

Ref: CM

Date: 25 July 2023

A meeting of the Planning Board will be held on Wednesday 2 August 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 1 August 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

1.	Apologies, Substitutions and Declarations of Interest	Page
2.	Planning Application Report by Director Environment & Regeneration on application for planning permission as follows:	
(a)	Mr Jonathon Cooper Proposed extension to decking and formation of gated car port to side of house: 5 Blaeberry Drive, Inverkip (23/0076/IC)	p
3.	Notification of Application Made to the Scottish Ministers Under Section 37 of the Electricity Act 1989 Report by Director Environment & Regeneration intimating the outcome of an application made to the Scottish Ministers by Scottish Power Energy Networks for installation of 132kV overhead line between Erskine Substation and Devol Moor Substation at Devol Moor (20/0001/EAA)	p

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: 2 August 2023

Report By: Director
Environmental and Regeneration

Report No: 23/0076/IC
Plan

Local Application
Development

Contact
Officer: David Sinclair

Contact No: 01475 712436

Subject: Proposed extension to decking and formation of gated car port to side of house at
5 Blaeberry Drive, Inverkip.



SUMMARY

- The proposal raises no conflict with National Planning Framework 4.
- The proposal complies with the adopted and proposed Inverclyde Local Development Plan.
- Eight objections have been received raising concerns over impacts on amenity, design, fire safety and title deed restrictions.
- The recommendation is to GRANT PLANNING PERMISSION subject to conditions.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=RT3YXZIMHN300>

SITE DESCRIPTION

The application site comprises a split level, detached dwellinghouse located on the south-west side of Blaeberry Drive, Inverkip. The dwellinghouse was granted planning permission in August 2011 under 11/0161/IC and is finished with a grey concrete tile roof; red brick walls with a section of off-white roughcast render on the principal elevation; white uPVC windows and fasciae; buff block lintels and sills; and black uPVC rainwater goods. A white garage door is located on the principal elevation, with a Juliette balcony above.

The front curtilage is divided between a block paved driveway and grass, with an ornamental tree located in the north-west corner of the front garden. The driveway covers around 40% of the front garden area and slopes downhill away from the road, resulting in the garage and ground on the west side of the dwellinghouse being approximately 0.75 metres lower than the main entrance and ground on the east side of the dwellinghouse.

The rear garden area is accessed from the first floor level of the dwellinghouse and steps upwards away from the rear elevation of the dwellinghouse, with gradients of around 1 in 5. A timber deck is located on the west side of the rear elevation, which is raised above the ground to the side of the dwellinghouse by approximately 2.9 metres. The front and rear garden areas are separated by timber fencing which sits in line with the rear elevation of the dwellinghouse and is approximately 1.1 metres in height on the west side and 1.8 metres in height on the east side of the dwellinghouse. A stepped access runs along the east side of the dwellinghouse to provide access between front and rear garden areas. A timber outbuilding is located on the east side of the dwellinghouse and is set behind the principal building line by approximately 0.7 metres.

The site adjoins detached dwellinghouses which were constructed as part of the same development and are similar in scale and set in similar sized plots, with some variations to designs and finishing materials.

PROPOSAL

Planning permission is sought to construct a gated car port and raised deck on the north-west side of the dwellinghouse. The car port is proposed to have a polycarbonate glazed 'lean to' roof design measuring approximately 2.25 metres to eaves level and 2.6 metres at the highest point where it adjoins the dwellinghouse. The carport is to contain timber walls and a double swing door on the front elevation, which is to be set approximately 0.3 metres behind the principal building line and will extend out from the side of the dwellinghouse by approximately 3.25 metres and measure approximately 5 metres in length.

The deck is to form an extension to the existing rear garden deck and is to extend in a north-east direction for approximately 3.5 metres along the side of the dwellinghouse, to the rear of the carport, increasing the floor area of the raised deck from approximately 10.7 square metres to approximately 21.1 square metres. The deck floor is to be set approximately 2.9 metres above the floor of the carport which will sit directly in front of the deck. The front and north-west side of the timber deck is to be surrounded by a timber balustrade 1.1 metres in height, which is to be connected to the car port walls, forming a single structure.

Additional works are proposed to replace the existing garage door with a window and wall infill and to install a new access door on the side of the dwellinghouse. These works are permitted development in planning terms and do not require further assessment as part of this application.

NATIONAL PLANNING FRAMEWORK 4 (NPF4)

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 14

a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.

b) Development proposals will be supported where they are consistent with the six qualities of successful places:

Healthy: Supporting the prioritisation of women's safety and improving physical and mental health.

