

Ref: CM

Date: 25 April 2023

**A meeting of the Planning Board will be held on Wednesday 3 May 2023 at 3pm.**

**Members may attend the meeting in person or via remote online access. Webex joining details will be sent to Members and Officers prior to the meeting. Members are requested to notify Committee Services by 12 noon on Tuesday 2 May 2023 how they intend to access the meeting.**

**In the event of connectivity issues, Members are asked to use the *join by phone* number in the Webex invitation.**

**Information relating to the recording of meetings can be found at the end of this notice.**

IAIN STRACHAN  
Head of Legal, Democratic, Digital & Customer Services

## **BUSINESS**

**\*\*Copy to follow**

1.	<b>Apologies, Substitutions and Declarations of Interest</b>	<b>Page</b>
2.	<b>Planning Applications</b> Report by Director, Environment & Regeneration on applications for planning permission as follows:	
(a)	<b>Greenock Hydro Power Limited</b> To construct and operate a small scale hydro-electric scheme with storage on the Kip Water: Kip Water Hydro Scheme, Inverkip (18/0290/IC)	<b>p</b>
3.	<b>Planning Appeals</b> Report by Director, Environment & Regeneration intimating the outcome of a planning appeal at Flat 2, 17 Union Street, Greenock (22/0007/IC)	<b>p</b>

The reports are available publicly on the Council's website and the minute of the meeting will be submitted to the next standing meeting of the Inverclyde Council. The agenda for the meeting of the Inverclyde Council will be available publicly on the Council's website.

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Enquiries to – **Colin MacDonald** – Tel 01475 712113

**Report To:** The Planning Board

**Date:** 3 May 2023

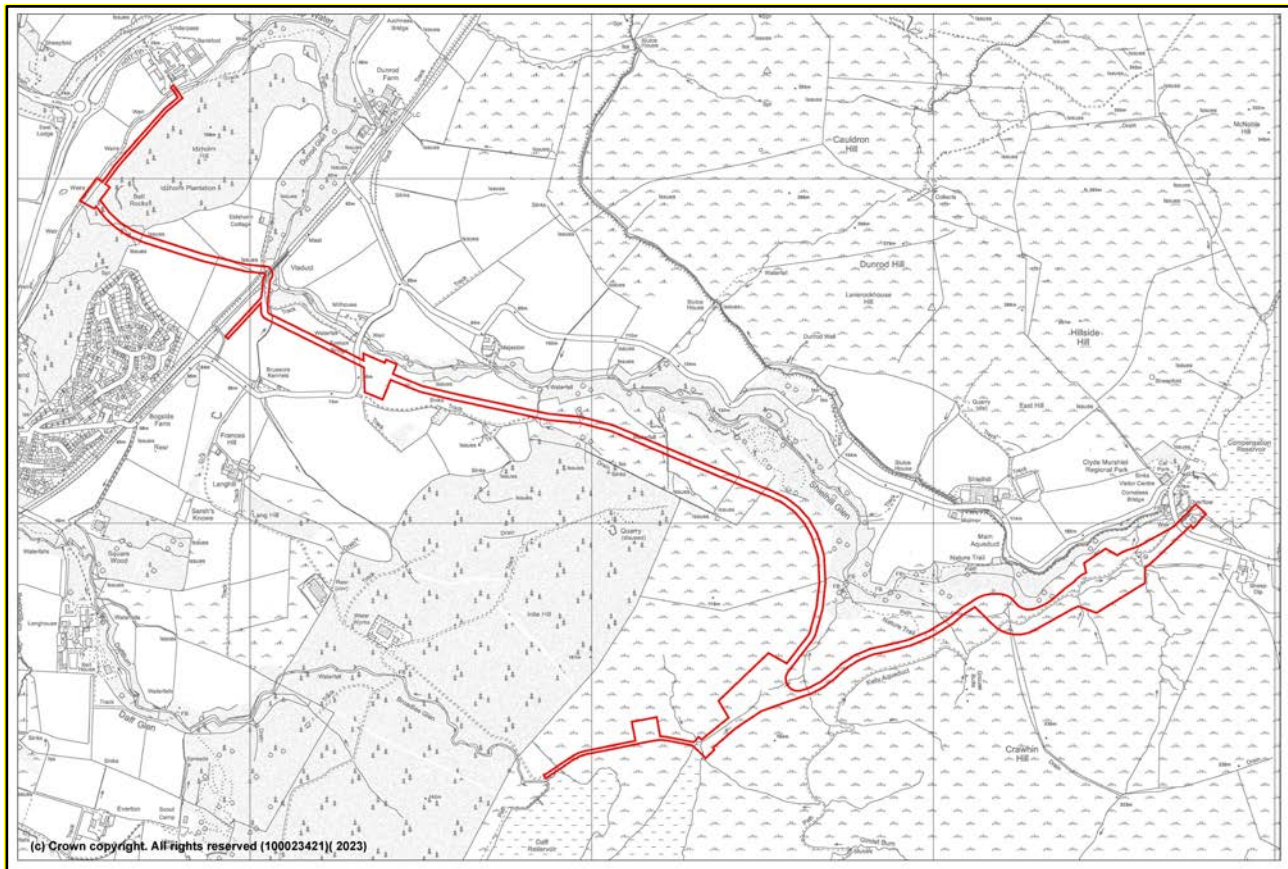
**Report By:** Director  
Environment and Regeneration

**Report No:** 18/0290/IC  
Local Application  
Development

**Contact  
Officer:** Sean Mc Daid

**Contact No:** 01475 712412

**Subject:** To construct and operate a small scale hydro-electric scheme with storage on the Kip Water at  
Kip Water Hydro Scheme, Inverkip



### SUMMARY

- The proposal presents no conflict with the Vision and Spatial Development Strategy set out in the Clydeplan Strategic Development Plan
- The proposal accords with the Inverclyde Local Development Plan and the Proposed Inverclyde Local Development Plan
- Three objections and seventeen representations in support of the application have been received.

- The consultations present no impediment to development.
- The recommendation is to GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS.

Drawings may be viewed at: [18/0290/IC | To construct and operate a small scale hydro-electric scheme with storage on the Kip Water | Kip Water Hydro Scheme Inverkip \(inverclyde.gov.uk\)](https://www.inverclyde.gov.uk/18/0290/IC/To-construct-and-operate-a-small-scale-hydro-electric-scheme-with-storage-on-the-Kip-Water-Kip-Water-Hydro-Scheme-Inverkip)

## SITE DESCRIPTION

The development site is located to the east of Inverkip and comprises land extending from the south-west side of the Compensation Reservoir located to the west of Loch Thom, to the northern tip of the Daff Reservoir. From the Daff Reservoir, the site extends towards Shielhill Glen before running in a general north-west direction towards Bankfoot, adjacent to the A78. The site also follows the line of access tracks at both Bankfoot and the Daff Reservoir. The overall site area is approximately 17.5 hectares.

The topography of the site is varied, with the highest part at an altitude of approximately 190 metres Above Ordnance Datum and the lowest part at approximately 10 metres Above Ordnance Datum. The landscape is also extremely varied. From the Compensation Reservoir, the site is located between the Kelly Aqueduct and the steeply sloping southern side of Shielhill Glen before extending across open moorland to the Daff Reservoir. From the Daff Reservoir, the site continues downhill to the west of Shielhill Glen to open fields and across the largely clear felled Idzholm Plantation to where it terminates at the bottom of the hill at Bankfoot.

The upper part of the site lies within the Renfrewshire Heights Special Protection Area (SPA) together with the Renfrewshire Heights Site of Special Scientific Interest (SSSI). As it runs down the hill, the site lies adjacent to, and briefly crosses through, the Shielhill Glen SSSI. The upper part of the site lies within the West Renfrew Hills Scenic Area. The site is also within the Clyde Muirshiel Regional Park. The Loch Thom to Overton Water Cut, which is a scheduled monument, is approximately 40 metres from the application site.

## PROPOSAL

It is proposed to construct a hydro-electric scheme which will utilise excess water that is spilled from the Loch Thom Reservoir into the Compensation Reservoir and will transfer the water by a new buried pipeline into the Daff Reservoir. Water will then be transferred from the Daff Reservoir to a powerhouse at Bankfoot through a new high pressure buried pipeline. The powerhouse will then return the water to Kip Water unchanged in quality and quantity. The proposal is 1000kW and indicated as generating approximately 3,630MWh per annum. The operation of the scheme will be dependent on the water levels and flows within the reservoirs and tributaries. The turbine in the powerhouse will only operate when there is sufficient water for both abstraction and compensation flows.

The key components of the scheme are as follows:

- Intakes on the Compensation Reservoir and Daff Reservoir.
- A switchroom building at Millhouse Road.
- A powerhouse building on the south bank of the Kip Water at Bankfoot.
- Approximately 4km of buried pipeline.
- A pipe bridge.
- A tailrace, to take water from the powerhouse back into Kip Water.
- Approximately 1.2km of new and upgraded access tracks for access to the powerhouse, switch room and intake at the Daff Reservoir.
- Associated construction compounds and spoil storage.

The key components of the proposal as described in more detail as follows.

An intake is to be constructed at the south-west side of Compensation Reservoir to the east of Cornalees Bridge. This intake structure is to have an integrated screen, collection chamber and stilling chamber. A valve will be incorporated within or close to the intake chamber in order to isolate the pipeline as required. Drain valves will also be fitted within the intake chamber for maintenance purposes.

During use, abstraction would begin with water flowing through the screens to the intake collection and stilling chambers below, from where it will enter the pipelines and be transferred onwards down to the proposed powerhouse. A compensation flow will be delivered to the side of the Compensation Reservoir intake. In times of high spill water, flood flows will be diverted via the existing spillways.

A buried pipeline is to run from this intake to the Daff Reservoir over a distance of approximately 1.6km.

Another similar intake is to be constructed at the north-eastern tip of the Daff Reservoir. A buried pipeline is then to run from this intake over the remaining distance to the proposed powerhouse at Bankfoot where the water will be discharged through a turbine that would drive a generator to produce electricity. A tailrace leading from the powerhouse will return the flow to the Kip Water, unchanged in quality or quantity.

The pipelines will consist of a combination of a High Performance Polyethylene (HPPE) pipe at the low-pressure sections and a Glass-Reinforced Plastic (GRP) pipe for the high pressure sections. The construction corridor for the pipeline will be restricted to a width of generally between 18 to 30 metres, depending on the type of pipe used and the engineering works associated with the installation.

The indicated sequence for constructing the buried HPPE for level of slightly sloping ground is to: prepare the existing ground and move loose rocks to the side; remove turf and peat; level subsoil to create a bench and create a drainage trench; prepare the trench and bring in the pipe in sections and weld together; lay the pipe and cover; restore peat; and restore turf and scatter rocks over the surface.

The indicated sequence for constructing the buried GRP pipe for level of slightly sloping ground is to: prepare the existing ground and move loose rocks to the side; create protective drainage ditches and remove turf; remove peat and lay track base material; prepare the trench; lay pipe and cover; restore peat and lay track surface material; and fill temporary drainage ditches, restore turf and scatter rocks over the surface.

For both types of pipe it is indicated that greater slopes will require benching of the track area and more or larger drainage ditches on the upslope sides of the working corridor and track.

Parts of the route of the pipeline involve deep excavations and works on steep side slopes. The submitted drawings indicate the deep excavations are in the area to the north-east side of the Daff Reservoir over a length of approximately 0.5km. The deep excavations in this corridor vary from approximately 8m to approximately 14m to allow the pipeline to be laid. This corridor is to be backfilled and the finished ground level is indicated as being approximately 2.5m below the existing ground level.

Work on steep side slopes is to occur in the area to the south-west of the Compensation Reservoir in the area between the Kelly Cut and the Greenock Cut over a length of approximately 0.65km. 1m deep by 1m wide benches are to be formed and the depth of the excavations depends on the topography of the side slopes in question. The deepest of the excavations is indicated on the submitted drawings as being approximately 4m. This part of the excavations is to be backfilled with ground levels re-instated and the stored turf used at the end of the works.



View along the Kelly Cut in a south-west direction

A temporary track will be constructed generally parallel to the pipeline within the marked corridor. Along the route, the pipeline will be buried or locally mounded over. A permanent pipe bridge is required over a minor stream near the Compensation Reservoir, for which a number of options in respect of the final form and appearance have been indicated by the applicant.

The powerhouse building will be 10m long by 8.5m wide and have a pitched roof that will be 8.275m high. It will have stone clad walls with slates on the roof. A transformer will be located outside the building in a fenced compound. The tailrace, in the form of a partially covered open channel, will be located on the western side of the building.

The switchroom building is to be 9.6m by 5.4m and have a pitched roof 6m high. Similar to the powerhouse building, it will be a stone clad building with slates on the roof.

It is indicated that the construction programme is expected to last approximately 20 months, although much of the main civil works will be completed in a 12 to 14 month period.

Temporary construction compounds will be located at the powerhouse, switchroom and intakes. The compounds will contain provision for the storage of fuel and materials (including pipes) and welfare facilities for site staff. Temporary spoil storage has been identified at various points along the route of the development. The compounds will be removed and the land restored on completion of the scheme.

From the A78, construction access to the powerhouse will be via an existing bridge and track across Kip Water, with upgrading in order to accommodate construction vehicles. Another new permanent access track of 100 metres length will be constructed at Millhouse Road to access the switchroom. At the eastern edge of Leapmoor Forest a new permanent vehicle access approximately 400 metre long will be built where the forestry track ends in order to access the intake at the Daff Reservoir.

The proposal will connect to the National Grid via a new 11kV overhead line from the existing overhead line north of Dunrod Farm to the switchroom and then a new buried cable that will run along the pipeline route from the switchroom to the powerhouse.

