
Report To:	Inverclyde Council	Date:	8 June 2023
Report By:	Head of Legal, Democratic, Digital and Customer Services	Report No:	LS/046/23
Contact Officer:	Iain Strachan	Contact No:	01475 712113
Subject:	The Stopping Up of Road and Footpath, Inverclyde (Arthur Street, Greenock) Order 2022 – Remit from Environment and Regeneration Committee		

1.0 PURPOSE AND SUMMARY

- 1.1 For Decision For Information/Noting
- 1.2 The purpose of this report is to request the Council consider a remit from the Environment and Regeneration Committee.
- 1.3 The Environment and Regeneration Committee at its meeting of 4 May 2023 considered a report by the Director Environment and Regeneration in relation to the Order, "The Stopping Up of Road and Footpath, Inverclyde (Arthur Street, Greenock) Order 2022", which was made on 25 October 2022 in terms of Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997.
- 1.4 A copy of the report to the Environment and Regeneration Committee is attached as Appendix 1.
- 1.5 The Environment and Regeneration Committee decided the following:
- Decided:** that (a) the 'The Stopping Up of Road and Footpath, Inverclyde (Arthur Street, Greenock) Order 2022' be approved, and (b) the Order be remitted to the Inverclyde Council for confirmation and thereafter delegated authority be granted to the Head of Legal, Democratic, Digital and Customer Services to take all necessary action in connection with the confirmation of the Order.
- 1.6 Further, Part IX, 'Roads, Footpaths and Rights of Way' and Schedule 16 of the Town and Country Planning (Scotland) Act 1997 set out the steps which a local authority must carry out when promoting a stopping up order ("SUO"); however, they do not detail the steps which must be taken by a local authority between (a) the consultation on an SUO to which there are no maintained objections and (b) the confirmation of the SUO.
- 1.7 Inverclyde Council's Scheme of Administration details functions reserved to the full Council. These include the promotion of byelaws, management rules and any necessary orders. This means that the full Council must consider the confirmation of all SUOs even though they have previously been approved by the Environment and Regeneration Committee.

1.8 This process potentially adds approximately 10 weeks to the timescale for the making of an SUO. It is, therefore, proposed to introduce a new procedure for confirming a SUO which will have the effect of reducing that timescale, namely to authorise the Head of Legal, Democratic, Digital and Customer Services to confirm SUOs where there are no maintained objections. This would mean the Council is adopting a similar process for SUOs to which there are no maintained objections as it does for Traffic Regulation Orders, Redetermination Orders and Speed Limit Orders.

2.0 RECOMMENDATIONS

2.1 The Council is asked to:-

- (i) Approve the confirmation of 'The Stopping Up of Road and Footpath, Inverclyde (Arthur Street, Greenock) Order 2022', and delegate authority to the Head of Legal, Democratic, Digital and Customer Services to take all necessary action in connection with the confirmation of the Order;
- (ii) approve the use of the proposed procedure and decision making process involved in the promotion of Stopping Up Orders in terms of Part IX, 'Roads, Footpaths and Rights of Way' and Schedule 16 of the Town and Country Planning (Scotland) Act 1997, as set out in paragraph 4.1 of this report;
- (iii) approve the proposed amendments to the Scheme of Delegation (Officers) so that the Scheme of Delegation (Officers) is amended to the effect that, where there are no maintained objections to any such Stopping Up Orders, the Head of Legal, Democratic, Digital and Customer Services will be authorised to confirm such Stopping Up Orders on behalf of the Council and delegate authority to the Head of Legal, Democratic, Digital and Customer Services to make those said amendments to the Scheme of Delegation (Officers).