Pleasant: Supporting attractive natural and built spaces.

Connected: Supporting well connected networks that make moving around easy and reduce car dependency.

Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.

Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

Further details on delivering the six qualities of successful places are set out in Annex D.

c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Policy 16

g) Householder development proposals will be supported where they:

- i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
- ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

ADOPTED 2019 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 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.

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 20 – Residential Areas

Proposals for development within residential areas will be assessed with regard to their impact on the amenity, character and appearance of the area. Where relevant, assessment will include reference to the Council's Planning Application Advice Notes Supplementary Guidance.

Draft Planning Application Advice Notes (PAAN) 4 on "House Extensions" and **(PAAN) 5** on "Outdoor Seating Areas" apply.

CONSULTATIONS

None required.

PUBLICITY

The nature of the proposal did not require advertisement.

SITE NOTICES

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

PUBLIC PARTICIPATION

The application was the subject of neighbour notification. Eight representations were received objecting to the proposal. The grounds of objection are summarised as follows:

Amenity concerns

- The deck extension will increase line of sight to neighbouring property windows.
- Impacts on neighbouring privacy.
- Impacts on neighbouring amenity.

Design concerns

- The proposed carport would be an eyesore.
- Proposed development is of a ridiculous size given the size of property.
- The proposed development is not in keeping with the rules as set out for development nor the character.
- The proposed development appears larger than the site available.
- The proposal will aesthetically take value away from the estate.
- The proposal is not in line with the rest of the houses in the development.
- Concerns over how the car port will fit with the existing aesthetics of the street.
- Car port and fencing detracts from the look of the area and other houses in the street.
- The proposal removes the openness between houses.

Procedural concerns

- Drawings unrepresentative as there is an ancillary building not shown which has been erected without benefit of planning permission or neighbour consent.

Other concerns

- The proposed fence height at extended deck is greater than 1.8m and contravenes title deeds.

- The proposed carport would contravene title deeds if used as a garage or ancillary building.
- The carport must be open on at least two sides.
- Concerns over fire safety as this is an entirely timber building.
- A wooden carport would be a fire hazard.
- A fence has been constructed on the left hand side of the property without planning permission.
- Contrary to land certificate which restricts buildings in front of the back garden fence.
- The proposal will sit on or over neighbouring boundary.
- The distance of development to gas flue could cause a fire.
- Concerns over a shed being built on top of the deck extension.

ASSESSMENT

The material considerations in determination of the application are the National Planning Framework 4 (NPF4); the adopted 2019 Inverclyde Local Development Plan (LDP); the proposed 2021 Inverclyde Local Development Plan (LDP); Planning Application Advice Notes (PAAN) 4 on “House Extensions” and (PAAN) 5 on “Outdoor Seating Areas”; Draft Planning Application Advice Notes (PAAN) 4 on “House Extensions” and (PAAN) 5 on “Outdoor Seating Areas”; and the representations received.

Both LDPs locate the application site within an established residential area where Policies 1, 14 and 16 of NPF4, Policy 1 of the adopted LDP and Policies 1 and 20 of the proposed LDP apply. Policy 1 of NPF4 requires consideration of the global climate and nature crises to be given to all development. Policy 16 of NPF4 supports householder development which does not have a detrimental impact on the character of the home and surrounding area in terms of size, design and materials and does not have a detrimental impact on neighbouring properties in terms of physical impact, overshadowing or overlooking.

Policy 14 of NPF4 and Policy 1 of both the adopted and proposed Local Development Plans refer to qualities relating to successful places. The qualities of being Pleasant and Distinctive in Policy 14 are relevant to this proposal. The relevant qualities in Policy 1 of both LDPs are being ‘Distinctive’, which reflects the quality of Distinctive in Policy 14 and ‘Safe and Pleasant’, which reflects the quality of being Pleasant in Policy 14. In the adopted LDP, the relevant factor to be considered ‘Distinctive’ is whether the proposal reflects local architecture and urban form. In the proposed LDP, the relevant factors are whether the proposal respects landscape setting and character, and urban form and reflects local vernacular/architecture and materials. To be considered ‘Safe and Pleasant’, the proposal should avoid conflict with adjacent uses. Policy 1 of both LDPs also require consideration to be given to relevant supplementary guidance, of which the adopted and draft PAANs 4 and 5 are relevant to this proposal. Policy 20 of the proposed LDP requires the proposal to be assessed with regard to potential impacts on the amenity, character and appearance of the area, whilst having regard to any relevant supplementary guidance.