The operational life of the development is expected to be up to 50 years although some maintenance work is anticipated to ensure longevity. Decommissioning of the scheme would involve the removal of the hydro turbine and all above ground structures with 12 months being set aside for this process.

A range of supporting documentation and reports have submitted by the applicant including: Access and Traffic Report; Bryophyte Survey of Watercourses; Cultural Heritage Assessment; Fishery Survey of Watercourses; Hydrology Report; Noise Survey and Analysis; Daff Reservoir Flood Risk Assessment; Peat Probing Survey and Results; Deep Excavation Construction Method Statement; Environmental Risk Assessment and Mitigation; Construction Method Statement; Pipe Bridge Options; Extended Phase 1 Habitat Survey Report; Landscape and Visual Impact Assessment; and Recreational Access Report.

## **DEVELOPMENT PLAN POLICIES**

### **National Planning Framework 4**

NPF4 was adopted by the Scottish Ministers on 13th February 2023. NPF4 forms part of the statutory development plan, along with the Inverclyde Local Development Plan and its supplementary guidance. NPF4 supersedes National Planning Framework 3 (NPF3) and Scottish Planning Policy (SPP) (2014). NPF3 and SPP no longer represent Scottish Ministers' planning policy. The Clydeplan Strategic Development Plan and associated supplementary guidance cease to have effect from 13th February 2023 and as such no longer form part of the development plan.

NPF4 contains 33 policies and the following are considered relevant to this application.

#### **Policy 1**

When considering all development proposals significant weight will be given to the global climate and nature crises.

#### **Policy 4**

a) Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.

b) Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an "appropriate assessment" of the implications for the conservation objectives.

c) Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:

- i. The objectives of designation and the overall integrity of the areas will not be compromised; or
- ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

All Ramsar sites are also European sites and/ or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.

d) Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:

- i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or
- ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

e) The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.

f) Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application.

g) Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal:

- i. will support meeting renewable energy targets; or,
- ii. is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area.

All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration.

## **Policy 5**

a) Development proposals will only be supported if they are designed and constructed:

- i. In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and
- ii. In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing.

b) Development proposals on prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, as identified by the LDP, will only be supported where it is for:

- i. Essential infrastructure and there is a specific locational need and no other suitable site;
- ii. Small-scale development directly linked to a rural business, farm or croft or for essential workers for the rural business to be able to live onsite;
- iii. The development of production and processing facilities associated with the land produce where no other local site is suitable;
- iv. The generation of energy from renewable sources or the extraction of minerals and there is secure provision for restoration; and

In all of the above exceptions, the layout and design of the proposal minimises the amount of protected land that is required.

c) Development proposals on peatland, carbon rich soils and priority peatland habitat will only be supported for:

- i. Essential infrastructure and there is a specific locational need and no other suitable site;
- ii. The generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reductions targets;
- iii. Small-scale development directly linked to a rural business, farm or croft;
- iv. Supporting a fragile community in a rural or island area; or
- v. Restoration of peatland habitats.



d) Where development on peatland, carbon-rich soils or priority peatland habitat is proposed, a detailed site specific assessment will be required to identify:

- i. the baseline depth, habitat condition, quality and stability of carbon rich soils;
- ii. the likely effects of the development on peatland, including on soil disturbance; an
- iii. the likely net effects of the development on climate emissions and loss of carbon.

### **Policy 6**

a) Development proposals that enhance, expand and improve woodland and tree cover will be supported.

b) Development proposals will not be supported where they will result in:

- i. Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;
- ii. Adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;
- iii. Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy;
- iv. Conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.

c) Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered.

d) Development proposals on sites which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design.

### **Policy 7**

a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change. Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

h) Development proposals affecting scheduled monuments will only be supported where:

- i. direct impacts on the scheduled monument are avoided;
- ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided;
- or iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.

o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

## **Policy 8**

a) Development proposals within a green belt designated within the LDP will only be supported if:

i) they are for:

- development associated with agriculture, woodland creation, forestry and existing woodland (including community woodlands);
- residential accommodation required and designed for a key worker in a primary industry within the immediate vicinity of their place of employment where the presence of a worker is essential to the operation of the enterprise, or retired workers where there is no suitable alternative accommodation available;
- horticulture, including market gardening and directly connected retailing, as well as community growing;
- outdoor recreation, play and sport or leisure and tourism uses; and developments that provide opportunities for access to the open countryside (including routes for active travel and core paths);
- flood risk management (such as development of blue and green infrastructure within a “drainage catchment” to manage/mitigate flood risk and/or drainage issues);
- essential infrastructure or new cemetery provision;
- minerals operations and renewable energy developments;
- intensification of established uses, including extensions to an existing building where that is ancillary to the main use;
- the reuse, rehabilitation and conversion of historic environment assets; or
- one-for-one replacements of existing permanent homes.

and

ii) the following requirements are met:

- reasons are provided as to why a green belt location is essential and why it cannot be located on an alternative site outwith the green belt;
- the purpose of the green belt at that location is not undermined;
- the proposal is compatible with the surrounding established countryside and landscape character;
- the proposal has been designed to ensure it is of an appropriate scale, massing and external appearance, and uses materials that minimise visual impact on the green belt as far as possible; and
- there will be no significant long-term impacts on the environmental quality of the green belt.

## **Policy 11**

a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:

- i. wind farms including repowering, extending, expanding and extending the life of existing wind farms;
- ii. enabling works, such as grid transmission and distribution infrastructure;
- iii. energy storage, such as battery storage and pumped storage hydro;
- iv. small scale renewable energy generation technology;
- v. solar arrays;
- vi. proposals associated with negative emissions technologies and carbon capture; and
- vii. proposals including co-location of these technologies.

b) Development proposals for wind farms in National Parks and National Scenic Areas will not be supported.

c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

d) Development proposals that impact on international or national designations will be assessed in relation to Policy 4.

e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:

- i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;
- ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;
- iii. public access, including impact on long distance walking and cycling routes and scenic routes;
- iv. impacts on aviation and defence interests including seismological recording;
- v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
- vi. impacts on road traffic and on adjacent trunk roads, including during construction;
- vii. impacts on historic environment;
- viii. effects on hydrology, the water environment and flood risk;
- ix. biodiversity including impacts on birds;
- x. impacts on trees, woods and forests;
- xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;
- xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and
- xiii. cumulative impacts.

In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible.

f) Consents for development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity.

### **Policy 20**

c) Development proposals in regional and country parks will only be supported where they are compatible with the uses, natural habitats, and character of the park.

### **Policy 22**

a) Development proposals at risk of flooding or in a flood risk area will only be supported if they are for:

- i. essential infrastructure where the location is required for operational reasons;
- ii. water compatible uses;
- iii. redevelopment of an existing building or site for an equal or less vulnerable use; or
- iv. redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice.

The protection offered by an existing formal flood protection scheme or one under construction can be taken into account when determining flood risk.

In such cases, it will be demonstrated by the applicant that:

- all risks of flooding are understood and addressed;
- there is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes
- the development remains safe and operational during floods; • flood resistant and resilient materials and construction methods are used; and
- future adaptations can be made to accommodate the effects of climate change.

Additionally, for development proposals meeting criteria part iv), where flood risk is managed at the site rather than avoided these will also require:

- the first occupied/utilised floor, and the underside of the development if relevant, to be above the flood risk level and have an additional allowance for freeboard; and
- that the proposal does not create an island of development and that safe access/ egress can be achieved.

b) Small scale extensions and alterations to existing buildings will only be supported where they will not significantly increase flood risk.

c) Development proposals will:

- i. not increase the risk of surface water flooding to others, or itself be at risk.
- ii. manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer;
- iii. seek to minimise the area of impermeable surface.

d) Development proposals will be supported if they can be connected to the public water mains. If connection is not feasible, the applicant will need to demonstrate that water for drinking water purposes will be sourced from a sustainable water source that is resilient to periods of water scarcity.

e) Development proposals which create, expand or enhance opportunities for natural flood risk management, including blue and green infrastructure, will be supported.

## **ADOPTED DEVELOPMENT PLAN POLICIES**

### **Policy 1 - Creating Successful Places**

Inverclyde Council requires all development to have regard to the six qualities of successful places. In preparing development proposals, consideration must be given to the factors set out in Figure 3. Where relevant, applications will also be assessed against the Planning Application Advice Notes Supplementary Guidance.

### **Policy 4 - Supplying Energy**

Proposals for infrastructure for the generation, storage or distribution of heat and electricity will be supported in principle where they contribute to a reduction in greenhouse gas production. Proposals will be assessed with regard to impact on:

- a) the green network (including landscape), and historic buildings and places;
- b) the amenity and operations of existing and adjacent uses;
- c) tourism and recreational resources;
- d) air quality;
- e) aviation and defence interests;
- f) telecommunication and broadcasting interests; and

- g) traffic and pedestrian safety

Relevant proposals are required to accord with the Council's Supplementary Guidance on Energy.

### **Policy 8 - Managing Flood Risk**

Development proposals will be assessed against the Flood Risk Framework set out in Scottish Planning Policy. Proposals must demonstrate that they will not:

- be at significant risk of flooding;
- increase the level of flood risk elsewhere; and
- reduce the water conveyance and storage capacity of a functional flood plain.

The Council will support, in principle, the flood protection schemes set out in the Clyde and Loch Lomond Local Flood Risk Management Plan 2016, subject to assessment of the impacts on the amenity and operations of existing and adjacent uses, the green network, historic buildings and places, and the transport network.

### **Policy 11 - Managing Impact of Development on the Transport Network**

Development proposals should not have an adverse impact on the efficient operation of the transport network. Development should comply with the Council's roads development guidelines and parking standards. Developers are required to provide or contribute to improvements to the transport network that are necessary as a result of the proposed development.

### **Policy 14 - Green Belt and Countryside**

Development in the Green Belt and Countryside will only be permitted if it is appropriately designed, located, and landscaped, and is associated with:

- a) agriculture, horticulture, woodland or forestry;
- b) a tourism or recreational use that requires a countryside location;
- c) infrastructure with a specific locational need;
- d) the appropriate re-use of a redundant stone or brick building, the retention of which is desirable for its historic interest or architectural character, subject to that interest or character being retained; or
- e) intensification (including extensions and outbuildings) of an existing use, which is within the curtilage of the associated use and is of an appropriate scale and form.

Proposals associated with the uses set out in criteria a)-c) must provide justification as to why the development is required at the proposed location.

### **Policy 15 - Soils**

Development on prime agricultural land or affecting carbon rich soils will only be supported if:

- a) it is on land allocated for development in this Local Development Plan or meets a need identified in the Strategic Development Plan;
- b) there is a specific locational need for the development;
- c) it is for small scale development directly linked to a rural business; or
- d) it is for renewable energy generation or mineral extraction, and the proposals include provision for the site to be returned to its former status.

For carbon rich soils, it will also need to be demonstrated that adverse impacts on the soil resource during the construction and operational phases of a development will be minimised and the development will not result in a net increase in CO<sub>2</sub> emissions over its lifetime.

### **Policy 31 - Scheduled Monuments and Archaeological Sites**

Development that would potentially have an adverse effect on a Scheduled Monument will only be permitted in exceptional circumstances.

Development affecting archaeological sites should seek to preserve the archaeological resource in situ.

### **Policy 33 - Biodiversity and Geodiversity**

Natura 2000 sites :Development proposals that are likely to have a significant effect on a Natura 2000 site will be subject to an appropriate assessment of the implications of the proposal on conservation objectives. Proposals will only be permitted if the assessment demonstrates that there will be no adverse effect on the integrity of the site or if:

- there are no alternative solutions;
- there are imperative reasons of overriding public interest, including those of a social or economic nature; or
- compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

Sites of Special Scientific Interest: Development affecting Sites of Special Scientific Interest will only be permitted where the objectives of the designation and the overall integrity of the area will not be compromised, or if any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

Protected Species: Development affecting Protected Species will only be permitted where:

- it preserves public health or public safety or is for other imperative reasons of overriding public interest including those of a social or economic nature and has beneficial consequences of primary importance for the environment;
- there is no satisfactory alternative; and
- it maintains the species in a favourable conservation status.

Local Nature Conservation Sites: Development is required to avoid having a significant adverse impact on Local Nature Conservation Sites. Any adverse impacts are to be minimised. Where adverse impacts are unavoidable, compensatory measures will be required.

Local Landscape Area: Development that affects the West Renfrew Hills Local Landscape Area is required to protect and, where possible, enhance its special features as set out in the Statement of Importance.

Non-designated sites: The siting and design of development should take account of local landscape character. All development should seek to minimise adverse impact on wildlife, especially species and habitats identified in the Local Biodiversity Action Plan. Development should take account of connectivity between habitat areas. Where possible, new development should be designed to conserve and enhance biodiversity.

### **Policy 34 - Trees, Woodland and Forestry**

The Council supports the retention of ancient and semi-natural woodland, trees covered by Tree Preservation Orders and other trees and hedgerows, which have significant amenity, historical, ecological, landscape or shelter value. Where the removal of such woodland, trees or hedgerows is proposed as part of a planning application, this will not be supported unless:

- it can be clearly demonstrated that the development cannot be achieved without removal;
- the public benefits of the proposal outweigh the loss of trees/hedgerows; and
- compensatory planting will be provided, to a standard agreed by the Council.

Development affecting trees will be assessed against Supplementary Guidance to be prepared by the Council. This will also cover the management and protection of existing and new trees during and after the construction phase.

Proposals for new forestry/woodland planting will be assessed with regard to the Supplementary Guidance to be prepared in association with the Clydeplan Strategic Development Plan, and the UK Forestry Standard.

### **Policy 37 - Clyde Muirshiel Regional Park**

Proposals for development within Clyde Muirshiel Regional Park will be considered with regard to the Park Objectives and Strategy.