Iain Strachan
Head of Legal, Democratic, Digital
and Customer Services

3.0 BACKGROUND

- 3.1 Local Authorities are empowered to make Stopping Up Orders (SUOs) under Part IX, 'Roads, Footpaths and Rights of Way' and Schedule 16 of the Town and Country Planning (Scotland) Act 1997.
- 3.2 Schedule 16 of the Town and Country Planning (Scotland) Act 1997 sets out the steps which a local authority must carry out when promoting an SUO; however, they do not detail what steps must be taken by a local authority between (a) the consultation on an SUO to which there are no maintained objections and (b) the confirmation of the SUO.
- 3.3 Inverclyde Council's Standing Orders and Scheme of Administration detail functions reserved to the full Council. These include the promotion of byelaws, management rules and any necessary orders. This means that the Full Council must consider the confirmation of all SUOs even though they have previously been approved by the Environment and Regeneration Committee. The Standing Orders do, however, permit the Committee to determine Traffic Regulation Orders (TROs) and Speed Limit Orders (SLOs) where there are maintained objections, meaning they do not need to go to full Council, even where there are maintained objections. The Scheme of Delegation (Officers) delegates authority to the Head of Legal, Democratic, Digital and Customer Services to make TROs, Redetermination Orders (ROs) and SLOs where there are no maintained objections. By way of explanation, ROs with maintained objections cannot be determined by the Council, and must be determined by the Scottish Ministers.
- 3.4 As such, this means that the Council's current governance arrangements require all SUOs to come before both the Environment and Regeneration Committee and The Inverclyde Council, whether there are objections or not. This process can add 10 weeks to the making of an SUO which delays the introduction of the SUO. It should be noted that SUOs, to which there are maintained objections, have to be referred to Scottish Ministers who will decide whether to confirm the SUO or not, in the same way as for ROs.

4.0 PROPOSAL

- 4.1 It is proposed that the Council confirm 'The Stopping Up of Road and Footpath, Inverclyde (Arthur Street, Greenock) Order 2022'. It is also proposed that amendments be made to the Scheme of Delegation (Officers) so that (i) the Scheme of Delegation (Officers) is amended to the effect that, where there are no maintained objections to any SUO, the Head of Legal, Democratic, Digital and Customer Services will be authorised to confirm such SUO on behalf of the Council and (ii) delegate authority to the Head of Legal, Democratic, Digital and Customer Services to make those said amendments. As reported to the Council on 20 April this year, it is proposed that there be a full review of the Standing Orders and Scheme of Delegation (Officers) later in 2023, with any proposed amendments subsequently brought back to Council for its consideration.
- 4.2 Subject to the decision of the Council, an updated version of the Scheme of Delegation (Officers) will be cascaded to officers and placed on the Council's website.

5.0 IMPLICATIONS

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

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

5.2 Finance

One off Costs

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

Annually Recurring Costs/ (Savings)

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

5.3 Legal/Risk

The legal implications are set out in this report.

5.4 Human Resources

None.

6.0 CONSULTATION

6.1 None.

7.0 BACKGROUND PAPERS

7.1 None.

Report To:	Environment & Regeneration Committee	Date:	4 May 2023
Report By:	Director, Environment & Regeneration	Report No:	ENV022/23/SJ/SM
Contact Officer:	Sean Mc Daid	Contact No:	01475 712412
Subject:	The Stopping Up of Road and Footpath, Inverclyde (Arthur Street, Greenock) Order 2022		

1.0 PURPOSE AND SUMMARY

1.1 For Decision For Information/Noting

1.2 The purpose of this report is to request the Committee to consider the order The Stopping Up of Road and Footpath, Inverclyde (Arthur Street, Greenock) Order 2022 (hereinafter “the Order”) which was made on 25th October 2022 in terms of Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997 (hereinafter “the Act”) and then to remit the Order to the Inverclyde Council for approval and confirmation. A copy of the Order is attached as Appendix 1 to this report.

1.3 Officers are satisfied that it is necessary to authorise the stopping up of the road and the footpath at Arthur Street, Greenock to permit the erection of a Class 3 unit with ancillary drive through and associated works at Ground at Arthur Street, Greenock in accordance with planning permission reference 20/0106/IC which was granted on 11th October 2021 in terms of the Act.

