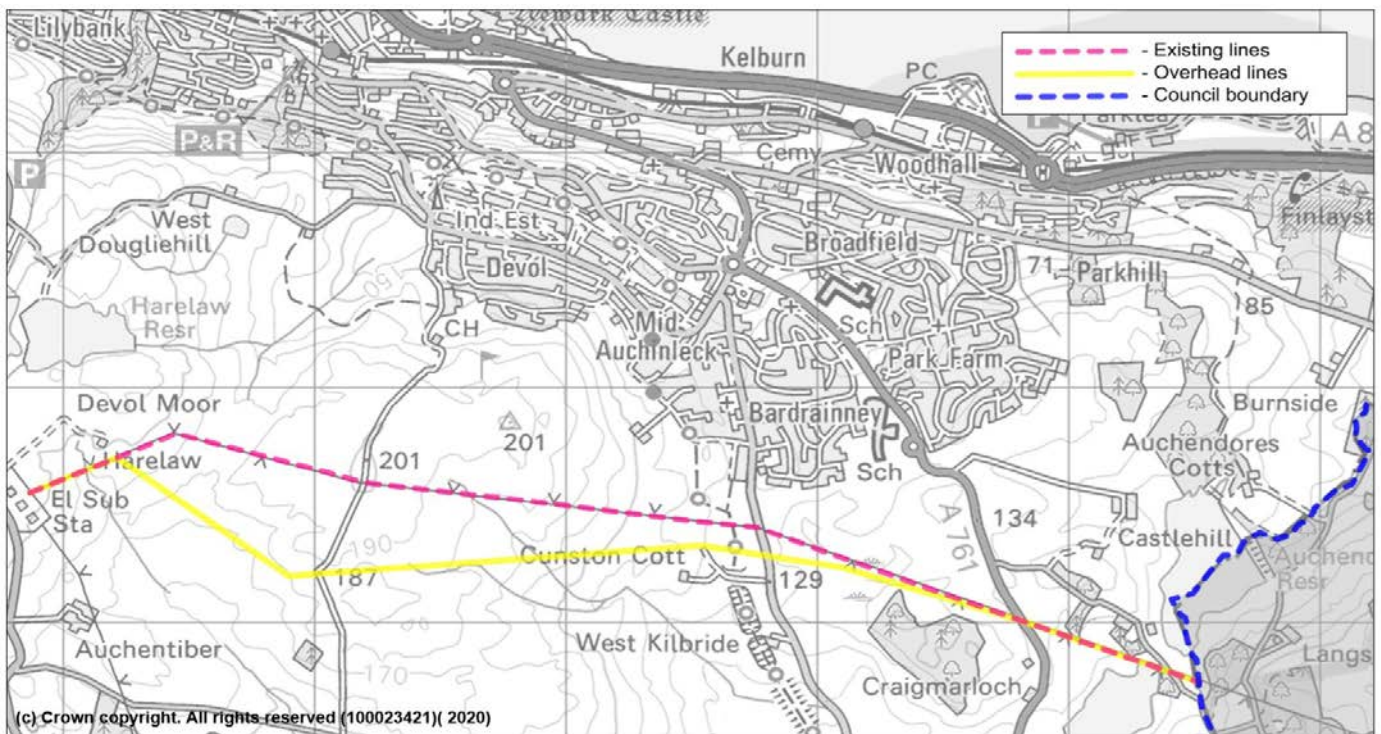


Report To: The Planning Board **Date:** 2 August 2023

Report By: Director **Report No:** 20/0001/EAA
Environment and Regeneration

Contact Officer: Sean McDaid **Contact No:** 01475 712412

Subject: Installation of 132kV overhead line between Erskine Substation and Devol Moor Substation (application made to the Scottish Ministers under Section 37 of the Electricity Act 1989) at Devol Moor, Kilmacolm



SUMMARY

- Inverclyde Council was consulted under the Section 37 of The Electricity Act 1989.
- The Scottish Ministers have granted consent under Section 37 of the Electricity Act 1989 and deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 to install and keep installed approximately 16.9km of 132 KV overhead line between Erskine Substation to Devel Moor in the Planning Authority areas of Inverclyde and Renfrewshire Councils.