### **Policy 38 - Path Network**

Development that would result in the loss of a core path, right of way or other important outdoor access route will not be permitted unless acceptable alternative provision can be made.

Where applicable, development proposals will be required to provide new paths in order to encourage active travel and/or connectivity to the green network. The provision of routes along water will be an essential requirement on development sites with access to a waterfront, unless not appropriate for operational or health and safety reasons.

### **Policy 39 - Water Environment**

Development proposals affecting the water environment will be required to safeguard and improve water quality and the enjoyment of the water environment by:

- supporting the objectives and actions of the River Basin Management Plan for Scotland and the Clyde Area Management Plan, where applicable;
- minimising adverse impacts on, or improving, water quality, flow rate, morphology, riparian habitat and groundwater dependent terrestrial ecosystems;
- the removal of existing culverts. This will be a requirement on development sites, unless it can be clearly demonstrated as not practical or resulting in the development not being viable;
- avoiding the hard engineering and culverting of waterways and the building over of existing culverts in new developments unless clearly demonstrated to be essential. Where culverts are required, they should be designed to maintain existing flow conditions and aquatic life, with long term maintenance arrangements;
- maintaining or improving waterside and water-based habitats; and
- providing access to the water and waterside, where appropriate.

## **PROPOSED 2021 LOCAL DEVELOPMENT PLAN POLICIES**

### **Policy 1 – Creating Successful Places**

Inverclyde Council requires all development to have regard to the six qualities of successful places. In preparing and assessing development proposals, consideration must be given to the factors set out in Figure 2 and demonstrated in a design-led approach. Where relevant, applications will also be assessed against the Planning Application Advice Notes and Design Guidance for New Residential Development Supplementary Guidance. When assessing proposals for the development opportunities identified by this Plan, regard will also be had to the mitigation and enhancement measures set out in the Strategic Environmental Assessment Environmental Report.

#### **Policy 4 – Supplying Energy**

Proposals for infrastructure for the generation, storage or distribution of heat and electricity will be supported in principle where they contribute to a reduction in greenhouse gas production. Proposals will be assessed with regard to impact, including cumulative impact on:

- a) the resources protected by the Plan's historic buildings and places and natural and open spaces chapters;
- b) the amenity and operations of existing and adjacent uses;
- c) tourism and recreational resources;
- d) air quality;
- e) aviation and defence interests;
- f) telecommunication and broadcasting interests; and
- g) traffic and pedestrian safety

Where relevant, proposals are to be accompanied with restoration plans acceptable to the Council.

Relevant proposals are required to accord with the Council's Supplementary Guidance on Energy.

#### **Policy 9 - Managing Flood Risk**

Development proposals will be assessed against the Flood Risk Framework set out in Scottish Planning Policy. Proposals must demonstrate that they will not:

- a) be at significant risk of flooding (i.e. within the 1 in 200 year design envelope);
- b) increase the level of flood risk elsewhere; and
- c) reduce the water conveyance and storage capacity of a functional flood plain.

The Council will support, in principle, the flood risk management schemes set out in the Clyde and Loch Lomond Local Flood Risk Management Plan 2016, subject to assessment of the impacts on the amenity and operations of existing and adjacent uses, the resources protected by the Plans historic buildings and places and natural and open spaces chapters, and the transport network. Where practical and effective, nature-based solutions to flood management will be preferred.

#### **Policy 12 – Managing Impact of Development on the Transport Network**

Development proposals should not have an adverse impact on the efficient operation of the transport and active travel network. Development should comply with the Council's roads development guidelines and parking standards, including cycle parking standards. Developers are required to provide or financially contribute to improvements to the transport network that are necessary as a result of the proposed development.

#### **Policy 15 – Green Belt and Countryside**

Development in the Green Belt and Countryside will only be permitted if it is appropriately designed, located, and landscaped, and is associated with:

- a) agriculture, horticulture, woodland or forestry;
- b) a tourism or recreational use that requires a countryside location;
- c) infrastructure with a specific locational need;
- d) the appropriate re-use of a redundant stone or brick building, the retention of which is desirable for its historic interest or architectural character, subject to that interest or character being retained; or
- e) intensification (including extensions and outbuildings) within the curtilage of an existing use, which is of an appropriate scale and form.



Proposals associated with the uses set out in criteria a)-c) must provide justification as to why the development is required at the proposed location. Proposals in the green belt must not undermine the objectives of the green belt as set out in Scottish Planning Policy and the Clydeplan Strategic Development Plan. Non-conforming uses will only be considered favourably in exceptional or mitigating circumstances.

### **Policy 16 - Soils**

Development on prime agricultural land will only be supported if:

- a) it is on land allocated for development in this Local Development Plan or meets a need identified in the Strategic Development Plan;
- b) there is a specific locational need for the development;
- c) it is for small scale development directly linked to a rural business; or
- d) it is for renewable energy generation or mineral extraction, and the proposals include provision for the site to be returned to its former status.

Development should avoid the unnecessary disturbance of peat and carbon-rich soils. Best practice must be adopted in the movement, storage, management and reinstatement of peat and carbon-rich soils.

Where peat and carbon rich soils are present on an application site, a depth survey must be undertaken which demonstrates that areas of deep peat have been avoided as far as is possible. A peat management plan must also be produced, detailing mitigation measures which demonstrate that the unnecessary disturbance, degradation or erosion of peat will be avoided. It will also need to be demonstrated that adverse impacts on the soil resource during the construction and operational phases of a development will be minimised and the development will not result in a net increase in CO<sub>2</sub> emissions over its lifetime.

### **Policy 31 – Scheduled Monuments and Archaeological Sites**

Development that would potentially have an adverse effect on a Scheduled Monument or the integrity of its setting will only be permitted in exceptional circumstances.

Development affecting archaeological sites should seek to preserve the archaeological resource in situ. Where this is not possible, the developer will be required to fully record the archaeological resource for archiving, prior to development commencing.

### **Policy 33 – Biodiversity and Geodiversity**

#### European sites

Development proposals that are likely to have a significant effect on a European site which are not directly connected with or necessary to their conservation management must be subject to an appropriate assessment of the implications of the proposal on conservation objectives. Proposals will only be permitted if the assessment demonstrates that there will be no adverse effect on the integrity of the site either during construction or operation of the development, or if:

- there are no alternative solutions; and
- there are imperative reasons of overriding public interest, including those of a social or economic nature; and
- compensatory measures are provided to ensure that the overall coherence of the network is protected.

In such cases, the Scottish Ministers must be notified.

#### Sites of Special Scientific Interest

Development affecting Sites of Special Scientific Interest will only be permitted where the objectives of the designation and the overall integrity of the area will not be compromised, or if any significant

adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

#### Protected Species

When proposing any development which may affect a protected species, the applicant should fulfil the following requirements: to establish whether a protected species is present; to identify how the protected species may be affected by the development; to ensure that the development is planned and designed so as to avoid or minimise any such impact, while having regard to the degree of protection which is afforded by legislation, including any separate licensing requirements; and to demonstrate that it is likely that any necessary licence would be granted.

#### Local Nature Conservation Sites

Development is required to avoid having a significant adverse impact on Local Nature Conservation Sites. Any adverse impacts are to be minimised. Where adverse impacts are unavoidable, adequate compensatory measures will be required.

#### Non-designated sites

All development should seek to minimise adverse impact on wildlife, especially species and habitats identified in the Local Biodiversity Action Plan. Development should take account of connectivity between habitat areas. Where possible, new development should be designed to conserve and enhance biodiversity.

### **Policy 34 – Landscape**

The siting and design of development should take account of local landscape character and setting in order to conserve, enhance and/or restore landscape character and distinctiveness. Development should aim to conserve those features that contribute to local distinctiveness including:

- the setting of buildings and settlements within the landscape
- the pattern of woodlands, fields, hedgerows and trees; especially where they define/ create a positive settlement/ urban edge
- the character and distinct qualities of river corridors
- historic landscapes
- topographic features, including important/prominent views, vistas and panoramas

When assessing development proposals likely to have a significant impact on the landscape, the guidance contained in the Glasgow and Clyde Valley Landscape Character Assessment will be taken into account.

Development that affects the West Renfrew Hills Local Landscape Area is required to protect and, where possible, enhance its special landscape qualities as set out in the Statement of Importance. Where there is potential for development to result in a significant adverse landscape and/or visual impact, proposals should be amended to avoid or mitigate these impacts through being informed by a landscape and visual impact assessment.

### **Policy 35 – Trees, Woodland and Forestry**

The Council supports the retention of trees, including ancient and semi-natural woodland, trees covered by Tree Preservation Orders and other trees and hedgerows, which have significant amenity, historical, ecological, landscape or shelter value. Where the removal of such woodland, trees or hedgerows is proposed as part of a planning application, this will not be supported unless:

- it can be clearly demonstrated that the development cannot be achieved without removal; or
- the public benefits of the proposal outweigh the loss of trees/hedgerows; and
- compensatory planting will be provided, to a standard agreed by the Council.

Development affecting trees will be assessed against Supplementary Guidance to be prepared by the Council.

Proposals for new forestry/woodland planting will be assessed with regard to the policies of this Plan and the Forestry and Woodland Strategy for the Glasgow City Region.

### **Policy 36 – Safeguarding Green Infrastructure**

Proposals for new or enhanced open spaces, which are appropriate in terms of location, design and accessibility, will be supported. Development proposals that will result in the loss of open space which is, or has the potential to be, of quality and value, will not be permitted, unless provision of an open space of equal or enhanced quality and value is provided within the development or its vicinity. Outdoor sports facilities will be safeguarded from development except where:

- a) the proposed development is ancillary to the principal use of the site as an outdoor sports facility, or involves only a minor part of the facility and would not affect its use for sport and training;
- b) the facility to be lost is to be replaced by a new or upgraded facility of comparable or better quality, which is convenient for the users of the original facility and maintains or improves overall playing capacity in the area; or
- c) a relevant strategy demonstrates a clear excess of provision to meet current and anticipated demand, and the development would not result in a reduction in the overall quality of provision.

Development that would result in the loss of a core path, right of way or other important outdoor access route will not be permitted unless acceptable alternative provision can be made.

### **Policy 38 – Clyde Muirshiel Regional Park**

Proposals for development within Clyde Muirshiel Regional Park will be considered with regard to the Park Objectives and Strategy and to the Park's statutory purpose of providing recreational access to the countryside.

### **Policy 39 – Water Environment**

Development proposals affecting the water environment will be required to safeguard and improve water quality and the enjoyment of the water environment by:

- a) supporting the strategies and actions of the national and regional marine plans, and supporting the objectives and actions of the River Basin Management Plan for Scotland and the Clyde Area Management Plan, where applicable;
- b) minimising adverse impacts on, or improving, water quality, flow rate, morphology, riparian habitat and groundwater dependent terrestrial ecosystems;
- c) the removal of existing culverts. This will be a requirement on development sites, unless it can be clearly demonstrated as not practical or resulting in the development not being viable;
- d) avoiding the hard engineering and culverting of waterways and the building over of existing culverts in new developments unless clearly demonstrated to be essential. Where culverts are required, they should be designed to maintain existing flow conditions and aquatic life, with long term maintenance arrangements; maintaining or improving waterside and water-based habitats; and
- e) providing appropriately sized buffer strips between development and watercourses, in line with SEPA guidance, and providing access to the water and waterside, where appropriate.

## **CONSULTATIONS**

**Scottish Environment Protection Agency** – It should be noted that SEPA had initially objected to the proposal on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy. SEPA has subsequently withdrawn its objection. SEPA advise maximum abstraction rates have been submitted with the application for authorisation under the Water Environment

(Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR). These are less than previously thought and used in the original hydrology assessment thus removing the previous concerns.

SEPA initially objected in respect of the impact on peat on the grounds that there was insufficient information on peat management. The applicant subsequently provided a peat survey together with peat probing results. Having reviewed these SEPA is satisfied that there are likely no significant accumulations of peat underlying the proposed pipeline and therefore removed the objection.

Advises no objections in respect of Ground Water Dependant Terrestrial Ecosystems. The pipeline and other parts of the scheme largely avoid these areas and where there is likely to be disturbance, adequate mitigation has been proposed to minimise the disturbance and impact.

SEPA acknowledges that pollution prevention methods are outlined within the Construction Method Statement and that the applicant has said, as SEPA would expect, that works will be carried out in accordance with the relevant Pollution Prevention Guidance/Guidance for Pollution Prevention.

Appropriate watercourse buffer strips should be maintained throughout construction. The level of treatment of silt laden water must be sufficient to ensure the final discharge will not result in pollution. SEPA recommend reference is made to their supporting guidance document Engineering in the Water Environment – Temporary Construction Methods.

Invasive non-native species were not referred to in any report but are not always apparent. Disturbance or movement of soils can cause the spread of non-native species and good biosecurity practice is essential. Details of legal responsibilities can be found in the Code of Practice on Non-Native Species produced by the Scottish Government.

Advises any waste materials imported to the site during construction must be stored and used only in accordance with a waste management licence or exemption under the Waste Management Licensing (Scotland) Regulations 2011. Management of surplus peat or soils on site may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Any waste materials removed from the site must be disposed of at a suitably licensed or exempt waste management facility in accordance with these Regulations and carried by a registered waste carrier.

**Head of Service – Roads and Transportation** – Advises the CAR Licence has been examined. Also advises a Section 56 Consent will be required for any road crossing and a maintenance agreement for any apparatus under the public road.

**Scottish Water** - No objection to the proposal. Advice is provided in respect of drinking water protected areas, impacts on Scottish Water infrastructure and assets and surface water.