1.4 The Order was made on 25th October 2022 and published in the Greenock Telegraph and Edinburgh Gazette for public consultation on 1st November 2022, with the last date for objections being 29th November 2022. At the end of the consultation period, one objection was received. Further to discussions between the developer and the objector, the objection has now been withdrawn and there are no maintained objections to the Order.

2.0 RECOMMENDATIONS

It is recommended that the Committee:

2.1 Approve the Order and agree to remit same to the Inverclyde Council for the confirmation and thereafter grant delegated authority to the Head of Legal, Democratic, Digital & Customer Services to take all necessary action in connection with the confirmation of the Order.

Stuart W. Jamieson
Director, Environment & Regeneration

3.0 BACKGROUND AND CONTEXT

- 3.1 Planning permission 20/0106/IC was granted on 11th October 2021 for the proposed erection of a Class 3 unit with ancillary drive through and associated works at land at Arthur Street, Greenock. The site referred to in the planning application is to the south-west of the Cartsburn Roundabout and incorporates Arthur Street.
- 3.2 It is a condition of planning permission that the stopping up of the road and footpath at Arthur Street, Greenock is required. The approved development requires 581 square metres or thereby of road and 89 square metres or thereby of footpath at Arthur Street, Greenock to be stopped up. This is shown on the plan accompanying the Order as attached at Appendix 1 to this report.
- 3.3 Local authorities are empowered to make Stopping Up Orders in terms of the Act and in terms of the Council's Scheme of Delegation, the Head of Regeneration and Planning is responsible for the grant of planning consent and, if necessary, Stopping Up Orders in implementation of same.
- 3.4 Following the making of the Order, the procedures set out in the Act required the Order to be advertised in the Greenock Telegraph and the Edinburgh Gazette, with Notices sent to the landowner and any statutory undertaker who has apparatus on the footpaths which are to be stopped up. If there are no maintained objections to the Order, authority thereafter requires to be sought from the Environment and Regeneration Committee in order to confirm the Order before it comes into effect.
- 3.5 As noted above, one objection was received in relation to the Order; however, it has subsequently been withdrawn. Accordingly, there are no maintained objections to the Order.

4.0 PROPOSALS

- 4.1 A copy of the Order which officers are recommending for approval and confirmation is attached at Appendix 1 of this report.

5.0 IMPLICATIONS

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

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

5.2 Finance

There are no financial implications arising from this report. The cost of advertising the Order in the newspapers is met by the developer.

5.3 Legal/Risk

The Order complies with the Act as detailed above. The stopping up of the road and footpath as shown in the Order attached at Appendix 1 is required to ensure proper implementation of planning permission 20/0106/IC. Failure to complete the statutory process to stop up the road and footpath will mean that the planning permission could not be lawfully implemented.

5.4 Human Resources

There are no human resources implications associated with the Order.

5.5 Strategic

There are no Strategic implications associated with the making of the Order.

6.0 CONSULTATION

6.1 In terms of the statutory requirements, the Order was advertised in the Greenock Telegraph and the Edinburgh Gazette with full details of the proposals being made available for public inspection during normal office hours at the Customer Service Centre, Municipal Buildings.

7.0 BACKGROUND PAPERS

7.1 None.

THE INVERCLYDE COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

**THE STOPPING UP OF ROAD AND FOOTPATH, INVERCLYDE (ARTHUR STREET,
GREENOCK) ORDER 2022**

The Inverclyde Council, in exercise of the powers conferred on it by Sections 207 and 208 of the Town and Country Planning (Scotland) Act 1997, being satisfied that it is necessary to authorise the stopping up of the road and the footpaths hereinafter specified in this Order to permit the erection of a Class 3 unit with ancillary drive thru and associated works at Ground at Arthur Street, Greenock in accordance with planning permission reference 20/0106/IC granted under Part III of the said Act, hereby make the following Order:-

