
Report To:	Environment & Regeneration Committee	Date:	31 October 2024
Report By:	Director, Environment & Regeneration	Report No:	ENV058/24/SJMM
Contact Officer:	Martin McNab	Contact No:	01475 714246
Subject:	Single Use Vapes		

1.0 PURPOSE AND SUMMARY

- 1.1 For Decision For Information/Noting
- 1.2 Following concern about the impact of vaping on young people raised in the motion by Councillor Reynolds, Committee were advised about potential changes in legislation at its meeting in March 2024.
- 1.3 This report provides an update to members on the progress by officers in tackling the negative health and environmental impacts of vapes. The report provides updates on the education and awareness raising and monitoring and enforcement activities undertaken to reduce the prevalence of vaping.

2.0 RECOMMENDATIONS

- 2.1 That Committee
1. notes the progress on controlling the sale of vapes and actions taken in Inverclyde to deliver health education and monitoring, and prevention measures related to the sale of vaping equipment.
 2. Approves the letter attached as Appendix 3 for issue to Scottish Government to support additional regulatory, education and monitoring to prevent the use of vapes.

3.0 BACKGROUND AND CONTEXT

3.1 Single use vapes have been the cause of significant concerns over both the health impacts of vaping, given the increase in popularity of vaping with young people, and environmental impact of their disposal and associated littering. Officers have an ongoing programme of monitoring and enforcement of compliance of retailers on vaping, as well as educational promotion. This provides a strong understanding of the issues arising and from benchmarking with other local authorities, the issues arising in Inverclyde appear to represent a pattern across Scotland and, indeed the UK, with an increased usage and popularity amongst younger people creating health concern; environmental issues, predominantly through littering but also potential risk of fires; and issues of compliance with regulations on underage sales.

Regulatory Framework

3.2 Sale of vapes to under 18s is currently covered by the Tobacco and Primary Medical Services (Scotland) Act 2010. The provisions relating to vapes are the largely the same as those for tobacco in terms of sale to under 18s (including proxy sales). The main differences relate to the controls over the display of products and advertising which is undoubtedly part of the reason a wider variety of businesses sell vaping products than tobacco. All businesses selling vapes must be on the Scottish Government's Tobacco Register and have implemented age verification policies. The Act requires Councils to have programmes of enforcement which we are currently meeting.

3.3 The sale of vapes to under 18s was banned in Scotland in 2016. This ban included proxy sales to adults on behalf of under 18s and effectively placed vapes under similar controls to cigarettes and other tobacco products. In addition, all retailers of tobacco and nicotine vaping products are subject to registration by the Scottish Government. The tobacco registration scheme was extended to NVP's, and it has been an offence since 1st October 2017 for any retailer to supply these products without registration. Sanctions for breaches (including underage sales) include fixed penalty notices issued by Trading Standards to banning orders for repeat breaches. Retailers are also obliged to provide facilities for recycling of vaping products, however, there remains prevalence of littering of vaping products, which can pose risk of fire.

3.4 The UK Government is currently progressing a Tobacco and Vapes Bill, which would be applicable across the UK, subject to Scottish Ministers consent. This would: change the minimum age of sale for Tobacco from 18 to make it an offence to sell to anyone born after 1 January 2009 aimed to come into force from 1 January 2027, with similar provisions are included for proxy sales; extend powers to make regulations on nicotine vapour products to other nicotine products; extend powers to limit or prohibit display from tobacco to include nicotine products and nicotine vaping products; and enable secondary regulations related to packaging, flavours, size, importation and supply. It is to be anticipated that the secondary legislation referred to in the Bill will be brought in very rapidly following Royal Assent. That the Governments are taking this approach is predicted to make it much easier to react quickly and deal with attempts by the industry to subvert controls by changing product compositions, packaging etc. This legislation also proposes a ban on single use vapes in England and Wales as of summer 2025. Scotland had been intending to introduce a similar ban in April 2025 under separate legislation, however, has now indicated it would delay the introduction of the ban to match UK arrangements.

3.5 Notwithstanding the current and potential future legislative and regulatory provisions, there remains significant concern over the health and environmental impact of vaping, and particularly young people and this is reflected in service activity to combat this issue.