The proposal is for an extension and alterations within the curtilage of an existing dwellinghouse which can be implemented in a sustainable manner and is not considered to significantly impact on the global climate or nature crises, therefore it is not considered to conflict with the aims of Policy 1 of NPF4.

The extension and decking are to be located on the side elevation of the dwellinghouse and will be visible from the public realm. In considering the impacts on the urban form, both the extension and decking are to be positioned behind the established principal building line on Blaeberry Drive, with the front of the deck being set around 5 metres behind the front of the extension. The extension is at a single storey scale and is to be of a size and position which can be considered to reflect the urban form of the area. In considering the impacts of the car port extension on the character and appearance of the dwellinghouse and surrounding area, I note the concerns raised in the objections regarding the design and appearance of the car port. I shall assess these against the guidance given in both PAAN4s on “House Extensions”.



View of the site from in front of 7 Blaeberry Drive.

Both PAAN4s recommend that extensions should be finished in materials that complement those on the existing house and provide guidance on windows to mitigate overlooking and window intervisibility issues. The proposed car port does not contain any windows and therefore does not raise any concerns in terms of overlooking neighbouring gardens and does not conflict with the Council's window intervisibility guidance. Both PAAN4s state that for side extensions, the roof over extensions should match the existing house roof, extensions should be set back at least 1m from the side boundary and the off street parking requirements of the Council's Roads Development Guide shall be met. The roof is proposed to have a 'lean to' design and will be mostly glazed. Although this does not accord with the advice in both PAAN4s in terms of matching the finishing materials on the main roof, the roof design proposed contains a low pitch which lessens the overall height and massing of the proposed extension. The shallow roof pitch is not suitable for concrete roof tiles to be installed on the roof. The provision of a glazed roof provides a modern design which can be considered to complement the dwellinghouse and can be considered appropriate for its setting within a modern residential area. In considering the use of timber materials for the car port walls, whilst this is not currently in use on the dwellinghouse or on any other houses in the area, timber is the primary choice of material for boundary treatments and outbuildings within the area and can be considered an expected choice of material for this type of extension. Based on the above, I consider the proposed design and materials will have an acceptable visual impact on both the dwellinghouse and the surrounding residential area.

The extension meets the side boundary to the north-west and is not in accordance with the 1m set back distance as advised in both PAAN4s. Side boundary set back is required to avoid the terracing of houses and to ensure that there is suitable access between front and rear gardens. I note that the existing access between front and rear gardens is located on the south-east side of the dwellinghouse and that there currently is no access afforded between front and rear garden areas on the north-west elevation, therefore the existing access is not impacted by the proposal. The proposal will not result in the terracing of houses and the low profile design of the car port results in it being positioned lower than the rear garden ground behind and viewed as being set below the skyline, further lessening the visual impact of the car port. I am satisfied that the proposal will not result in a terraced effect between neighbouring dwellings and despite not complying with the advice given in both PAAN4s, consider the proposal will not harm the streetscape to the extent that would warrant refusal of the application. The proposal does not

introduce any additional bedrooms or result in a reduction of available off-street parking within the site; therefore, it will not alter or impact on the off-street parking requirements for the site.

In assessing the impacts of the proposed deck on the character and appearance of the building and on neighbouring amenity (Policy 20 of the proposed LDP), the main considerations relate to the appearance of the construction in terms of size, design and materials; possible activity and noise; and impacts on neighbouring amenity in terms of physical impact, overshadowing and overlooking. In considering these, I turn to the guidance given in both PAAN5s on "Outdoor Seating Areas".



View between 5 and 7 Blaeberry Drive taken from the driveway of 5 Blaeberry Drive.

Firstly, in considering the appearance of the construction, both PAAN5s state that the design and position of the decking shall be appropriate to the architectural design of the house. The proposed deck is to form an extension to the existing deck along the side elevation of the dwellinghouse towards the rear and will be enclosed by timber fencing which will be similar in height and appearance to the existing timber fence which runs along the front of the deck where it extends beyond the side of the dwellinghouse. The deck will be positioned behind the two side facing windows on the side elevation of the applicant's house and will not disrupt any architectural features or the overall design of the house, being positioned in front of a blank red brick wall which does not contain any detailing. At 4m in height, the timber fencing around the deck will be relatively tall, however, the massing of the fence will be broken up by the car port being positioned directly in front. The fence is to be positioned along a steep embankment which increases towards the rear, reducing the height of the fence along its 3.5m length on the side elevation from 4m to around 1.5m where it adjoins the existing fence. I note that the embankment extends across the neighbouring property between the houses and that the neighbouring land immediately adjoining the site is not easily accessible, being topped with conifer bushes and other planting, therefore the fence is unlikely to have a substantial overbearing impact on the neighbouring garden. The close proximity of the deck to the dwellinghouse and its location between dwellings minimises any overshadowing impacts on neighbouring garden areas and does not impact on daylight to any neighbouring windows. As a result, I do not consider the fence will appear excessive in size relative to the house. Based on

the above, the design and position of the deck can be considered to have an appropriate impact on the architectural design of the house.