The decision may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=QE6QUWIM00300>

INTRODUCTION

Proposals to install and keep installed overhead power lines and associated ancillary development require consent under Section 37 of the Electricity Act 1989.

Scottish Ministers are responsible for approving applications for overhead power lines and such an application has been made by Scottish Power Energy Networks to the Scottish Ministers to install a 132kV overhead line between Erskine Substation in Renfrewshire and Devol Moor Substation in Inverclyde (Scottish Government reference number ECU00002085).

The Scottish Ministers are required to consult the planning authority where the development is located, NatureScot (former known as Scottish Natural Heritage), the Scottish Environment Protection Agency, Historic Environment Scotland as well as other relevant consultees and take their views into account during the decision-making process.

The Planning Board on 7th October 2020 agreed with the recommendation on the consultation on the application to the Scottish Ministers under Section 37 of the Electricity Act 1989 that Inverclyde Council did not object to the proposed overhead line and also recommended that the Scottish Ministers attach various conditions to any deemed planning permission that may be granted.

DECISION BY THE SCOTTISH MINISTERS

On granting consent under Section 37 the Ministers may also direct that planning permission for that development shall be deemed to be granted in terms of Section 57(2) of the Town and Country Planning (Scotland) Act 1997.

On 22nd June 2023 the Scottish Ministers granted under Section 37 of the Electricity Act 1989 and deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997.

The consent granted under Section 37 lasts for a period of eighty years from the earlier of:

- i. The date of final energisation of electric lines connecting to the Development; or
- ii. The date falling two years from the date of commencement of development.

The conditions attached to the Section 37 Consent are as follows.

1. Commencement of development

(1) The Commencement of the Development shall be no later than five years from the date of this consent, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month before that date.

Reason: To avoid uncertainty and ensure that the consent is implemented within a reasonable period and to allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.

2. Notification of Date of Final Energisation

Written confirmation of the Date of Final Energisation shall be provided to the Planning Authorities and Scottish Ministers no later than one calendar month after that date.

Reason: To allow the Planning Authorities and the Scottish Ministers to record when energisation of the line has taken place and comply with other conditions.

3. Non-assignment

(1) This consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment, with or without conditions.

(2) The Company shall notify the Planning Authorities and Scottish Ministers in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

Reason: To safeguard the obligations of the consent if transferred to another company.

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

Reason: To keep the Scottish Ministers informed of any such incidents which may be in the public interest.

5. Woodland Planting Strategy

(1) No Development shall commence until a Woodland Planting Scheme to compensate for the removal of 10.58 hectares of existing woodland (including 2.54 of ASNW/NWSS sites) has been submitted for the written approval of the Scottish Ministers in consultation with the planning authorities and Scottish Forestry.

(2) The approved Replanting Scheme (taking into account any revision to the felling and restocking plans prior to the date of Final Commissioning) shall be implemented in full, unless otherwise agreed in writing by the Scottish Ministers in consultation with the planning authorities and Scottish Forestry.

(3) The approved Replanting Scheme (or as the case may be, an approved amended Replanting Scheme) shall thereafter be implemented as approved and maintained as such for the lifetime of this consent, unless otherwise approved in writing by the Scottish Ministers in consultation with the planning authorities and Scottish Forestry.

Reason: To secure replanting to mitigate against effects of deforestation arising from the Development.

6. Biodiversity Enhancement

(1) There shall be no Commencement of Development unless and until a Biodiversity Enhancement Plan ("BEP") has been submitted to and approved in writing by the Scottish Ministers (in consultation with the Planning Authority). The BEP shall: identify potential enhancement initiatives; and include details of phasing, associated timescales for implementation and long term management.

(2) The approved BEP shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Scottish Ministers.

Reason: To secure the enhancement of biodiversity.