4.0 ENFORCEMENT

- 4.1 The Trading Standards and Enforcement Team carry out enforcement visits for various legislative areas including age restricted products, metrology, fair trading, product safety and licensing standards. Over the last three years more compliance and advisory visits have been carried out for age restricted products than any other category with 166 in calendar year 2022, 36 in 2023 and 92 to date in 2024. In relation to the programme of test purchasing, a total of 5 fixed penalty notices have been issued by Trading Standards service in relation to vapes (4 for under age sales and 1 for failing to have adequate policy in place for age verification).
- 4.2 Appendices 1-2 show the location and number of visits to premises selling age restricted products in this period. Visits are informed by previous compliance, intelligence and perceived risk of sales. Visits will generally cover all age restricted products sold, including vapes.
- 4.3 Previous reports have highlighted some of the challenges around test purchasing for age restricted products. Where test purchasing is not practical, officers can carry out integrity checks involving using a young person between the ages of 18 and 25 to check that premises are carrying out age checks on those under 25.

5.0 HEALTH AWARENESS PROGRAMMES IN EDUCATION

- 5.1 The Senior Health Improvement Officer who leads on the HSCP vaping work, now attends all Personal and Social Education (PSE) leads meetings to share updates and work with the leads. She is currently planning a Vaping Roadshow for each secondary school in consultation with the leads to get it right for each establishment. An NHS guide on how to stop vaping guide is coming out before the end of the year and this will be shared with schools. Young people in Inverclyde will be giving their feedback on the paper, led by the Young Person's Substance Officers. It is hoped to produce a video version following the launch of the written version. There is also a new online 'Harms' module on 'Inverclyde Learns' on icon targeted at staff and parents.
- 5.2 National resources to support young people to cease vaping have been shared with PSE leads, Health and Wellbeing coordinators and Head Teachers through briefings and in the Health and Wellbeing newsletter. Young People's Substance Officers continue to deliver a 4-session programme in schools to all year groups. Sessions include the risks involved in vaping. Sessions are delivered to S4-6 this term, followed by S1-3 in the New Year. Personal and Social Education programmes are on the agenda for the next PSE leads meeting to ensure that all aspects of PSE are being covered across our schools including vaping, and to discuss how the key messages are being delivered.
- 5.3 Vaping sensors were installed in all schools during academic year 2023/24, with varying degrees of success. The infrastructure of the buildings, linked to the emerging nature of the technology of the sensors proved to be a challenge. Trial work was carried out in one secondary school to attempt to boost Wi-Fi reach into toilets but with no success. It was agreed that no further money should be spent on the sensor trial and that going forward approaches and resources to educate young people and their families and supports to stop vaping would be welcomed, including a roadshow delivered in partnership with HSCP.

6.0 RETAILERS' CHARTER

- 6.1 Officers have reviewed practice in other areas, including the Aberdeen Charter, which introduced a restriction on cash sales for vapes to provide retailers with additional measures to restrict sales of vapes to underage purchasers and proxy sales. On examination of the rationale for the introduction of a retailers' charter in Aberdeen, it is not considered this would be effective to

introduce a retailers' charter to this effect due to lack of similarity between the local circumstances. Although this instance brought measurable benefit in the reduction of complaints against proxy purchases in the City centre, in Aberdeen, the charter was conceived by retailers to combat proxy sales in a city centre location where the retailers were clustered in close proximity, and this resulted in individuals loitering outside premises and offering to make proxy purchases for young people in exchange for cash. Proxy sales is not an issue that has been raised or driven by retailers, or through complaints, likely due to the geography in Inverclyde meaning there is not clustering of such retailers, and therefore proxy sales do not occur in this way.

7.0 NEXT STEPS

7.1 As outlined in the foregoing paragraphs, in spite of regulations and enforcement, education and preventative measures, there remains concern regarding the impact of vaping on health (particularly of young people) and the environment. As such, it is important that officers continue to liaise with retailers on this matter; as well as the range of monitoring, testing, enforcement and education activities outlined in this report. Specifically, where fixed penalty notices have been issued, future testing will target those premises, as repeat offences carry escalating penalties. Officers will report to Environment & Regeneration Committee on any regulatory updates on this matter, as well as any significant progress or otherwise in tackling this issue. In this respect a continued programme of test purchasing, and integrity purchasing is planned, with a particular focus on premises that have previously been identified as breaching regulations throughout this year.