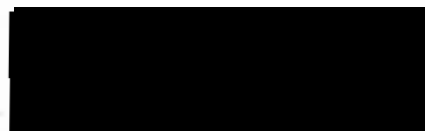
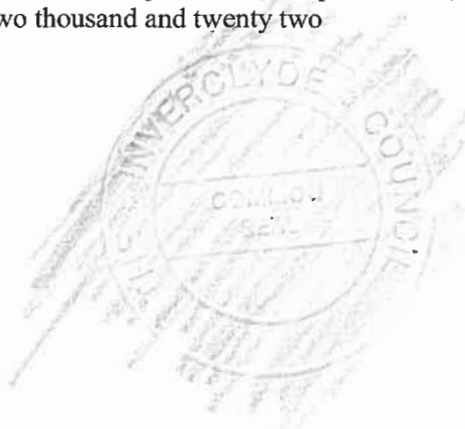
1. This Order may be cited as “The Stopping Up of Road and Footpaths, Inverclyde (Arthur Street, Greenock) Order 2022” and shall come into operation on the date of confirmation or such other date as may be appointed by the Scottish Ministers.
2. In this Order:-

“Road” means the lengths of road in the area of Inverclyde which are specified in the Schedule to this Order.

“Footpaths” means the lengths of footpaths in the area of Inverclyde which are specified in the Schedule to this Order.
3. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
4. The stopping up of the Road and the Footpaths is hereby authorised.
5. Where, immediately before the date of this Order, there are any rights of statutory undertakers or telecommunications code system operators in respect of any apparatus of theirs which is under, in, over, along or across the Road or the Footpaths, such undertakers shall thereafter without prejudice to the provisions of Section 224 and 225 of the Act, as read with Section 213(5) of the Act, have the same rights in respect of that apparatus as they had immediately before that date.

The person or persons carrying out development which affects the Road and the Footpaths shall be bound and obliged to pay the costs and expenses incurred by the statutory undertakers or telecommunications code system operators who deem it necessary to make special provision (by way of protection or otherwise) for or relocate any apparatus of theirs which is under, in, on, over, along or across the Road or the Footpaths.

SEALED with the Common Seal of The Inverclyde Council and subscribed for and on its behalf by Victoria Mary Pollock, Proper Officer, at Greenock on the Twenty fifth day of October, Two thousand and twenty two



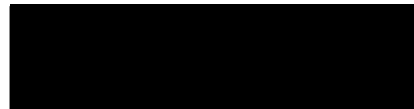
SCHEDULE

ROAD TO BE STOPPED UP



The area of ground to be stopped up extending to Five hundred and eighty one square metres (581m²) or thereby Metric Measure is shown outlined in red and coloured blue on the plan docketed “Town and Country Planning (Scotland) Act 1997, Sections 207 and 208, Stopping Up of Road and Footpaths, Inverclyde (Arthur Street, Greenock) Order 2022” annexed and executed as relative to this Order.