7. Outstanding Wayleave

(1) There shall be no works, in implementation of the consent hereby granted, on or over land at Knockmountain Wood, owned by Scottish Ministers shown coloured in red on the plan contained in Annex 5 until Scottish Ministers have given their written permission.

Reason: In exercise of Ministerial discretion and powers conferred by paragraph 6 of Schedule 8 to the Electricity Act 1989; and to allow works to commence in implementation of the consent pending acquisition of outstanding rights over those areas described in this condition.

The following conditions attached to the Deemed Planning Permission are relevant to all planning authorities.

8. Commencement of Development

- (1) The development must be begun not later than the expiration of 5 years beginning with the date of this permission.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month before that date.

Reason: To comply with section 58 of the Town and Country Planning (Scotland) Act 1997.

9. Implementation in accordance with approved plans and requirements of the section 37 consent

- (1) Except as otherwise required by the terms of the section 37 consent and deemed planning permission, the Development shall be undertaken in accordance with the Application and the accompanying Environmental Impact Assessment (EIA) Report including all Appendices, dated June 2020, including all mitigation and monitoring measures stated in it, and other documentation lodged in support of the Application.

Reason: to ensure that the Development is carried out in accordance with the approved details.

10. Limits of deviation and micro-siting

- (1) All wood poles shall be constructed in the locations, as set out in Figure 1.1 of the EIA report dated June 2020 and to the height of 20 metres. The location and height of the poles may be adjusted within the following Limits of Deviation:
 - (a) No wood pole shall be more than a height of 10% above 20 metres above existing ground levels.
 - (b) No pole or area of hardstanding shall be moved more than 50m from the position shown on the approved plans;
 - (c) No track shall be positioned more than 50m either side of the position shown on the approved plans;
 - (d) Micro-siting shall be carried out in accordance with specific procedures and details approved as part of the relevant CEMP required in accordance with conditions (17 and 23) of this consent or as otherwise approved under the condition.
 - (e) All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW) appointed under the terms required by conditions (18 and 24).

- (2) No later than one month after the Date of Final Energisation, the Company must submit a finalised site plan to the Planning Authorities, copied to Scottish Ministers, showing the final position of the overhead line, all poles, access tracks, and associated infrastructure forming part of the Development. The plan must also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the approval from the ECoW or Planning Authorities, as applicable.

Reason: ensure that the development is built in accordance with the description in the EIAR to allow tolerance for re-siting infrastructure within the limits of deviation so as to take account of local ground conditions.

11. Planning Monitoring Officer

(1) No development shall commence until the terms of appointment by the Company of an independent and suitably qualified environmental consultant as Planning Monitoring Officer ("PMO") have been submitted to, and approved in writing by the Planning Authorities.

(2) The terms of appointment shall:

- (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
- (b) require to set out the frequency of PMO visits to site;
- (c) require the PMO to submit a monthly report to the Planning Authorities summarising works undertaken on site; and
- (d) require the PMO to report to the Planning Authorities any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity.

(3) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

Reason: To enable the development to be suitably monitored to ensure compliance with the planning permission and the conditions attached to it.

12. Construction Hours

(1) All construction work associated with the development must be carried out and all audible construction activities shall be limited to: Monday to Friday 8.00am to 7.00pm and Saturday 8.00am to 1.00pm, with no audible activity taking place on Sunday, local and national bank holidays.

(2) Outwith these periods, works at the site shall be limited to emergency works and dust suppression, unless otherwise approved in writing by the relevant Planning Authority. The local planning authority shall be informed in writing of emergency works within three working days of occurrence.

Reason: In the interests of local amenity.

13. Decommissioning Scheme

(1) In the event that the line, after the Date of Final Energisation, fails to transmit electricity for a continuous period of 1 year a Decommissioning Scheme shall be submitted to and for the further approval in writing by the relevant Planning Authorities. The scheme shall include details about the removal of all elements of the Development, relevant access tracks and all cabling, including where necessary details of:

- (a) justification for retention of any relevant elements of the Development;
- (b) the treatment of disturbed ground surfaces;
- (c) management and timing of the works;
- (d) environmental management provisions, including species protection plans;
- (e) the removal of all components of the line from the site for recycling or disposal;
- (f) a traffic management plan to address any traffic impact issues during the decommissioning period; and
- (g) all in accordance with the relevant legislative requirements and published best practice at time of decommissioning, unless a subsequently amended scheme is submitted to and agreed in writing by the relevant Planning Authority.