It is, nonetheless, recommended that a letter is written to Scottish Government to encourage and support the acceleration of regulations and provision of other preventative tools to support the ability to combat the health and environmental concerns associated with vaping.

8.0 IMPLICATIONS

8.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO
Financial		X
Legal/Risk		X
Human Resources		X
Strategic (Partnership Plan/Council Plan)		X
Equalities, Fairer Scotland Duty & Children/Young People's Rights & Wellbeing		X
Environmental & Sustainability		X
Data Protection		X

8.2 Finance

None

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

8.3 Legal/Risk

N/A

8.4 Human Resources

N/A

8.5 Strategic

N/A

8.6 Equalities, Fairer Scotland Duty & Children/Young People

N/A

(a) Equalities

This report has been considered under the Corporate Equalities Impact Assessment (EqIA) process with the following outcome:

	YES – Assessed as relevant and an EqIA is required.
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, assessed as not relevant and no EqIA is required. Provide any other relevant reasons why an EqIA is not necessary/screening statement.

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report’s recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report’s recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO – Assessed as not relevant under the Fairer Scotland Duty for the following reasons: Provide reasons why the report has been assessed as not relevant.

(c) Children and Young People

Has a Children’s Rights and Wellbeing Impact Assessment been carried out?

	YES – Assessed as relevant and a CRWIA is required.
X	NO – Assessed as not relevant as this report does not involve a new policy, function or strategy or recommends a substantive change to an existing policy, function or strategy which will have an impact on children’s rights.

8.7 Environmental/Sustainability

Summarise any environmental / climate change impacts which relate to this report.

None

Has a Strategic Environmental Assessment been carried out?

	YES – assessed as relevant and a Strategic Environmental Assessment is required.
X	NO – This report does not propose or seek approval for a plan, policy, programme, strategy or document which is like to have significant environmental effects, if implemented.

8.8 Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO – Assessed as not relevant as this report does not involve data processing which may result in a high risk to the rights and freedoms of individuals.