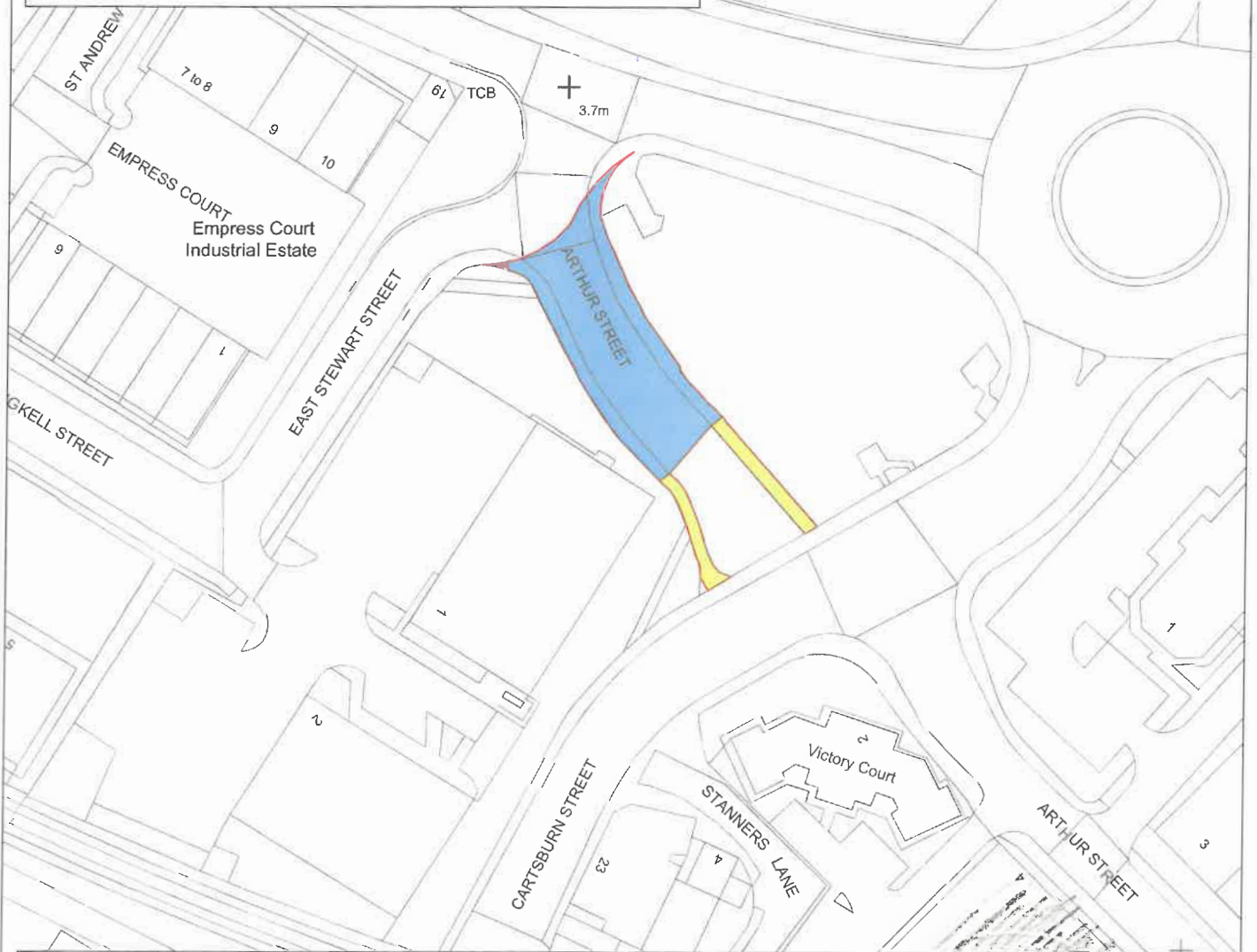
FOOTPATHS TO BE STOPPED UP

The areas of ground to be stopped up extending to Eighty nine square metres (89m²) or thereby Metric Measure are shown outlined in red and coloured yellow on the plan docketed “Town and Country Planning (Scotland) Act 1997, Sections 207 and 208, Stopping Up of Road and Footpaths, Inverclyde (Arthur Street, Greenock) Order 2022” annexed and executed as relative to this Order.



Town and Country Planning (Scotland) Act 1997
Section 207 and 208
Stopping Up of Road and Footpath
Inverclyde (Arthur Street, Greenock) Order 2022

-  - road / footways (581 square metres or thereby)
-  - footpaths (89 square metres or thereby)



At Greenock 25 OCTOBER 2022

This is the plan referred to in the foregoing Order of even date

Proper Officer  Redacted - signature
'V. Pollock'

Inverclyde Council
Regeneration & Planning

SCALE 1:1000
GMcC OCT 2022