(2) Thereafter the scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure that should the line no longer be required that an appropriate mechanism is in place for decommissioning of the Development.

14. Species Protection Plan

(1) Not more than 3 months prior to commencement of development pre-construction surveys for terrestrial and aquatic species shall be undertaken to inform the Species Protection Plan (“SPP”);

(2) The SPP shall be submitted for the approval of the Planning Authorities in consultation with NatureScot.

(3) Thereafter any required work must be carried out in accordance with the approved mitigation measures and timescales set out. Should any otter, badger and/or water vole be recorded, a licence must be obtained from NatureScot prior to works commencing if this is required.

Reason: In the interests of safeguarding protected species.

15. Bat Mitigation Plan

(1) Prior to commencement of the development hereby approved, the applicant shall submit for the written agreement of the Planning Authorities, in consultation with NatureScot a Bat Mitigation Plan;

(2) The plan shall be in accordance with the outline bat mitigation plan dated September 2022. Thereafter, the Bat Mitigation Plan shall be implemented in full.

Reason: In the interests of avoiding disturbance during and protecting bats.

16. Bird Protection Plan (“BPP”)

(1) There shall be no development unless and until a Bird Protection Plan (“BPP”) has been finalised and submitted to and approved in writing by the Planning Authorities in consultation with NatureScot.

(2) The BPP shall be in line with the detail provided in Appendix 2.2 of the EIA report.

(3) The BPP shall set out measures to minimise the impact to birds in accordance with recommendations set out in NatureScot’s consultation response dated 26 May 2022 and RSPB’s consultation response dated 13th August 2020.

(4) The BPP shall be implemented in full, unless otherwise agreed in advance in writing with the Planning Authorities in consultation with NatureScot.

Reason: In the interest of the protection of protected bird species and in order to mitigate the potential for bird strikes resulting from installation of the overhead line.

The following conditions attached to the Deemed Planning Permission are relevant to Inverclyde Council as planning authority.

17. Inverclyde Construction Environmental Management Plan (“CEMP”)

(1) No Development shall commence unless a CEMP site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority (in consultation with NatureScot and SEPA).

(2) The CEMP shall include but is not limited to the following:

(a) Confirmation that the appointed Ecological Clerk of Works will carry out regular visual inspections to ensure that the mitigation measures are implemented;

(b) Silt and splash fences will be used where there is a risk of sediment run off regular inspection of these must be carried out so as to ensure that they are continuing to do an effective job; and the results of any inspections made note of as part of the environmental management system.

(c) The construction project may require a construction site licence. As to whether a Construction Site Licence (“CSL”) is required or not, the applicant will need to compare the footprint/contours of the construction site (full length) and ensure that the construction site does not exceed 4 hectares in area, contain a road or track in excess of 5km; or include any area of more than 1 hectare, or any length of more than 500m on ground that has a slope in excess of 25 degrees.

(d) New poles 151 and 168, and proposed stone lay down area are on or within very close proximity to the core path network in the Study Area. Details of the nature of the new access tracks and the impacts should be presented in the CEMP along with proposed mitigation to minimise any adverse impacts on access to the paths and to ensure as far as possible that they are kept open during construction. Where this is not possible, details of how alternative routes will be provided should also be included; and

(e) A pollution prevention and/or pollution prevention plan in line with Marine Scotland Science Consultation Response dated 20 February 2023.

(3) The CEMP must address the mitigation details contained in the EIA report and set out in Appendix 2.2 – Schedule of mitigation and monitoring dated June 2020.

(4) The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority in consultation with NatureScot and SEPA.