**Head of Public Protection and Covid Recovery** – advises the following:

- A condition in respect of a survey for the presence of non-native invasive species is recommended.
- The Kip Water Hydro Scheme Noise Survey and Analysis Report No: P783 / Noise Survey and Analysis October 2018 recommends Noise Attenuation through Powerhouse Design in chapter 4. The eight attenuation measures should be adopted. A condition is recommended in this respect.
- A condition is recommended to cover external lighting.
- The proposed scheme is using water from established reservoirs. Any private water supplies in the vicinity are fed by alternative sources so the proposed hydro scheme will not have an impact on their use.

**Transport Scotland** - No objections subject to a condition in respect of vehicle wheel cleansing facilities being installed and brought into operation on the site prior to the commencement of works.

The design and siting of vehicle wheel cleansing facilities shall be subject to the agreement of the Planning Authority, after consultation with Transport Scotland as the Trunk Roads Authority. This is to ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

**NatureScot** - An initial response was received noting a lack of sufficient information in respect of the proposal. Following further information being provided by the applicant, a conditioned objection has been made as follows:

The proposal could be progressed with appropriate mitigation, however because it could adversely affect internationally important natural heritage assets, NatureScot objects unless it can be made subject to conditions to ensure that the works are done strictly in accordance with the mitigation detailed.

This proposal is likely to have a significant effect on the breeding Hen Harriers of the Renfrewshire Heights SPA. Consequently, Inverclyde Council as competent Authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests. It is the view of NatureScot that on the basis of the information provided, if the proposal is undertaken strictly in accordance with appropriate mitigation, then it will not affect the integrity of the site.

In summary, these mitigation measures include a condition attached to any planning permission restricting the operation of the construction work during the bird breeding season. This should apply from April to July inclusive to the section of the pipeline workings between the Daff Reservoir intake and a point level with the upper edge of Leapmoor Forest.

Temporary loss of habitat within the protected site should be minimised through the strict adherence to an agreed phased construction management programme along with well-defined policies for the works. NatureScot has offered to comment on the drafting of the construction management plan.

There should be an agreed aftercare monitoring and management plan in place for a minimum of five years and should include provision for extension if required. NatureScot notes and will be happy to comment on annual monitoring reports.

NatureScot has provided the following further advice on the appropriate assessment subsequently undertaken by the Council:

1. NatureScot is content with the format of the assessment.
2. NatureScot agrees with the conclusion of the assessment.

**Historic Environment Scotland** – Advises the proposal has the potential to affect the Loch Thom to Overton Water Cut which is a scheduled ancient monument.

The works, and in particular, the construction compound, aqueduct pipeline from the Compensation Reservoir to the Daff Reservoir, and the eastern of the spoil storage areas approach to within c.40m of the scheduled monument. It is therefore advised that the applicant should ensure that the extent of the scheduled monument is marked on all working site plans and maps, that the boundary of the monument and a 10m buffer zone around it is clearly marked on the ground, and that all staff and visitors on site are briefed to ensure that they are aware that any damage to the monument would be an offence under the Ancient Monuments and Archaeological Areas Act (1979).

**Network Rail** - No objections in principle to the application. However due to its close proximity to the operational railway, it is requested that the following matters are taken into account and if necessary and appropriate included as conditions or advisory notes, if granting the application:

The construction of the proposed pipeline through Underbridge 181/014A should not be detrimental to Network Rail's ability to infill the bridge in the future should this be necessary or to inspect and

maintain the existing bridge structure. The developer will require to secure a wayleave agreement with Network Rail to route the pipe through this bridge.

The proposed use of Overbridge 181/014 to the south west of the pipeline for construction traffic will be subject to further discussion and agreement with Network Rail. The developer should be aware that the bridge has a 13 ton weight limit and all construction traffic routed over this bridge must be suitable for its use.

All construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.

- Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

The developer must contact Network Rail's Asset Protection Engineers regarding the above matters.

**Clyde Muirshiel Park Manager** - A number of concerns are raised that can be summarised as follows:

There are concerns over the longer term impact on sections of the Shielhill Glen SSSI. The wetland of this SSSI will be damaged by the construction of a temporary road and pipeline that will act as a conduit for the transmission of water through the wetland therefore leading to a deterioration of this habitat. A drying of the soil is likely to lead to vegetation change and increased growth of grass.

It is noted the project borders the SPA for the Hen Harrier.

There will be considerable disturbance to the peaty soil and the ground cover. There is also the potential for erosion and damage to the Kelly Cut.

The closure of paths will discourage visitors to the Greenock Cut Visitor Centre due to reduction in access, and effects arising from construction. It will not be possible to access the circular route on the nature trail. It is recommended that the developer partly mitigates this detrimental impact through enhancing the facilities of the nature trail.

The proposal and associated construction will detrimentally affect the appearance of the scenic landscape. The peaty ground will likely have a slow recovery rate and impact on the landscape over a longer time frame. The pipe bridge will lead to a permanent visual intrusion. Consideration of long term sightlines and appropriate construction materials are essential.

Mitigation in the form of a contribution to improve facilities along the nature trail and financial support for the maintenance of the boardwalk should be made. The retention of the access track at the Daff Reservoir would be to the benefit of walkers. An interpretation display could also be provided at the Visitor Centre.

Overall, there are reservations to the proposed hydro scheme in its present form.

**Ecology Advisor** - An initial response was received. In this it was noted that the Bryophytes Survey Report is a first class report by an acknowledged expert. Similarly, the Fisheries Report is a well presented summary of extensive fieldwork by the appropriate local organisation. Beyond that, the response highlighted that there were many problems in respect of the applicant's submission.

Particular concern was noted with the Ecology Report which then leads to problems for the Environmental Risk Assessment and Mitigation Report and the Construction Method Statement.

The applicant has sought to address the issue raised and following the submission of a range of updated documents, further advice was offered as summarised as follows:

#### Ecology: Extended Phase 1 Habitat Survey Report

- The Ecology Report does not affect the impacts on wildlife.
- Concerns are expressed to whether it is correct that no tree removal would occur during the development and it is recommended further information is sought from the applicant.
- In respect of Ground Water Dependant Terrestrial Ecosystems (GWDTE), the report provides several contradictory threads of information and there is not a satisfactory assessment. This could be addressed by condition. The survey of the fen meadow in the SSSI requires to be conditioned. It also requires a discussion of the likely impacts (not just stated that there will be impacts) and mitigation.
- Potential impacts on other habitats including (but not limited to) woodland, dry heath, wet heath, blanket bog and acid flush inclusive of mitigation require to be considered.

#### Protected Species

- To have found no evidence at all of Badgers in this area is surprising and further surveys are required.
- A Species Protection Plan will be required.
- Should it be proposed to remove trees, a Bat Potential Roost Feature survey is required prior to the determination of the application, with photographic evidence.
- The railway bridge was identified as having no suitable gaps for bats. This is not the case. Gaps where the metal bridge meets the stonework can be seen and bats only need very tiny holes to roost. There may not be impacts on a roost but if any pointing of stonework, or the pipes being fastened in any way to the structure take place then a survey will be necessary. Any lighting within the tunnel would also affect the bats. This requires to be adequately assessed. Depending on the work being done in the tunnel, further details may be required at this stage to assess potential impacts on bats.
- It is likely that a Species Protection Plan will be required for bats.
- A condition requiring a reptile survey is recommended

#### Ornithology

- Some additional information has been added but the Scottish Ornithologists Club and the Scottish Raptor Study (SRSG) group have been consulted.
- The report states that limitations in the bird survey have been pointed out, however, this does address that an impact assessment on breeding birds has not been possible.
- Ornithological surveys are planned for 2019. These should already have commenced for raptors. Short-eared Owl surveys are required.
- There should be ongoing liaison with the SRSG with regard to Hen Harrier and other raptors in the area.
- The amended report states that 'If a nest is found it will be cordoned off using canes and biodegradable tape up to 10m from the nest'. This distance will depend on the species found. Some species require a far larger disturbance distance. For Hen Harrier the recommended distance is 1km, not 500m as stated within the report.
- It should be conditioned that a walkover survey takes place by two competent ornithologists using a rope, with good nest finding experience within 48 hours of works proceeding to check for ground nesting birds.
- Concerns regarding the conclusions in respect of Red-throated Divers and Common Gulls are highlighted.

- It is recommended that a Species and Habitats Protection Plan incorporates protected species, birds and habitats (including the fen SSSI).

#### Environmental Risk Assessment and Mitigation

- There is a plan to resurvey the fen habitat within the SSSI. This will be necessary.
- A Breeding Bird Protection Plan is required. It is stated that there likely to be negligible effects on Meadow Pipit, Skylark, effects may be short term but nest disturbance is highly likely.
- If trees are removed, a number of species could potentially lose their nests.
- A full time Ecological Clerk of works is required and a Compliance Monitoring Officer is recommended

#### Construction Method Statement

- A detailed Construction and Environmental Management Plan will be required and its content agreed with the Planning Authority.
- A planning condition is required for monitoring and management over a three year post construction period.
- A Peat Management Plan is required, this could be written within the Construction and Environmental Management Plan. More accurate discussion of turf management required.

**Archaeology Advisor** - It is agreed that direct impacts are expected to be low due to the avoidance of most known features within the project design. Similarly, where known assets are to be affected by construction, these are either of very low sensitivity or the resultant impacts will be more advantageous (i.e., the restoration of the existing Kelly Cut aqueduct).

The ground disturbance effects of new and upgraded access tracks, 4km of buried pipeline, construction compounds and infrastructure buildings indicates a substantial amount of cumulative ground disturbance and therefore a heightened potential to encounter any sub-surface archaeological remains. The assessment correctly notes that much of the land within the application site boundary has undergone very little historical change and remains largely undeveloped and uncultivated, indicating an increased chance for any sub-surface remains to be well-preserved.

As the available evidence does not indicate the likely presence of significant archaeological remains within the application site boundary, a programme of pre-determination archaeological field evaluation is not considered to be necessary. However, in order to protect and preserve the presence of any sub-surface archaeological remains within the site, it is recommended that a condition be attached to any consent in respect of the implementation of a programme of archaeological work. It is recommended that the implementation of an archaeological programme of works, as per this condition, should include an intrusive archaeological evaluation of the application site via test trenching. A written scheme of investigation should be submitted to the Planning Authority, on behalf of the applicant, which details a proposed trench plan and the methodology of the evaluation. The approach should be designed so as to be sufficient either to determine the absence of any significant archaeological remains present or to inform the scope for any further archaeological work as required.

**Scottish Gas Networks** - A consultation has been undertaken via the self-serve portal. No objections have been raised.

#### **PUBLICITY**

The application was advertised in the Greenock Telegraph on 16th November 2018 as there are no premises on neighbouring land.

#### **SITE NOTICES**



The nature of the proposal did not require a site notice.

## **PUBLIC PARTICIPATION**

Twenty representations were received, seventeen of which are in support and three object. The objections can be summarised as follows:

- The proposal is of an industrial scale.
- The works will take 2 years to complete.
- The proposal will have significant adverse impacts on Clyde Muirshiel Regional Park,
- The trenches will be significant and will impact on ecology, archaeology, wildlife, birdlife, otters, flora, fauna and sites of potential sensitive and scientific interest.
- The noise, disruption and impact of construction will far outweigh any green benefits.
- The physical and environmental carbon footprint of the proposal will be destructive to the natural environment.
- The pipeline corridor will take many years to recover to the visual detriment of the area.
- The switchroom will be located in close proximity to the Category B listed Roman Bridge.
- A significant increase in vehicular traffic on local roads will occur.
- Such proposals should be restricted to within the parameters of existing infrastructure.
- The proposal is motivated by the profit of a private company.
- If the company was to go out of business then unfinished works could be left within the Regional Park to the detriment of the environment and Green Belt.
- There will be no local employment and no community benefit.
- A larger scale hydro scheme was originally proposed.
- Granting permission may lead to an upscaling of the project at a later date and create a precedent for further similar proposals further similar proposals.
- A full public enquiry and consultation should be undertaken by the Council before any decision is reached.
- The proposal will disrupt fishing within Loch Thom.
- The disruption to peatlands may potentially release many tonnes of CO2.
- Siltation or rivers may disrupt local fish populations.

The points of support can be summarised as follows:

- Green energy solutions should be supported and encouraged.
- The proposed Ardgowan Distillery could benefit from using the green power.
- The proposal will lead to the development of new walking routes and lead to the upgrade of existing routes.
- The proposal may reduce the potential for more visually obtrusive wind turbines.
- There will be a positive impact on local businesses.
- The proposal will be a tourist attraction.
- The reinstatement of the Kelly Cut and aquaduct will benefit the local community.
- This will help support Scotland achieving renewable energy targets.
- Planning permission should be granted before the feed-in tariff closes on 31st March 2019.
- This is the final opportunity for Inverclyde to support a hydro scheme of this size.

## **ASSESSMENT**

Under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 this is considered to be a Local Development as the generating capacity is less than 20 megawatts.

In assessing this planning application the National Planning Framework 4 (NPF4), the adopted Inverclyde Local Development Plan, the proposed Inverclyde Development Plan as well as the consultation responses need to be considered.

In assessing this proposal it is first appropriate to set out the planning policy context.

### **The Policy Context**

The national spatial strategy in NPF4 is for Scotland's future places to be net zero, nature-positive places that are designed to reduce emissions and adapt to the impacts of climate change, whilst protecting, recovering and restoring the environment. This means ensuring the right development happens in the right place. Every decision on future development is to contribute to making Scotland a more sustainable place. NPF4 encourages low and zero carbon design and energy efficiency, development that is accessible by sustainable travel, and expansion of renewable energy generation. In terms of reducing greenhouse gases the strategy and policies in NPF4 support development that helps to meet greenhouse gas emissions targets. There are a number of interlinked policies related to this. There is strong support for renewable energy development in NPF4 under Policy 11 that in turn supports Policy 1 that relates to the global climate and nature crises.