9.0 CONSULTATION

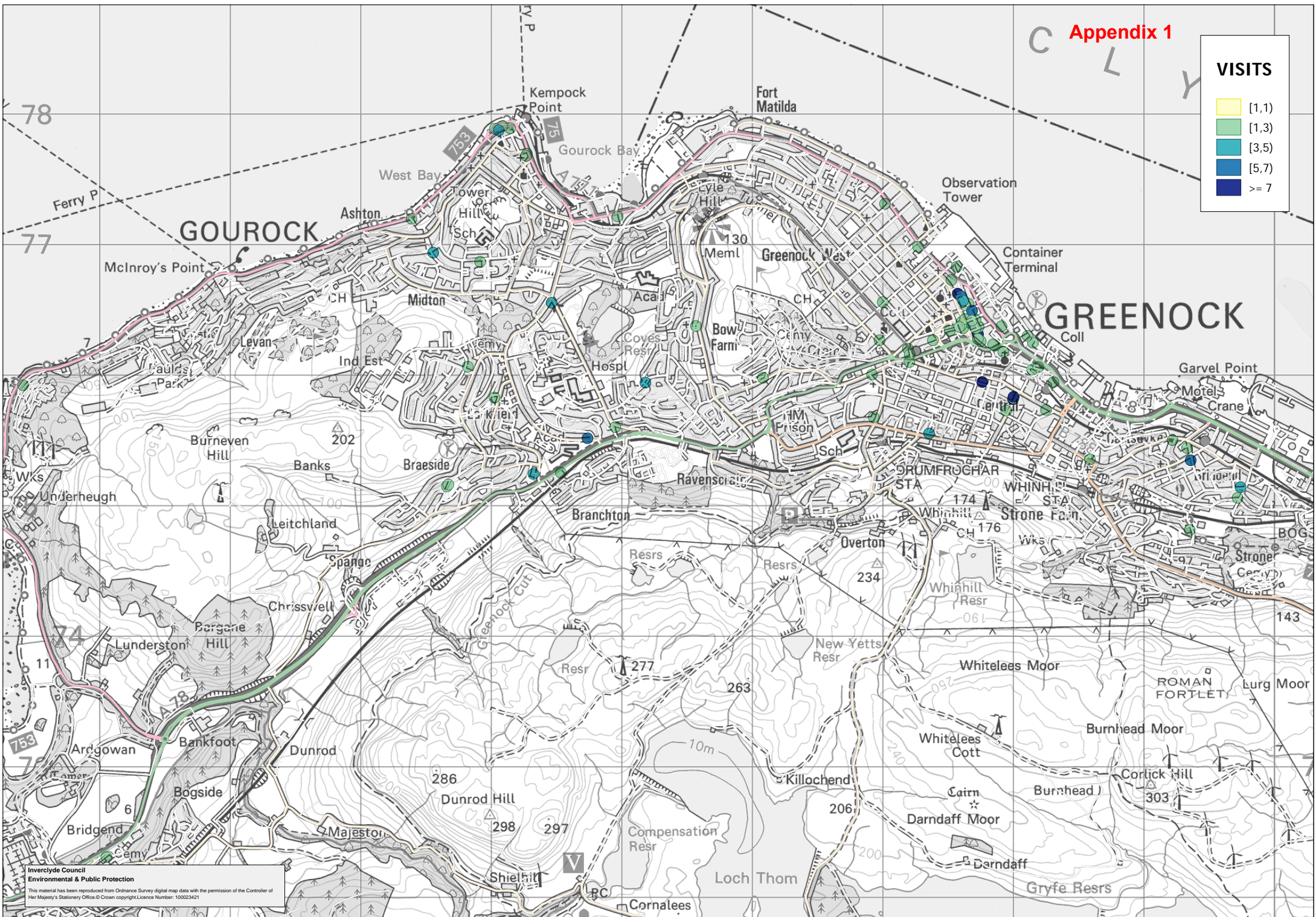
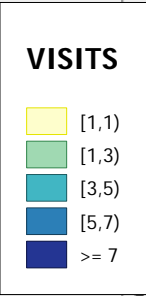
9.1 The Corporate Director Education & Communities was consulted on this report.

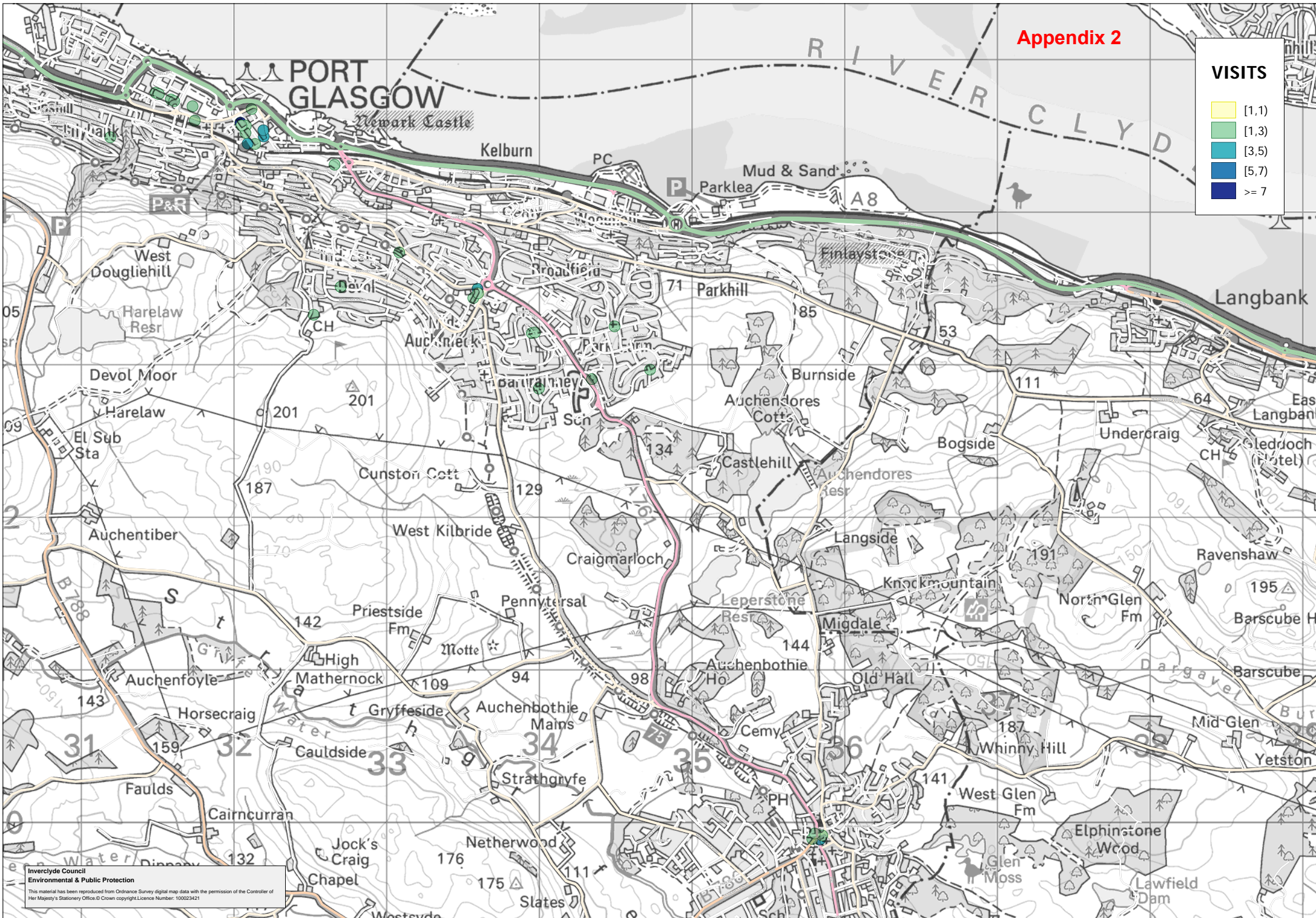
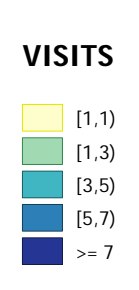
10.0 BACKGROUND PAPERS

