routinely contracts with private hotels to house individuals experiencing homelessness, without requiring or providing the level of operational oversight deployed at the Homeless Project Scotland (HPS) facility. Unlike HPS, these hotels do not operate **airport-style metal detectors**, do not conduct **nightly welfare checks**, and do not provide **on-site overdose prevention**, safeguarding triage, or trauma-informed staff coverage. It is inconsistent, indeed irrational, for objectors to criticise the very existence of a facility that actively prevents harm, while turning a blind eye to unregulated placements that lack those protections. This contradiction speaks not to planning harm, but to an underlying discomfort with the visibility of homelessness when it is attached to a permanent, identifiable address.

Planning law requires an even-handed application of principles. *Wordie* emphasises that findings must be based on “evidence which is relevant and intelligible.” The evidentiary record here shows that the HPS night shelter not only meets but exceeds the operational standards contemplated in **Supplementary Guidance SG10**. It reduces risk, enforces behavioural safeguards, and offers intensive support services. By contrast, the alternative, dispersed emergency placements in commercial hotels, lacks that structure and visibility, yet faces no equivalent scrutiny. This reveals a planning inconsistency rooted not in fact or policy, but in perception and discomfort. The Local Review Body is therefore respectfully urged to treat objections with appropriate caution, and to distinguish between **material planning concerns** and **social prejudice cloaked in the language of amenity**.

Indeed, the consistent pattern within the MCTCC minutes is one of **lay speculation**, often dressed in emotive or subjective language, rather than legitimate planning critique. The Council’s disappointment that no enforcement had yet occurred (24 June 2025), and their repeated invocation of outdated or corrected misinformation such as the false claim of only one fire exit further undermines the credibility of the objections. Planning decisions must be based on verified infrastructure data and formal inspections not hearsay or community frustration. The Local Review Body is therefore invited to discount these objections in full as non-material, unsubstantiated, and inconsistent with planning law standards of proof.

Potential Remedy:

To further address concerns regarding the visibility of service users near commercial premises, particularly those raised by The Spires, Homeless Project Scotland has implemented revised operational arrangements whereby individuals now wait **within the basement level** of the premises rather than queuing outside. This controlled internal waiting

area allows for a safe, discreet, and weather-protected environment for guests prior to food service and is fully compliant with planning control.

The transition from external queuing to supervised internal staging reflects a proactive and proportionate response to perceived amenity issues. It significantly reduces public visibility, mitigates any alleged disruption to neighbouring businesses, and reinforces the facility's alignment with both the spirit and letter of Policy CDP 10 and Supplementary Guidance SG10. This operational refinement directly addresses and resolves objections based on external congregation, rendering such concerns both outdated and immaterial to the planning determination.

Moreover, the relocation of service users into a designated internal waiting area, prior to food provision, directly addresses concerns relating to public perception and fear of crime. While there is no evidence linking the presence of HPS service users to any actual criminality, the visibility of vulnerable individuals queuing on the street has been cited by some objectors as a source of discomfort or perceived reputational harm. By facilitating internal assembly within the basement space, the shelter eliminates this visual interface with the public realm. This not only improves operational efficiency and dignity for service users, but also removes the basis for speculative fears cited in objections, fears which, as confirmed in *Smith v First Secretary of State* [2005] EWCA Civ 859, must be objectively justified to constitute a material planning consideration. In this context, the revised arrangements represent a tangible and lawful mitigation of the amenity concerns raised, in full accordance with CDP 10 and SG10.