The Local Development Plan policies are required to follow NPF4.

The application site lies within both the Green Belt and the Countryside as identified in the adopted Local Development Plan. Policy 8 of NPF4 and Policy 14 of the adopted Local Development Plan are clear in only favouring development within the Green Belt in exceptional or mitigating circumstances and sets out a range of criteria for the assessment of development proposals within the Green Belt and Countryside. Policy 8 and Policy 14 are clear in seeking to prevent the spread of the built up area into the Green Belt and carefully managing development in the Countryside. Policy 8 of NPF4 and Policy 14 of the adopted Local Development Plan indicate general support for infrastructure development with a specific locational need provided it is appropriately designed, located and landscaped.

As the proposal is for renewable energy the development is supported in principle by Policy 11 of NPF4 and Policy 4 of the adopted Local Development Plan, subject to assessing its impact on a range of criteria. A range of other policies combine to provide the basis for the assessment of development proposals. These policies relate to a broad range of matters including: designated environmental resources; trees and woodland; heritage resources; biodiversity; the water environment; flooding and drainage; core paths; and traffic and access.

In the proposed Local Development Plan the application site is partly in the Green Belt and partly in the Countryside. Policy 15 of the proposed Local Development Plan is again clear on the circumstances where development in the Green Belt and Countryside would be permitted. Policy 4 of the proposed Local Development Plan supports the principle of proposals for infrastructure for the generation of electricity subject to the assessment against a range of criteria. Similar to the adopted Local Development Plan, a range of further policies in the proposed Local Development Plan combine to provide the basis for the wider assessment of development proposals and cover a variety of considerations.

### **The Determining issues**

Section 25 of The Town and Country Planning (Scotland) Act 1997 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. As the site is located within the Green Belt and Countryside, there is a general presumption against development unless there are exceptional or mitigating circumstances. It therefore rests to consider whether there are any such exceptional or mitigating circumstances with reference to all or material considerations and Development Plan policies that would justify allowing the development to proceed.

In making this assessment the following will be considered:

- Is there a locational requirement for the development on this site?

- Will there be an adverse impact on designated environmental resources?
- What will be the impact on ecology?
- Will there be an adverse impact on landscape character and can this be mitigated?
- Will there be an impact on the recreational use of the area and will this impact be acceptable?
- Will there be flooding implications and, if so can these be addressed?

Other planning issues that should be taken into account include:

- Can the site be developed for the purpose proposed without detriment to road safety?
- What will be the impact on adjacent and nearby residential properties and will this impact be acceptable?
- What economic benefit would occur from the development?
- Are there other planning policy issues or material considerations that should be taken into account?

### Appropriateness of Development Within the Green Belt and Countryside

Policy 8 of NPF4 and Policy 14 of the adopted Local Development Plan as well as Policy 15 of the proposed Local Development Plan presume against development in these areas unless there are exceptional or mitigating circumstances. The function of the Green Belt is to direct growth to the most appropriate locations, support regeneration of urban and brownfield sites, protect the character and setting of towns and villages and give access to open space around settlements. This development does not conflict with these underlying principles or aims.

For a hydro-electric development, the choice of location is dependent on a combination of factors including the availability of water, the topography and the existing infrastructure. The applicant sets out in the supporting documentation that the site was selected for a number of reasons. It is indicated the application site has a good water resource, the existing reservoir infrastructure in the area can be utilised and there are already some existing access tracks to the development area for construction traffic and site deliveries. In particular it is indicated the Daff Reservoir can be used for storage and the position of the powerhouse relative to the intake from the Daff Reservoir maximises the head (the distance between the intake and the powerhouse) on the scheme. The greater this is the higher the water pressure across the hydro turbine and the more power it will generate.

It is therefore considered there are specific locational requirements for the hydro-electric development, that utilises existing infrastructure, at this location. This infrastructure proposal is considered acceptable in principle under Policy 8 of NPF4 and Policy 14 of the adopted Local Development Plan as well as Policy 15 of the proposed Local Development Plan.

It remains that a full assessment against other policies of NPF4 and both the adopted and proposed Local Development Plans as well as material planning considerations require to be undertaken.

### Natural Heritage, Habitat, Ecology and Biodiversity

The upper part of the site lies within the Renfrewshire Heights SPA. Policy 33 of both the adopted and proposed Local Development Plans combine to require that proposals that are likely to have a significant effect on a Natura site will be subject to an appropriate assessment of the implications of the proposal on conservation objectives. Proposals will only be permitted where the appropriate assessment demonstrates that the proposal does not impact adversely on the site.

In undertaking this assessment, the Council had regard to the advice set out in the consultation response from NatureScot. It is noted that NatureScot consider that the proposal has the potential to have a significant effect on the breeding Hen Harriers of the Renfrewshire Heights SPA. NatureScot further advised that if the proposal is however undertaken strictly in accordance with appropriate mitigation, then it will not affect the integrity of the site. These mitigation measures include a condition

restricting the operation of the construction work during the bird breeding season. This should apply to the section of the pipeline workings between the Daff Reservoir intake and a point level with the upper edge of Leapmoor Forest from April to July inclusive. Temporary loss of habitat within the protected site should be minimised through the strict adherence to an agreed phased construction management programme along with well-defined policies for the works. Again this can be addressed by a condition as could the requirement for an agreed aftercare monitoring and management plan being in place for a minimum of five years inclusive of the provision for extension if required.

In the appropriate assessment undertaken, the Council fully assessed the implications of the proposal on the conservation objectives of the SPA and its qualifying interests (breeding Hen Harriers). It was concluded that applying planning conditions which follow the advice of NatureScot in their consultation together with additional conditions in respect of a watching brief by a competent ornithologist for the wider SPA, then the proposal will not adversely affect the qualifying interest and the conservation objectives of the SPA. NatureScot subsequently confirmed that it is content with the format of the assessment undertaken and agree with the conclusions reached.

Turning to other environmental designations, the Renfrewshire Heights SSSI is designated due to its population of breeding hen harrier. It is noted that the area supports a diverse mosaic of habitats suitable for nesting and foraging hen harriers. It is considered the conclusions of the appropriate assessment confirms that the development will not have an adverse impact on the designation subject to the conditions referred to above.



View of Shielhill Glen from Millhouse Road looking in an east direction with the location of the proposed Switchroom in the foreground to the left.

The Shielhill Glen SSSI covers much of the length of the wooded glen on either side of the Kip Water between Millhouse Bridge and the Compensation Reservoir. It also includes an area of wet fen on the south side of the glen. The site is designated for lowland mixed broad-leaved woodland and fen meadow. The Glen provides the best example of mixed deciduous woodland in Inverclyde with oak, ash and wych elm in the lower sections and birch and rowan in the upper parts. The proposed pipeline does not propose to cut through the woodland feature of the SSSI and it is considered this will not be affected. The greatest impact will be on an area of fen within the SSSI which the proposed pipeline route runs through. The applicant's Ecology Report considers that impacts will occur to ground flora and potentially to the Ground Water Dependiant Terrestrial Ecosystems (GWDTE)

functionality of the fen. The pipeline will cut through an area of wet heath which lies within the SSSI. To reduce the impact on the functional integrity of the GWDTE, the Ecology Report advises that the pipeline trench should be kept to a maximum width of 10 metres with the soil profile laid (downhill of trench) in such a fashion that it can be replaced in the same order, with vegetated turfs kept separate and replaced at the end. The period between the digging of the trench and replacement of the soil profile should also be kept to a minimum.

The Council's Ecology Advisor notes that in respect of GWDTE, the Ecology Report provides several contradictory threads of information and there is not a satisfactory assessment. In line with the Ecology Advisor's advice, this matter can be addressed by a condition. A further survey of the fen meadow in the Shielhill Glen SSSI can also be addressed by a condition. SEPA does not offer any objection in respect of the impact on GWDTEs and that NatureScot did not raise any specific concerns or objection to the routing of the pipeline through the SSSI.

The Council's Ecology Advisor has further considered the applicant's updated Ecology Report and whilst a number of concerns are raised, it is considered that these can be addressed by a condition in accordance with the advice. In respect of bats, the applicant advises that no trees require to be removed to implement the proposal. This together with the fact that the works in the railway underpass will not affect roosting potential leads to the conclusion that there will be no impact on bats. The requirement for further badger surveys can be addressed by a condition. The recommendation that a condition should require that a walkover survey takes place by two competent ornithologists using a rope, with good nest finding experience within 48 hours of works proceeding to check for ground nesting birds is noted and the requirement for this is agreed with. The advice in respect of a full time Ecological Clerk of Works and a Compliance Monitoring Officer is noted and can be addressed by a condition. Whilst the Ecology Advisor recommends monitoring and management over a three year post construction period, NatureScot advise on the requirement for and aftercare monitoring and management plan to be in place for a minimum of five years and should include provision for extension if required. This can be addressed by a condition. It is noted that the Ecology Advisor offers no further recommendations in respect of the content and conclusions of the Bryophytes and Fisheries Reports.

Overall, it is considered that subject to full details of the works within this area being agreed as part of the construction management programme, subject to the various ecological matters noted above being addressed through planning conditions along with well-defined policies for the works, the impact on the integrity of the site will be mitigated and it will be ensured that the areas of affected habitats can be restored post construction.

Being guided by the advice of NatureScot, SEPA and the Council's Ecology Advisor, subject to appropriate management, mitigation and aftercare, there are no matters in respect of natural heritage, habitat, ecology and biodiversity which would provide a basis of the refusal of planning permission. The proposal is considered compliant with Policy 4 of NPF4 and Policies (in respect of the impact on environmental resources) 33 of the adopted and proposed Local Development Plans.

### Landscape

Policy 20 c) of NPF4 and Policy 34 of proposed Local Development Plan relates to the impact of development on the landscape with the siting and design of development to take account of local landscape character and setting in order to conserve, enhance and/or restore landscape character and distinctiveness.

It is acknowledged that the construction of the pipeline, in particular the deep excavations and the excavations on steep side slopes along parts of the route of the pipeline, will have the greatest visual impact. This impact will be for the duration of the construction phase and these construction corridors are to be backfilled and the land generally reinstated to its condition/appearance before the excavations are carried out.

The proposed intakes, powerhouse and switchroom are limited in size and will also have a limited visual impact on the landscape.

It is considered the proposed development is acceptable under the terms of Policy 20 c) of NPF4 and Policy 34 of the proposed Local Development Plan.

### Forestry and Trees

In the applicant's Ecology Report, it is stated that the only trees which were identified as requiring removal is a corridor of Sitka Spruce within Leapmoor Forest. This however, related to an earlier version of the proposal which was discounted prior to the submission of the current application. Whilst the pipeline passes through the Idzholm Plantation, this is largely clear felled at this location. The applicant advises that no trees require to be removed to implement the proposal. It is considered appropriate to retain full control over tree removal through a planning condition. Where the pipeline is positioned close to existing trees it is considered appropriate to require that the trees and root systems are appropriately protected. This can be addressed as part of the construction management programme and a condition. Should the loss of or damage to trees occur, compensatory planting will require to be provided to a standard agreed by the Council.

It is considered there is no conflict with the aims of Policy 6 of NPF4 and Policy 34 of the adopted Local Development Plan as well as Policy 35 of the proposed Local Development Plan.



View towards the location of the proposed Powerhouse taken from the A78 south of the Bankfoot Roundabout

### Access and Recreation

The proposal has the potential to impact upon recreational users. The upper part of the proposal is positioned in close proximity to the Greenock Cut Visitor Centre and will impact on a number of Core Paths in the area. In the consultation response received from the Regional Park the concern has been raised that the closure of paths will discourage visitors to the Greenock Cut Visitor Centre due to a reduction in access and effects arising from construction. Concern is also raised that it will not be possible to access the circular route on the nature trail.

The applicant has submitted a short Recreational Access Report (June 2022) in support of the application. In this, the applicant's analysis of the usage of the area is restricted to simply noting from the Regional Park's Annual Report 2017-18 that annual visitors to the Greenock Cut ranged between

53,800 to 80,760 over the previous three reporting cycles. The applicant further states that respect of the potential impact on the Greenock Cut Visitor Centre, access to the construction compound at the intake will be restricted to small trucks, vans and personnel vehicles to keep the effect on recreational access to a minimum. The applicant considers the construction of the scheme will cause a negligible increase in traffic flows in the vicinity of the centre.

Considering the impact on the Core Path network, Core Paths 29A (Cornalees to Old Largs Road), 9 (Kelly Cut), 10A and 11 (Cornalees Nature Trail) and 12 (Inverkip to Ardgowan via Bankfoot) are intersected by both the buried pipeline and the temporary access track, whilst Core Paths 5B (Leapmoor Forest) and 12 run parallel to existing tracks that will serve as permanent vehicle access tracks for the construction and operation of the scheme. The northern section of Core Path 9 along the Kelly Cut near the Greenock Cut Visitor Centre will be closed for a period of six months, whilst the upper section of the pipeline is laid. A localised diversion will be put in place. All other Core Paths affected by the scheme are to stay open during construction. A range of measures would be put in place to ensure the safe passage of walkers including banksmen being appointed to manage the safe passage of users together with the appropriate siting of advisory warning signage and passing places made at tight bends. Once operational the scheme will place no restriction on access for the public.