10.1 Disposable Vapes – Notice of Motion by Councillor Reynolds Inverclyde Council 28 September 2023 **LS/098/23**

Single Use Vapes – Environment & Regeneration Committee 14 March 2024
ENV028/24/SJ/MM

C L Y





Our Ref:

Planning, Regeneration and Public Protection Service
Director: Stuart Jamieson

Your Ref:

Date:

Inverclyde Council
Public Protection
Municipal Building
Clyde Square
Greenock
PA15 1LY

Neil Gray MSP
Cabinet Secretary for Health and Social Care
The Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Tel: 01475 714298
Fax: 01475 714235
Public.protection@inverclyde.gov.uk

Dear Mr Gray

Levels of Vaping in Under 18s

Following a motion raised by Councillor Sandra Reynolds supported by all elected Members, we wish to express that Members of Inverclyde Council have serious concerns about the levels of use of vaping products we are seeing in young people in the area. Members have concerns over both the environmental impact and the potential long term health effects of these products.

The Council has taken steps to address this through both education initiatives in schools and the enforcement of current restrictions on underage sales. In spite of this the availability of these products and the attractiveness of them to young people mean that this is an uphill struggle which can only be won by far tighter controls on the sale of vaping products.

While the Council welcomes the ban on single use vapes which will come into effect in 2025 we remain concerned that manufacturers will seek to exploit any potential loopholes to maintain the market for these products. For this reason we also welcome the provisions of the UK Tobacco and Vapes Bill which will enable tighter restrictions on the sale and display of vapes and other nicotine products. The Council's Environment & Regeneration Committee has requested that I write to you asking you to work with the UK Government to take all reasonable steps to reduce the general retail availability of these products on the passing of the aforementioned Bill albeit recognising that there remains a role for these products as aids for smoking cessation; and increase education campaigns and the provision of other tools, to support local authorities and retailers further reduce the impact of vapes ahead of legislative provisions.

Yours sincerely

Michael McCormick
Convenor
Environment & Regeneration Committee
Inverclyde Council

Enquiries To:
Address: Public Protection Municipal Buildings Clyde Square Greenock PA15 1LY
Direct Line: 01475 71
Email: public.protection@inverclyde.gov.uk