Reason: To secure the final detailed information on the delivery of all on-site mitigation projects; to avoid adversely affecting the integrity of the Natura 2000 sites; and to protect the environment from the construction and operation of the Development, to ensure protection of surrounding environmental interests and general amenity.

18. Inverclyde Environmental Clerk of Works (“ECOW”)

(1) No development shall commence until the terms of appointment of an independent Environmental Clerk of Works (“ECoW”) by the Company have been submitted to, and approved in writing by the Planning Authority in consultation with NatureScot. The terms of appointment shall:

(a) provide training to the applicant and their contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;

(b) advise the applicant on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;

- (c) direct the placement of the development, including any micro-siting and the avoidance of sensitive features;
- (d) monitor and support compliance with all environmental and nature conservation mitigation requirements and working practices required by this consent, including those required by the CEMP (“the ECoW Works”);
- (e) report to and submit a monthly written report to the applicant’s nominated construction project manager and to the planning authority;
- (f) report to the applicant’s nominated construction project manager and the planning authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity;
- (g) have the authority to direct a halt to development on site where environmental considerations warrant such action.

(2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the construction and restoration phase.

19. Inverclyde Removal of Existing Steel Towers

(1) Within 24 months of the completion of the development the steel towers of the existing overhead line shall be completely removed and the ground reinstated in accordance with the Environmental Impact Assessment detailing.

Reason: To ensure the existing steel towers do not remain in position.

20. Inverclyde Public and Private Water Supply Protection Plan

(1) No development shall commence until a Public and Private Water Supply Protection Plan, which shall include details of any existing groundwater abstractions within 500 m of the Development, has been submitted to and approved in writing by the Planning Authority in consultation with SEPA.

(2) The Private Water Supply Protection Plan shall detail measures to avoid any impact on existing public or private drinking water supplies arising from the Development throughout the period from Commencement of Development until the Decommissioning Scheme has been implemented in full and condition 13 is discharged by the Planning Authority. The Public and Private Water Supply Protection Plan shall also detail mitigation measures for any impact resulting from the Development on a public or private water supply.

(3) Thereafter, the Public and Private Water Supply Protection Plan shall be implemented in full.

Reason: In the interests of public health, to safeguard water supplies and provide mitigation measures should there be any impacts on drinking water supplies arising from the construction, operation, maintenance or decommissioning of the Development.

21. Inverclyde Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems (“GWDTE”s)

(1) The design, construction and maintenance of all infrastructure must ensure that the quality and quantity of the groundwater that feeds sensitive receptors (groundwater abstractions) downstream from any infrastructure does not statistically significantly change and the development does not act as a preferential pathway to groundwater flow.

(2) This must be demonstrated by on-going monitoring of the groundwater as set out in SEPA Technical Guidance Note 1: The Monitoring of Infrastructure with Excavations Less than 1m Deep

within 100m of Sensitive Receptors (Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystem) (Appendix 4 to SEPA Planning Guidance LUPS-31 Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystem).

(3) The monitoring results demonstrating whether the quality of groundwater and/or hydrological connectivity is being maintained must be presented to the Planning Authority in consultation with SEPA annually from the commencement of development in the required format.

(4) If monitoring identifies that the requirements are not being met, remedial action must be taken within 6 months in agreement with the Planning Authority in consultation with SEPA.

(5) No excavations greater than 1m deep within 100m of sensitive receptors should take place unless agreed in writing with the Planning Authority in consultation with SEPA.

Reason: In the interests of groundwater protection and to provide mitigation measures should there be any impacts on groundwater and its associated ecosystems arising from the construction, operation, maintenance or decommissioning of the Development.

22. Inverclyde Temporary Access and Infrastructure

(1) Within 12 months of the completion of construction of the development all temporary access tracks, the construction compound at Devol Moor Sub-station and associated temporary infrastructure shall be completely removed and the ground reinstated.

Reason: To ensure that all temporary works are removed in a timely manner and the ground properly reinstated.

RECOMMENDATION

That the Board notes the decision made by the Scottish Ministers.

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.