The applicant does not actually quantify or provide any detailed analysis on the impact of the works on the users and usage of the Visitor Centre, the Core Paths and this part of the Regional Park in general. This is inclusive of the educational visits to the Regional Park, visitor centre, nature trail, etc by school children for example and to which no reference is made. There will be significant short term impact which will require to be carefully managed. It is noted from the applicant that the path along the Kelly Cut would be closed for a six month period. It is considered that this will ensure any impact on the visitor centre and the adjacent path network is minimised and the construction arrangements can be fully controlled through the phased construction management programme along with well-defined policies for the works. A planning condition requiring a Public Access Management Plan can be attached should permission be granted requiring the management of the public during construction. Path restoration can also be addressed by a planning condition.

Whilst it is accepted there will be an impact on access and recreation, particularly during the construction period, subject to appropriate management, mitigation and aftercare, it is considered that this impact would not be of such significance that the refusal of planning permission is warranted. The proposal is therefore acceptable under the terms of Policy 38 of the adopted Local Development Plan and Policy 36 of the proposed Local Development Plan.

### Landscape and Visual Impact

Given the location of the proposal within the Regional Park and partly within the West Renfrew Hills Local Landscape Area, the applicant has undertaken a Landscape and Visual Impact Assessment (LVIA). The LVIA concludes that during the construction phase the project will have significant impacts on the visual quality and character of the local landscape, particularly the open grassland south of the wooded Shielhill Glen and along its left bank. It is also noted that the upper section of the pipeline route is difficult with many undulations and steep banks in the topography. Consequently, there will be a high impact from the pipeline in the short term due to the scale of construction activity. It is noted that successful restoration and mitigation will address the significant visual impacts from the construction phase. There will be some lasting impacts to the landscape character from the addition of new permanent structures such as the powerhouse, switchroom, intakes and pipe bridge.

The significance of the impacts is agreed with particularly during the construction of the project due to the scale of the construction activity for the pipeline, the excavation of benches into the hillside and the visibility of the backfilled pipe trench. Given the nature of the construction/excavation works to lay the pipeline the impacts during the construction phase are not unusual.

Considering the design of the powerhouse, externally this will be finished in stone cladding and a slate roof which reflects the appearance of existing buildings within the landscape. The position of

the powerhouse adjacent to the wooded landscape which rises significantly behind the powerhouse will allow the building to be integrated into the setting of the landscape. Whilst it is acknowledged that the building will feature components such as the external transformer and the tailrace, overall it is not considered the new building will have a detrimental visual impact on the wider area. The associated upgraded access track follows the line of an existing track and it is not considered there will be any adverse landscape impacts arising from this.

The switchroom and associated access track are positioned in a more open position adjacent to Millhouse Road. As with the powerhouse, externally this will be finished in stone cladding and a slate roof which reflects the appearance of existing buildings within the landscape. When viewed from Millhouse Road, the new building will appear against a backdrop of the existing trees. This, together with the rising landscape behind, will ensure there is no adverse visual impact. Final choice of external materials can be controlled by condition.

The intake at the Daff Reservoir will be a low profile structure below water level. Whilst being a new permanent structure, the long-term effect of the intake on the landscape is following the recovery of the shoreline and grassland around the intake will be minimal. The intake at the Compensation Reservoir will also be a low profile concrete structure which will be viewed in the context of existing infrastructure and spillway. The applicant's conclusions that the visual impact will be minor and is not of a concern for the intakes are agreed with.

The LVIA does not make any assessment on the visual impact of the proposed pipe bridge proposed on steep ground on the side of the Shielhill Glen, and close to the pathway long the Kelly Cut together with the nature trail. The bridge is required to carry this section of pipeline across a narrow gully on the side of Shielhill Glen. The applicant was asked to consider a range of options for this aspect of the proposal as it would involve it being above the existing ground level and would be visible. An arched culvert bridge is unsuited to the site and this leaves four options to be considered. These options comprise a conventional design of pipe bridge, the length of which would be dependent on the exact positioning of the pipe together with the extent of excavation required. The length could vary from 8m to 17m for this option. Timber cladding could be provided to soften the appearance of the pipe bridge in the landscape. A further option is to utilise a section of steel pipe, cast into the two concrete bridge abutments. For this option, the applicant notes the pipeline could be painted in a green colour. Another option is a concrete retaining wall, rather than a pipeline with the local ground level being raised behind the retaining wall to enable the pipeline to be buried through this section. A buried culvert will maintain the passage of the existing stream beneath the pipeline. The retaining wall could be clad with gabions filled with stone.

Regardless of the option chosen, there will be a visual impact within the landscape resulting from this aspect of the proposal. The final choice of the pipe bridge options can be addressed by a condition should planning permission be granted in order to ensure that the least visually intrusive solution is proposed.

Although certain built elements of the scheme such as the powerhouse, switchroom and intakes will have a lasting effect, this impact will be localised and is unlikely to compromise the wider character of the landscape. Whilst significant effects would arise from the construction, this can be carefully controlled inclusive of progressive restoration. The requirement for a detailed aftercare, monitoring and management plan as set out by NatureScot in their consultation response can ensure that no lasting, adverse visual impact will result from the construction process. It is however considered necessary to require tree planting to be carried out along the route of the pipeline in order to reduce the visual impact of the excavation works along its route. This can be addressed by a planning condition to require the details of the planting to be submitted for approval in writing before the development commences. Whilst it is accepted that the pipe bridge will have a localised visual impact, this can be minimised by ensuring the least visually intrusive solution is found.



Subject to appropriate appropriate management, mitigation and aftercare together with addressing outstanding matters by conditions as noted above, the impact of the proposal is considered to be acceptable.

### Built and Cultural Heritage

Within close proximity to the upper section of the application site towards the Compensation Reservoir lies the Loch Thom to Overton Water Cut which is a scheduled ancient monument.

Whilst the proposed works do not directly affect the scheduled ancient monument, Historic Environment Scotland notes the proximity to the works. The advice is that the applicant should ensure that the extent of the scheduled monument is marked on all working site plans and maps, that the boundary of the monument and a 10 metre buffer zone around it is clearly marked on the ground, and that all staff and visitors on site are briefed to ensure that they are aware that any damage to the monument would be an offence under the Ancient Monuments and Archaeological Areas Act (1979). This can be addressed by condition thus ensuring the integrity of the scheduled ancient monument is protected.

There are no listed buildings affected by the proposal. Whilst the pipeline passes close to the Category B listed Roman Bridge, the impact from the construction process will be transitory. The switchroom is situated to the opposite side of Millhouse Road, some 120 metres from the Roman Bridge and has no impact on its appearance or setting.

Turning to archaeology the Council's Archaeology Advisor broadly agrees with the conclusions within the Assessment. It is considered that the applicant's assessment correctly notes that much of the land within the application site boundary has undergone very little historical change and remains largely undeveloped and uncultivated, indicating an increased chance for any sub-surface remains to be well-preserved.

The Council's Advisor considers that as the available evidence does not indicate the likely presence of significant archaeological remains within the application site boundary, a programme of pre-determination archaeological field evaluation is not considered to be necessary. However, in order to protect and preserve the presence of any sub-surface archaeological remains within the site, it is recommended that a suspensive condition be attached to any consent in respect of the implementation of a programme of archaeological work. It is recommended that the implementation of an archaeological programme of works, as per this condition, should include an intrusive archaeological evaluation of the application site via test trenching. A written scheme of investigation should be submitted to the Planning Authority which details a proposed trench plan and the methodology of the evaluation. The approach should be designed as to be sufficient either to determine the absence of any significant archaeological remains present or to inform the scope for any further archaeological work that may be required.

It is considered that there is no impediment to any development in respect of archaeological matters and as such the proposal is acceptable when assessed against Policy 7 of NPF4 and Policy 31 of both the adopted and proposed Local Development Plans.

### Traffic and Road Safety

The development area will be primarily accessed from the A78 and via Dunrod Road, the road towards Greenock Cut Visitor Centre and other local roads as required. The powerhouse will be accessed via Bankfoot. Transport Scotland has no objections to the proposal. The requirement for vehicle wheel cleansing facilities can be addressed by a condition. It is considered appropriate to apply this in respect of all roads. Whilst the local roads in the area are single track the Head of Service - Roads and Transportation also offers no objections to the proposal. The requirement for a Section 56 Consent in respect of any road crossing is addressed under separate legislation.

Whilst recognising the concerns raised in the objections received in respect of traffic and the impact on the local road network, being guided by the consultation responses, it is considered there are no significant traffic or road safety implications arising from the proposal. As such the proposal is acceptable when assessed against Policy 11 of the adopted Local Development Plan and Policy 12 of the Proposed Local Development Plan.

#### Amenity

Concerns have been expressed over noise and disruption arising from the proposal. Any development project will produce noise and an element of disruption during the construction phase however this is not a material consideration in determining a planning application. Should there be any noise or disturbance this would have to be reported to and investigated separately by the Head of Public Protection.

Once complete and in operation, the main noise emitter from the development would be the powerhouse. The nearest residential properties lie on Teal Drive, Redwing Grove and Dunlin Grove approximately 170 metres away. A Noise Survey and Analysis has been submitted and concludes it is unlikely that complaints about the noise emissions will arise from residents. In noting the content of the Noise Survey, the Head of Public Protection and Covid Recovery offers no objections. It is advised however that the eight noise attenuation measures set out in Chapter 4 of the document should be adopted. This matter can be addressed by a planning condition.

With an appropriate noise condition it is considered the proposed development would not lead to the unacceptable disruption to amenity in a manner that could justify the refusal of planning permission. In turn the proposal complies with Policy 4(b) of both the adopted and proposed Local Development Plans.

#### Water Environment and Water Supply Infrastructure

Scottish Water state that the proposed activity falls within a drinking water catchment where Scottish Water abstraction is located. It is noted that Scottish Water is in continued discussion with the developers to agree the construction and operation to ensure the existing water supply and compensation flow provision is not compromised. Scottish Water does not offer any objection to the proposal.

In respect of private water supplies, the Head of Public Protection and Covid Recovery advises that the proposed scheme is using water from established reservoirs. Any private water supplies in the vicinity are fed by alternative sources so the proposed development will not have an impact on their use.

A separate licence will be required from SEPA for the abstraction of water, the release of compensation or hands off flows, fish passage and any engineering works inclusive of intakes and tailrace. The timing of works which are likely to impact on the water environment is also a matter for the licence from SEPA. SEPA advise that application for authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) has been submitted, noting this is a complex and unusual design for a hydro scheme.

In terms of the concerns raised regarding possible pollution of watercourses, pollution control measures can be addressed via the Construction Management Plan. It is considered there is no impediment in respect of the water environment and water supply infrastructure and, as such the proposal is acceptable when assessed against Policy 39 of both the adopted and proposed Local Development Plans.

#### Flooding

SEPA had objected to the proposal on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy. SEPA subsequently withdrew their objection and advise maximum abstraction rates have been submitted with the Controlled Activities Regulations Licence and these are less than previously thought and used in the original hydrology assessment.

It should also be noted that since SEPA was consulted on this application they have published flood risk standing advice for hydro schemes. The standing advice indicates that powerhouses should be located as far back from the water corridor as is practicable and designed to be operational in times of flooding. They advise against the use of protective flooding/landscaping bunds to achieve this. The standing advice goes on to indicate the construction of weirs to facilitate off-take mechanisms or the transfer of water from one catchment to another may increase the risk of flooding locally if a nearby receptor exists. SEPA recommends that the developer demonstrates adequate mitigation of any flood impacts. They also advise consultation with the local authority flood risk management staff. Further advice is provided in SEPA's Controlled Activities Regulations (CAR) Flood Risk Standing Advice under 'Discharge Alterations'. This indicates: should not increase flood risk elsewhere; assessment should be made of the vulnerable receptors downstream including infrastructure, property, and health and safety; and long-term solutions to the potential increase in flood risk should be investigated.

The Head of Service – Roads and Transportation also raised concerns regarding potential flooding and advised that a Flood Risk Assessment was required. The Flood Risk Assessment for the Daff Reservoir was subsequently submitted. The Head of Service – Roads and Transportation advised that conditions be recommended having viewed the CAR Licence. These are conditions that duplicate those in the CAR Licence.

In an earlier consultation response SEPA advised they will inform the planning authority that conditions will be attached to the CAR authorisation to control the following aspects and that no planning conditions in relation to these issues will be required:

- the location at which water may be impounded and abstracted as well as where it is returned to the water environment. This includes the weir, intake, tailrace and outfall;
- the rate at which water may be abstracted, the release of compensation or hands off flows, fish passage; and
- the timing of works which are likely to impact on the water environment.

SEPA also advised will also inform the planning authority that the CAR authorisation does not cover the following aspects and therefore relevant planning conditions may be required to address:

- the visual appearance of the impounding structure;
- the construction and location of the pipeline, borrow pits, construction compounds, turbine house and access roads; and
- impacts on terrestrial ecosystems.

Based on what SEPA has advised it is not necessary to impose any planning conditions related to protection of the water environment in relation to the hydropower element of the proposal.

Being guided by SEPA it is considered that the proposal would not result in flooding and accordingly is acceptable with respect to Policy 22 of NPF4 and Policy 8 of the adopted Local Development Plan as well as Policy 9 of the proposed Local Development Plan.

### Peat

Whilst acknowledging that the applicant has outlined general peat management and best practice within the Construction Method Statement, SEPA initially objected on the grounds that there was insufficient information. The applicant subsequently provided a peat survey together with peat

probing results. Having reviewed these SEPA is satisfied that there are likely no significant accumulations of peat underlying the proposed pipeline and therefore the objection on the grounds of lack of information on peat management is withdrawn. Whilst the concerns raised by the Regional Park are noted in respect of the impact on peaty soil, given that SEPA has removed their objection, it is not considered that planning permission could be refused on this basis. The Council's Ecology advisor notes that a Peat Management Plan is required and this could be written within the construction management plan. It is considered this should also address the circumstance that deep peat is discovered on site. The requirement for an aftercare monitoring and management plan will address reinstatement and recovery and can be addressed by a planning condition. A planning condition is also considered necessary to require a bond or other financial provision to cover the completion of the restoration works.