In considering possible activity and noise, both PAAN5s state that if raised more than 0.5 metres above the original ground levels, decking should not be of a size that will afford residents the opportunity of undertaking a wide range of activities over extensive periods of day and evening to the extent that regular activity may impinge upon the enjoyment of neighbouring gardens. The proposed deck is to contain a floor area of approximately 21.1 square metres, which can be considered an acceptable size for its location within the curtilage of a detached dwellinghouse and not of a size which is considered to be excessive to the extent that it would encourage extensive periods of noise and activity to the detriment of neighbouring residents. I consider it unlikely that the proposal would result in conflict with neighbouring uses in terms of noise and can therefore be considered acceptable in this regard.

In considering privacy implications, I note the concerns raised in the objections received over impacts on neighbouring privacy and the deck extension increasing views into neighbouring windows. Both PAAN5s require screening to be provided where decking is to be positioned within 9 metres of the garden boundary and will result in an increased view of neighbouring private/rear garden area. The deck is located within 9 metres of the garden boundary, however it does not afford any increased views of the neighbouring private/rear garden area, extending forwards of the existing rear boundary area at the same height as the existing deck. The deck will overlook the neighbouring area of ground which sits at the side of the dwellinghouse. This area of ground currently contains a steep embankment topped with conifer trees and dense vegetation, in front of sits an area of grass and an ancillary storage building which will be positioned forwards of the proposed deck in line with the car port. This area is currently visible from the public realm. As such, I consider it acceptable for no screening to be provided in this instance. In considering the impacts on neighbouring windows, I note that the adjoining dwellinghouse does not contain any side facing windows, with the closest windows visible from the deck being the first floor Juliette balconies located directly across Blaeberry Drive from the proposal. These are currently visible from the existing deck at a distance of approximately 30.5m and will be approximately 27m from the proposed deck, exceeding the 18m minimum distance recommended for direct window intervisibility. Furthermore, I note that there are windows on the front of both the applicant's property and the neighbouring property that are closer than the proposed deck at between 22m and 24m from the Juliette balconies. Overall, I consider that the proposal will not result in unacceptable levels of overlooking or an invasion of privacy of neighbouring properties. Taking into account all of the above, the proposal can be considered to accord with the guidance in both PAAN5s.

I note that the proposed car port incorporates a sloped roof that descends towards the side boundary. Any surface water from the roof plane would discharge towards the side boundary and would likely drain into the neighbouring property, potentially impacting on the drainage of the neighbouring property. To ensure that the proposal does not result in surface water run-off draining onto the neighbouring rear garden area, I consider it prudent to attach a condition should planning permission be granted requiring all surface water run-off from the development to be contained and managed within the site, with suitable arrangements in place to prevent rainwater running off the roof into the neighbouring property.

Based on the above assessment, I consider that the proposal can be implemented without creating conflict with neighbouring uses in terms of noise; smell; vibration; dust; air quality; flooding; invasion of privacy; or overshadowing and therefore meets the quality of being 'Safe and Pleasant' in Policy 1 of both LDPs. Furthermore, I am satisfied that the proposal meets all relevant factors to be considered 'Distinctive' and therefore meets all relevant qualities of successful places, in accordance with Policy 14 of NPF4 and Policy 1 of both LDPs.

The proposal raises no concerns in terms of physical impact or overshadowing and does not result in unacceptable levels of overlooking on neighbouring residential properties, therefore, it can be supported under Policy 16 of NPF4. Overall, I consider the proposal will have an acceptable impact on the amenity, character and appearance of the residential area, in accordance with Policy 20 of the proposed LDP.

With regard to the objections that have been received and not assessed above the following comments are made. Matters relating to fire safety concerns and the proximity of the development to the neighbouring gas flue are more appropriately controlled under the Building Standards Regulations. Whilst I note the concerns raised over a shed being constructed on top of the deck, this does not form part of the proposal submitted and any further development in this regard would require to be considered separately.