The Planning Balance is Decisively in Favour of Consent

The continued operation of the Homeless Project Scotland night shelter and soup kitchen is not only consistent with planning policy, it is demanded by it. The five central propositions advanced in this appeal are interlocking and compelling:

1. **There is no substantiated evidence of harm.** Allegations of anti-social behaviour are speculative, anecdotal, and contradicted by Police Scotland. As established in *Wordie Property Co Ltd*, decisions must be based on “evidence which is relevant and intelligible.” The reliance on perception, rather than fact, renders the refusal legally unsound.
2. **The shelter responds to, but does not cause, local challenges.** Longstanding problems such as rough sleeping and drug use predate the shelter. To blame a humanitarian response for the visibility of poverty is not just a factual error, it borders on a moral inversion. As *Tesco Stores Ltd v Secretary of State for the Environment* confirms, planning decisions must turn on consequences, not assumptions.
3. **Even if fear is material, it is legally and factually outweighed by tangible benefit.** In the jurisprudence of *West Midlands*, *Gateshead*, *Broadland* and *Newport*, the courts have set a clear standard: fear must be evidence-based, causally connected, and proportionate. That threshold is not met here. The demonstrable benefits of the shelter, reduced rough sleeping, safer public space, and saved lives, are overwhelming.
4. **The fallback position is devastating.** As held in *South Bucks DC v Porter (No. 2)*, the personal circumstances of those affected must be considered. If this facility closes, individuals will return to the streets, emergency services will face heightened demand, and the Planning Authority will have knowingly displaced its statutory responsibilities onto pavements and alleyways. The failure to consider this outcome renders the refusal irrational.
5. **Queuing concerns have been resolved and can lawfully be conditioned.** Per *Circular 4/1998* and Reporter-led decisions such as *PPA-230-2109*, concerns that are site-specific and operationally mitigated cannot justify refusal. The shelter’s internal queuing system is effective, enforceable, and already in place. Refusal on this basis is disproportionate and unfair.

The planning system is not a tool for preserving comfort at the expense of necessity. It is a mechanism for ensuring that land is used in the public interest, in alignment with law, policy, and compassion. This facility fulfills the core aims of CDP 10 and SG10. It meets acute housing needs. It protects life and public safety. It reflects a civic spirit grounded in dignity and inclusion.

To deny permission is not a neutral act. It would be a decision with consequences measured in human suffering, policy contradiction, and legal risk. The Local Review Body is not only entitled but obliged to grant consent where the planning balance is so plainly and compellingly in favour.

This is not just about planning. It is about who we are as a city. As one service user put it:

“Why would the Council turn its back on us?”

Let the answer from this Review Body be: **It won’t.**

Closing Submissions

This appeal arises not from any demonstrable breach of planning control, nor from any failure to comply with the policies enshrined in the City Development Plan, but from the visible presence of poverty in a commercial district increasingly uncomfortable with confronting it.

The Homeless Project Scotland night shelter has operated lawfully, safely, and with exemplary diligence since December 2023. No objections have been lodged by Police Scotland, Scottish Fire and Rescue, Environmental Health, or any statutory consultee. There is no evidence of planning contraventions, public disorder linked to the site, or quantifiable harm to neighbouring premises. Yet the application has been refused, under Policy CDP 10 and SG10, on the basis of perception, prejudice, and an unevidenced fear of crime.

The legal position is clear. As established in *Smith* and reaffirmed in *Wordie* planning decisions must be based on relevant, objective, and intelligible evidence, not assumption or local sentiment. Community objections, however sincerely held, do not override the statutory framework. As Lord Reed affirmed in the *Tesco* case, the interpretation of planning policy is a matter of law, not public opinion.

The Homeless Project Scotland shelter does not contravene CDP 10 or SG10. On the contrary, it exemplifies their underlying purpose: to meet pressing housing need through safe, managed, and proportionate accommodation in appropriate urban locations. The objections raised by businesses and the Community Council amount to no more than discomfort with the demographic served, and cannot lawfully ground refusal.

In response to amenity concerns, the project has gone further still, introducing internal queuing in the basement, enhanced CCTV, and formal security protocols to remove any visual or operational impact on the street. These measures go beyond what SG10 demands and reflect an active effort to integrate respectfully with the surrounding area.

In short, this is not a planning dispute. It is a social reckoning. The refusal letter speaks the language of policy, but masks a judgment about people. The Local Review Body is invited to reject that premise. The law does not permit the exclusion of the vulnerable under the guise of character or amenity. To do so would be to distort planning law, frustrate national housing strategy, and allow stigma to dictate public policy.

Respectfully, the appeal should be upheld.