The proposal is therefore considered acceptable when assessed against Policy 5 of NPF4 and Policy 15 of the adopted Local Development Plan as well as Policy 16 of the proposed Local development Plan.

### Economic Benefit

The applicant's supporting documentation considers economic benefits and notes that an average of between 12 to 18 people will be employed during construction. Whilst the applicant states that where possible these employment opportunities will be offered to workers in the local community, some of the positions will be of specialist nature and may require skills that are not available locally. It is noted that local businesses including shops, pubs and hotels are expected to benefit from the increase in construction staff and visitors in the area. The economic benefits arising from the proposal are considered to be minimal and are not of significance to determining this application

### Community Benefit

The Supplementary Guidance on Energy associated with both the adopted and proposed Local Development Plans strongly encourages that an element of community benefit is sought from such developments. Community benefits in relation to renewable energy are voluntary and vary greatly in how they are delivered and what form they take. Community benefits can include monetary payments (funds) or other voluntary benefits provided to the community such as direct funding of projects, one-off funding, local energy discount scheme or other site-specific benefits. However the prospect of financial benefit to a community is not a material consideration in the determination of planning applications.

The Scottish Government's Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments provides guidance on the above, with a suggested figure of £5,000 per MW per annum (index linked). It is noted that for a similar hydro-electric proposal approved in West Dunbartonshire, a community benefit payment of £5,000 per MW per annum is to be provided to a local organisation in respect of children's music tuition together with interpretation boards and possible visits local schools to present information and educate on renewable energy and the hydroelectric scheme.

This proposal is for a 1MW scheme. Whilst increases in business rates and a reduction in feed-in tariff rates since the above Scottish Government Guidance was published are cited by the applicant, a contribution of up to £5,000 per annum to Clyde Muirshiel Regional Park has however been offered. The applicant advises this can be made either directly or indirectly to the Park. The applicant further notes this is over and above the other works completed as part of the project such as the creation of additional paths and the improvement of existing paths albeit it is considered that these largely relate to works and reinstatement already associated with the implementation of the proposal. The installation of information boards at the visitor centre is also to be offered.

### Other Planning Policy Implications

Policy 37 of the adopted Local Development Plan and Policy 38 of the proposed Local development Plan advises that development which adversely affects the Clyde Muirshiel Regional Park will not normally be permitted. Through the detailed assessment above, it has been established that with appropriate management, mitigation and aftercare together with a range of conditions, there will not be any longer term, adverse impacts on the Regional Park.

It is also concluded the proposal is acceptable with reference to Policy 1 of both the adopted and proposed Local Development Plans.

### Consultation Responses

Network Rail offers no objections in principle to the application. It is noted that the construction of the proposed pipeline through an underbridge should not be detrimental to Network Rail's ability to infill the bridge in the future should they wish to do so or to inspect and maintain the existing bridge structure. The developer will have to secure a wayleave agreement with Network Rail to route the pipe through this bridge. Further advice in respect of weight limits on railway overbridges construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway is noted. Following a consultation via the self-serve portal, Scotland Gas Networks offer no objections. No part of the development is within the HSE consultation zone for the high pressure gas transmission pipeline which traverses the area. No consultation with HSE is therefore required. In respect of the outstanding points raised by the Head of Public Protection, a condition can be imposed in respect of the requirement for a survey for the presence of non-native invasive species. External lighting can be addressed by a planning condition and an advisory note.

### Other Issues

A range of other issues have been raised in the representations. Procedurally, the submission meets the requirement of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. While it may be considered that further consultation should be undertaken by the Council before any decision is reached there is no legislative basis for such. As the application is a Local Development in respect of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, there is no requirement for the applicant to undertake a pre-application consultation.

Noting the concern raised that if the developer was to go out of business with unfinished works potentially being left within the Regional Park to the detriment of the environment and the Green Belt, this can be safeguarded by ensuring that a bond or other financial provision is to put in place to cover such an eventuality. The bond or other financial provision would address reinstatement works both in the event of a developer failing or being unable to complete restoration works together with any failure in the aftercare arrangements associated with the site restoration. Decommissioning of the above ground infrastructure can also be covered. The requirement for a bond has been discussed with the applicant who has noted agreement with this. This can be addressed by a planning condition.

As confirmed by the applicant in their submission, various options for proposals for a hydro-electric scheme utilising existing infrastructure in the area and various iterations of the scheme have been considered with a previous planning application being submitted and subsequently withdrawn. The assessment of this application is however based solely on the current submission.

Noting the concern that the granting of planning permission may create a precedent for future proposals, all planning applications are assessed against the relevant development plan policies and any material planning considerations at that time. This would also be the case for any future proposals to upscale this scheme and any further or new proposals.

It is noted there is concern in respect of the proposal relating to a private business. This is not a material consideration in determining the application nor can the availability of feed-in tariffs. Whilst

the contention that the proposed distillery development at Bankfoot could utilise the green energy is noted, there is nothing to quantify this and this is not a material consideration in determining this application.

With regard to the concerns raised in respect of the level of water abstraction and the potential impact on fishing at Loch Thom, the water abstraction is a matter for SEPA via the separate CAR licencing requirements.

### **Overall Conclusion**

In conclusion, NPF4 and local planning policies are supportive of renewable energy schemes in principle and where adverse impacts do not occur. It is considered that the applicant has demonstrated a locational requirement for the proposed hydro-electric scheme at this location. It is considered that the development is one which has both exceptional and mitigating circumstances in terms of requiring a Green Belt location.

It is considered that through proper management of the construction programme together with reinstatement and mitigation as well as tree planting, the long-term post construction impacts arising from this development will be acceptable. The above ground infrastructure including the powerhouse, switchroom and intakes are not considered to be visually detrimental to the wider landscape. The final choice of the pipe bridge options can be addressed by a planning condition to ensure that the least visually intrusive solution is found. The points and issues raised through the consultation process and in the representations are addressed through the details submitted as part of the application or can be addressed through planning conditions.

### **RECOMMENDATION**

That the application be granted subject to conditions the following conditions:

1. The development to which this permission relates must be begun within 3 years from the date of this permission.
2. No development shall commence on site until an updated Construction Management Plan (CMP) which sets out how the construction phase of the development will be managed. This shall be submitted to and be approved in writing by the Planning Authority in consultation with NatureScot. The Plan shall include:
  - a) Detailed construction methods for all aspects of the scheme (temporary access tracks, permanent tracks, site compounds, intakes, pipeline, tailrace, outfall, powerhouse, culverts);
  - b) Schedule of mitigation
  - c) Pollution prevention safeguards and sedimentation safeguards;
  - d) Storage and disposal of materials;
  - e) Construction site facilities including the location of construction site huts, vehicle equipment, materials storage and location of parking area(s) for construction workers;
  - f) Duration, timing and phasing of works;
  - g) The width of the working corridor that construction works will be confined to (shown on a plan);
  - h) Detailed habitat mitigation and restoration targets;
  - i) Peat management plan addressing the following:
    - i) Treatment and management of peats and turves;
    - ii) A commitment to all construction activity ceasing immediately if deep peat is discovered;
    - iii) On site storage options to ensure any peat is kept dry;
    - iv) Details of proposed on site and off site use;
    - v) A commitment that SEPA will be contacted to obtain an appropriate level of waste management authorisation as required.
  - j) Management and protection proposals for trees inclusive of tree root protection

- k) Core path restoration methods and specification;
- l) Protected species mitigation including inclusive of the provision of Species Protection Plans as required, the provision of temporary ramps in trenches and the capping of pipes at the end of a working day;
- m) Details of toolbox talk for protected species to ensure all personnel are aware of what to do should evidence of species be discovered during construction of the hydro scheme;
- n) Traffic management proposals to minimise any conflict between construction vehicles and other road users; and;
- o) Hours of operation on site.

The CMP shall be implemented as approved unless otherwise agreed in advance in writing by the Planning Authority

- 3. Prior to the commencement of works on site a Landscape Restoration Plan along the entire route shall be submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot. The Plan shall detail proposals for the reinstatement and management of all areas of the scheme and shall include a turve management plan. The details to be provided shall require the pipeline route to be exposed in short sections only (to be defined and agreed) and turves associated with the construction of the pipeline shall be stored for a maximum of two weeks. The Landscape Restoration Plan shall be implemented as approved within a timescale agreed with the Planning Authority.
- 4. Prior to the commencement of works on site a detailed Aftercare Monitoring and Management Plan shall be submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot. The plan shall detail all aspects of the aftercare monitoring and management of the application site for a minimum of five years and shall include provision for an extension to this period should monitoring indicate that habitat recovery is slower than predicated.
- 5. Unless otherwise agreed in writing by the Planning Authority, all construction activities shall be completed within a 24 month period taken from the start date provided to the Planning Authority in accordance with the Commencement of Development Form and having regard to any other limitations on work periods set out in any other planning condition.
- 6. No works shall be undertaken on the section of pipeline to be installed between the Daff Reservoir intake and a point level with the upper edge of Leapmoor Forest during the bird breeding season (April to July inclusive). Prior to the commencement of works on site, a plan setting out the extent of the proposed 'no work area' must be submitted and agreed in writing by the Planning Authority in consultation with NatureScot. The plan shall then be followed during the implementation of the development.
- 7. Development shall not commence until details of a survey for the presence of non-native invasive species shall be submitted to and approved in writing by the Planning Authority and that, for the avoidance of doubt; this shall contain a methodology and treatment statement where any is found. Development shall not proceed until appropriate control measures are implemented. Any significant variation to the treatment methodology shall be submitted for approval, in writing by the Planning Authority prior to implementation.
- 8. Development shall not commence until details of a bond or other financial provision to cover the completion of the restoration works together with any failure of the restoration works or in the aftercare arrangements associated with the site restoration and the decommissioning of the above ground infrastructure shall be agreed in writing the Planning Authority. As part of this agreement the applicant shall set out how the approved bond or other financial provision is maintained throughout the duration of this consent and that it will be subject to a five yearly review, to be conducted by a competent independent professional.
- 9. Development shall not commence until a detailed Public Access Management Plan shall be submitted to and approved in writing by the Planning Authority. The Plan shall include:

- a) All existing access points, paths, core paths, tracks, rights of way and other routes within and adjacent to the application site;
- b) exact timings, impacts and mitigation for all site vehicle movements and works affecting the Core Path. Works directly affecting the Core Path route shall be programmed to minimise disturbance during peak walking seasons/weekends/days;
- c) Use of banksmen to manage the safe passage of users;
- d) A mitigation communication strategy - local press, businesses and community groups informed of construction operation timetables and likely disturbance to path usage;
- e) Advisory construction warning signage strategy.

The Public Access Management Plan shall be implemented as approved.

10. Development shall not commence until full details of the design, layout, positioning and appearance of the final specification of the pipe bridge shall be submitted to and agreed in writing by the Planning Authority. Works shall then proceed as approved unless otherwise agreed in writing by the Planning Authority.
11. Development shall not commence until samples of all external materials to the powerhouse and switchroom shall be submitted to and approved in writing by the Planning Authority.
12. No works shall commence on the construction of the powerhouse or switchroom until a scheme of hard and soft landscaping works for the site of the powerhouse and switchroom has been submitted to, and approved in writing by the Planning Authority. The approved landscaping scheme shall be implemented in full prior to the development hereby permitted being brought into use. Any trees or plants which die, are removed, damaged or become diseased within five years of completion of the landscaping shall be replaced within the following year with others of a similar size and species.
13. Development shall not commence until a scheme of tree planting along the route of the development has been submitted to and approved by the Planning Authority. The details to be submitted shall include the species and locations of the trees as well as details of the phasing. The approved planting shall thereafter take place during the first planting season following completion of the development. Should the planting fail or not become established within 5 years of planting replacement trees shall be planted within the first planting season thereafter and shall be confirmed in writing with the Planning Authority.
14. No trees shall be lopped or felled within or adjacent to the application site unless agreed in advance in writing by the Planning Authority.
15. Development shall not commence until until an independent full time Ecological Clerk of Works (ECoW) has been appointed by the developer, at their expense, to oversee the implementation of the relevant planning conditions and the Construction Management Plan (CMP) during the detailed design, construction, and restoration phases of the development.
16. Prior to appointing the ECoW in accordance with Condition 13 above, a 'scope of works' for that person shall be submitted to, and approved in writing by, the Planning Authority. As a minimum, the ECoW shall: be present to oversee all in-stream construction works; give advice on micro-siting project elements to protect trees and avoid important habitats, give Ecological 'toolbox talks' on emergency procedures if protected species are identified within or close to the construction corridor; ensure compliance with all wildlife legislation; undertake pre-construction checks for protected species (mammals, fish and birds); oversee implementation of all ecological mitigation, as detailed in the approved CMP; monitor restoration of the site and ensure that the agreed habitat restoration targets are achieved; and have the authority, on and off-site, to halt operations or to alter construction methods if they observe, monitor or otherwise identify that these operations are having adverse impacts on the natural heritage. The Scope of Works shall specify the stages of the process that the ECoW will be present on site for and how regularly they



will otherwise inspect the site. All works shall be carried out in accordance with the agreed scope of works to the satisfaction of the Planning Authority.