Regarding the ancillary outbuilding constructed on the east side of the dwellinghouse, this was inspected during the site visit and confirmed as being constructed in accordance with permitted development rights afforded under Class 3A of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (as amended) and as such, it does not require planning permission. The consent of neighbours would be addressed as a civil matter alongside any non-compliance with restrictions on title deeds and are not material considerations in the determination of a planning application.

In conclusion, the proposal is in accordance with Policies 1, 14 and 16 of NPF4; Policy 1 of the adopted LDP and Policies 1 and 20 of the proposed LDP. 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 proposal is in accordance with the relevant Plan Policies and there are no material considerations which would warrant refusal of the application, it stands that planning permission should be granted subject to conditions.

RECOMMENDATION

That the application be granted subject to the following conditions:

1. The development to which this permission relates must be begun within 3 years from the date of this permission.
2. For the avoidance of doubt, all surface water run-off from the development hereby approved shall be contained and managed within the site. Details confirming how this is to be achieved shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. Thereafter the approved surface water run-off management details shall be fully implemented.

Reasons:

1. To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. To ensure the development does not increase the risk of flooding to neighbouring properties.

Stuart W Jamieson
Director
Environment & Regeneration

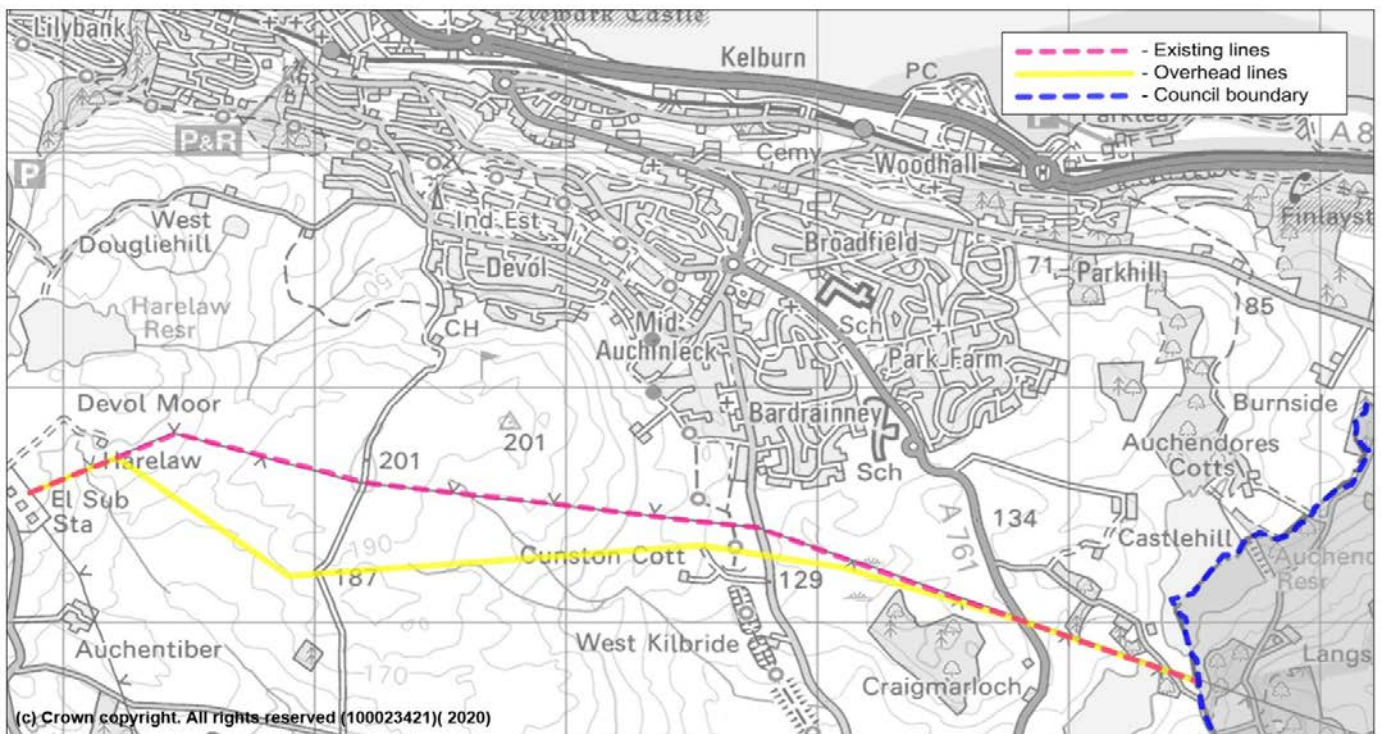
Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact David Sinclair on 01475 712436.

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.