17. Development shall not commence until detailed species and habitat surveys together with protection plans as required shall be submitted to and approved in writing by the Planning Authority. The surveys and protection plan shall include the following:
- a) Further badger surveys together with the provision of a species protection plan should the presence of badgers or the potential for the presence of badgers be identified;
  - b) A reptile survey inclusive of mitigation measures as required;
  - c) An ornithology and bird breeding survey together with a bird breeding protection plan. This shall include the following:
    - i) pre-construction surveys and timings;
    - ii) Identification of exclusion zones;
    - iii) method of surveying during construction for signs of disturbance and mitigation if birds are disturbed. For the avoidance of doubt the method of surveying shall include the requirement for a walkover survey to be undertaken by two suitably qualified ornithologists (using a rope) with appropriate nest finding experience within 48 hours of works being undertaken to which for ground nesting birds;
    - iv) detailed ornithological watching brief;
  - d) A further assessment in respect of GWDTEs by an experienced botanist together with the provision of measures to minimise impacts;
  - e) A survey of the fen meadow within the Shielhill Glen SSSI inclusive of likely impacts and mitigation;
  - f) An assessment of the impact on other habitats including but not limited to woodland, dry heath, wet heath, blanket bog and acid flush inclusive of mitigation as required.

All recommendations and mitigation identified in the detailed species and habitat surveys together with protection plans shall be followed to the satisfaction of the Planning Authority unless otherwise first agreed in writing by the Planning Authority.

18. Development shall not commence until a Compliance Monitoring Officer (CMO) has been appointed by the Planning Authority, at the expense of the developer. The CMO shall visit the site monthly (taken from the start date given in the Commencement of Development Form) and report back directly to the Planning Authority the following:
- a) An update on construction progress;
  - b) How the requirements of the Construction Management Plan and all other conditions of the permission are being adhered to on the site;
  - c) An update from the ECoW;
  - d) Any other issues arising during the construction phase.
19. Unless otherwise agreed in writing by the Planning Authority, in the event of the scheme not generating electricity for a continuous period of twelve months with no realistic expectation of resumption in the foreseeable future, the site shall be reinstated within a period of 12 months in accordance with a scheme to be submitted to, and approved in writing by the Planning Authority, following the expiry of such a period of cessation or within such timescales as agreed in writing by the Planning Authority. Reinstatement shall include a methodology for the removal of the above ground infrastructures and restoration of the ground and restoration of the water regime to normal flows.
20. No development shall take place within the development site as outlined in red on the approved site plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of

archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with its archaeological advisor.

21. The development shall not become operational until vehicle wheel cleansing facilities have been installed and brought into operation on the site, the design and siting of which shall be subject to the prior approval of the Planning Authority, after consultation with Transport Scotland as the Trunk Road Authority.
22. Development shall not commence until full details of a method for ensuring that all working site plans and maps show the extent of the adjacent Loch Thom-Overton Water Cut scheduled monument and how all staff and visitors on site are to be briefed to ensure that they are aware that any damage to the monument would be an offence under the Ancient Monuments and Archaeological Areas Act (1979) shall be submitted to, and approved in writing by, the Planning Authority. The approved method shall then be followed at all times to the satisfaction of the Planning Authority.
23. Development shall not commence until the boundary of the adjacent Loch Thom-Overton Water Cut scheduled monument together with a 10 metre buffer zone shall be clearly marked on the ground to the satisfaction of the Planning Authority and remain in place until such times as the Planning Authority agrees in writing that it can be removed, and that all staff and visitors on site are briefed to ensure that they are aware that any damage to the monument would be an offence under the Ancient Monuments and Archaeological Areas Act (1979).
24. The eight noise attenuation measures listed in section 4 of the Kip Water Hydro Scheme Noise Survey and Analysis Report No: P783 / Noise Survey and Analysis r0 October 2018 shall be implemented in the construction of the powerhouse building.
25. Development shall not commence until a proposed lighting plan for any external lighting and illumination within the site shall be submitted to and approved in writing by the Planning Authority. Works shall then proceed as approved and the plan followed at all times thereafter, unless otherwise agreed in writing by the Planning Authority.

Reasons:

1. To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. To ensure that full detailed information is provided in respect of the construction of the development in the interests of protecting and minimising the impact on the environment and surrounding area.
3. To ensure that full detailed information is provided in respect of landscape mitigation and restoration in the interests of protecting and minimising the impact on the landscape and surrounding area.
4. To ensure appropriate monitoring and management of the aftercare of the site in respect of ensuring the restoration of the landscape and habitat recovery.
5. To ensure the development is implemented and constructed in one continuous phase and within an acceptable timescale in the interests of protecting and minimising the impact on the environment and surrounding area.
6. In the interest of protecting breeding hen harriers.
7. To help arrest the spread of non-native invasive species in the interests of environmental protection.

8. To ensure that sufficient funds are in place to cover the completion of the restoration works together with any failure of the restoration works or in the aftercare arrangements associated with the site restoration and the decommissioning of the above ground infrastructure in the interests of protecting and minimising the impact on the environment and surrounding area.
9. In order to safeguard public access both during and after the construction phase of the development.
10. To ensure an appropriate design of pipe bridge in the interests of minimising the impact on landscape and visual amenity.
11. To ensure the external materials to be used are appropriate for the proposed buildings, in the interests of visual amenity.
12. To ensure the provision and retention of appropriate landscaping works around the buildings, in the interests of visual amenity.
13. To ensure tree planting is carried out to lessen the visual impact of the development.
14. To ensure the retention and protection of trees in the interests of protecting and minimising the impact on the landscape and protected species.
15. To ensure that all agreed methodology and mitigation in respect of the construction are implemented in the interests of protecting and minimising the impact on the environment and to ensure compliance with protected species legislation and ecological good practice.
16. To ensure the agreement of the role and scope of works of the ECoW.
17. To ensure that full detailed information is provided in respect of the impact and potential impact on all ecological matters, species and habitats and to ensure that the construction of the development in the interests of protecting and minimising the impact on the environment and surrounding area.
18. In the interests of protecting and minimising the impact on the environment in ensuring effective compliance with all conditions, methodologies and mitigation set out.
19. To ensure that the site is reinstated to the satisfaction of the Planning Authority to remove any unnecessary structures from the landscape within an appropriate timescale.
20. In the interests of the identification and recording of antiquity.
21. To ensure that material from the site is not deposited on the public road network, inclusive of the trunk road, to the detriment of road safety.
22. In the interests of the protection of the scheduled monument.
23. In the interests of the protection of the scheduled monument.
24. To protect the amenities of occupiers of premises from unreasonable noise and vibration levels.
25. To protect the rural character and appearance of the surrounding landscape.

Mr Stuart W Jamieson  
Director  
Environment and Regeneration

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact Sean Mc Daid on 01475 712412.

Report To: The Planning Board

Date: 3 May 2023

Report By: Director  
Environment & Regeneration

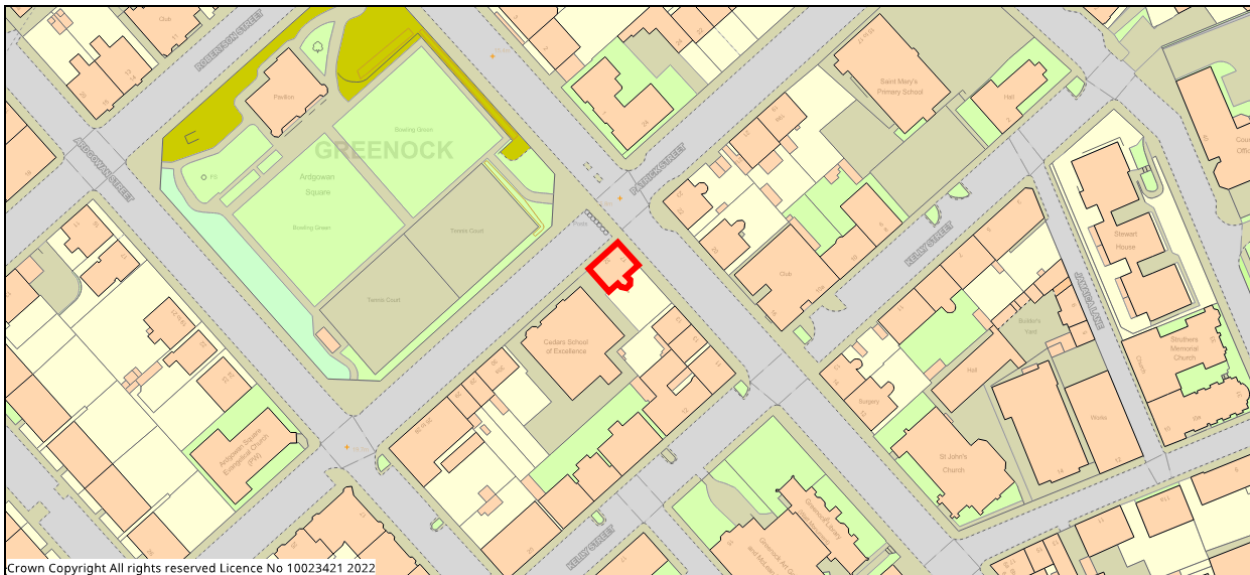
Report No: 22/0007/LB

Listed Building  
Consent

Contact  
Officer: David Sinclair

Contact No: 01475 712436

Subject: Notification of Appeal Decision by Scottish Ministers: proposed new dormer  
window arrangement to upper floor flat at  
Flat 2, 17 Union Street, Greenock



## SUMMARY

- The listed building application was refused under delegated powers.
- The applicant has appealed the decision to the Scottish Ministers.
- The appeal was dismissed.

Details of the appeal may be viewed at:  
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=122936>

## **INTRODUCTION**

In October 2022 listed building consent was refused under delegated powers for a proposed new dormer window arrangement to upper floor flat for the following reasons:

1. The proposed dormer window is uncharacteristic of a building of this period style to the detriment of the appearance and character of the listed building and this adverse visual impact is compounded by the position on the front roof plane and the prominent position of the building within the streetscape. The proposal is thus not supported by Policy 29 of both the adopted 2019 Inverclyde Local Development Plan and the proposed 2021 Inverclyde Local Development Plan.
2. The proposed dormer window cannot be considered to reflect local architecture and urban form and contribute positively to historic places. The proposal fails to have regard to the six qualities of successful places as set out in Figure 3 of both the adopted 2019 Inverclyde Local Development Plan and the proposed 2021 Inverclyde Local Development Plan and is therefore not supported by Policy 1 of both Local Development Plans.
3. The proposed design and unacceptable impact of the proposed dormer window conflicts with Historic Environment Scotland's guidance which seeks to ensure that new dormers are appropriately designed and located with care.

## **NOTIFICATION OF APPEAL DECISION**

The appeal against the refusal was lodged with the Scottish Government. Andrew Fleming, a Reporter appointed by the Scottish Ministers was appointed to consider the case and undertook an unaccompanied site visit.

In his decision the Reporter considers that having regard to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the determining issues in this appeal are the effect of the proposals on the category C listed building and on the character and appearance of the Greenock West End Conservation Area.

In terms of the effect of the proposals on the category C listed building, the Reporter considers that whilst the proposal reflects some of the features within the existing building (i.e. the use of transoms and astragals), the single, large central dormer window does not reflect the proportions of the windows below. The insertion of the proposal would upset the balance that currently exists with the fenestration to the front of the building. The Reporter considers the fenestration to be a key feature of the building and is mindful that with the bi-folding doors fully open, in combination with the glazed balustrade, the result would be the creation of a covered roof terrace. Such a design feature is not in keeping with the character of the building and would jar with the building's Georgian period style which is currently respected and largely intact. The Reporter considers that, as a result, the proposal would have a detrimental impact on the architectural and historic interest of the listed building. The Reporter considers the visual impact of the proposal to be exacerbated by the proposed position and extent of the new dormer on the front roof plane and the prominent position of the building within the street scene. The Reporter acknowledged the off-centre position of the existing rooflights and the intention to address this to an extent with the proposed dormer, however, did not consider the off-set nature of the rooflights to be particularly noticeable or significantly detrimental to the building's overall appearance. The Reporter did not consider the existing rooflight arrangement to provide justification for the proposal.

In terms of the effect of the proposals on the Greenock West End Conservation Area, the Reporter noted during the site inspection that there are no dormer windows on the front facing roof planes of any of the buildings along the southern edge of Ardgowan Square on which the appeal property is located and that alterations to front roof planes on this row are limited to the insertion of rooflights. The Reporter acknowledged that there are buildings within this part of the conservation area that have dormer windows on principal elevations and considered three examples referred to by the appellant. On observation, the Reporter noted that two of the

examples comprised traditional style hipped dormer windows with angled windows as well as a smaller central box dormer window. The large-hipped dormer windows have been designed with central window frames that reflect the widths of the windows below. The Reporter noted that the arrangements on these examples are not directly comparable with the proposal subject of the appeal, notwithstanding the proposed use of bi-folding doors and a glass balustrade at the appeal property. The third example was considered by the Reporter to be unbalanced and not what he considers sympathetic to the building.

In his assessment, the Reporter did not consider the examples provide justification for the proposal. The Reporter also noted that he did not identify, during their site inspection, any examples of dormer windows that incorporate bi-folding doors or glass balustrades which are key elements of the proposal. The proposal with its uncharacteristic window opening and balustrade would be discordant with the surrounding historic built form. It was concluded that the proposal would neither preserve or enhance the character or appearance of the conservation area. The Reporter noted the Development Plan Policies and was satisfied that the proposal is contrary to the policies of the adopted and emerging local development plans. The Reporter also noted that whilst planning permission has been granted for the proposal, on review, planning permission in itself does not automatically guarantee that listed building consent would also be granted.

The Reporter therefore concludes that the proposal is harmful to the architectural and historic interest of the listed building and that it would neither preserve or enhance the character or appearance of the Greenock West End Conservation Area. Having considered all the other matters raised the Reporter noted that there are none which would alter this conclusion.

The appeal was dismissed.

## **RECOMMENDATION**

That the Board notes the position.

Stuart W Jamieson  
Director  
Environment & Regeneration

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact David Sinclair on 01475 712436.