

**A meeting of the Planning Board will be held on Wednesday 7 October 2020 at 3pm.**

**This meeting is by remote online access only through the videoconferencing facilities which are available to Members and relevant Officers. The joining details will be sent to Members and Officers prior to the meeting.**

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

**Please note this meeting will be recorded.**

GERARD MALONE  
Head of Legal & Property Services

**BUSINESS**

1. Apologies, Substitutions and Declarations of Interest	Page
2. <b>Planning Application</b> Report by Head of Regeneration & Planning on application for planning permission by Mr R C Baxter for discharge of planning obligation associated with planning permission IC/03/409 that restricts the occupancy of the two dwellinghouses to persons employed in agriculture in the locality at North and South Hattrick Cottages, Craigbet Road, Quarriers Village (20/0002/MP)	p
3. <b>Notification of Application made to the Scottish Ministers under Section 37 of the Electricity Act 1989</b> Report by Head of Regeneration & Planning on the notification 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, Kilmacolm (20/0001/EAA)	p
<p>Please note that because of the current COVID-19 (Coronavirus) emergency, this meeting will not be open to members of the public.</p> <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.</p>	

In terms of Section 50A(3A) of the Local Government (Scotland) Act 1973, as introduced by Schedule 6, Paragraph 13 of the Coronavirus (Scotland) Act 2020, it is necessary to exclude the public from the meetings of the Planning Board on public health grounds. The Council considers that, if members of the public were to be present, this would create a real or substantial risk to public health, specifically relating to infection or contamination by Coronavirus.

Enquiries to – **Rona McGhee** – Tel 01475 712113

**Report To:** The Planning Board

**Date:** 7 October 2020

**Report By:** Head of Regeneration and Planning

**Report No:** 20/0002/MP

**Contact Officer:** Sean McDaid

**Contact No:** 01475 712422

**Subject:** Discharge of planning obligation associated with planning permission IC/03/409 that restricts the occupancy of the two dwellinghouses to persons employed in agriculture in the locality at

**North and South Hattrick Cottages, Craigbet Road, Quarriers Village**



## SUMMARY

- The proposal presents no conflict with the Inverclyde Local Development Plan.
- No objections have been received.
- The recommendation is to DISCHARGE THE SECTION 75 AGREEMENT.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=QFNWH6IM00E00>

## **SITE DESCRIPTION**

The site comprises two semi-detached houses located at the west side of a row of six other semi-detached houses in the Green Belt to the north-west of Quarriers Village. Hattrick Farm itself is located to the east of this row of houses and the Mill Burn is located to the north of the site, with fields beyond. There are fields located to the south on the opposite side of the road. All of the houses in this row are semi-detached bungalows.

## **PROPOSAL**

The applicant seeks discharge of an Obligation in the form of a Section 75 Agreement relating to North and South Hattrick Cottages, Craigbet Road, Quarriers Village under the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.

Clause 2 of the Section 75 Agreement states:

*The Applicants bind and oblige themselves and agree that the dwellinghouses to be erected at the Subjects shall be occupied by persons solely or mainly or last occupied in the locality in agriculture as defined by Section 277 of the Town and Country Planning (Scotland) Act 1997 or a dependent of such as person residing with him or her or a widow or widower of such a person.*

The applicant therefore requests that the Planning Obligation is discharged because in recent times the numbers of cattle at the farm has steadily been reducing owing to the general economic pressures within the agricultural community and there is not the same requirement for agricultural workers at the farm. In addition, the applicant has referred to agricultural workers being less willing to reside in what is effectively a 'tied cottage'.

## **BACKGROUND**

Planning permission IC/03/409 was approved subject to conditions for the erection of two semi-detached bungalows at this location on 10 May 2005 following the conclusion of a Section 75 Legal Agreement (now referred to as a Planning Obligation). The applicant was willing to enter into a Section 75 Agreement to restrict the occupancy of the two bungalows. At that time it was the practice when planning permission was granted to restrict occupancy of agricultural workers houses through a Section 75 Agreement. The Section 75 Agreement in this case restricts the occupation of each bungalow to persons employed in agriculture in the locality or family members of such persons. There is no planning condition restricting occupancy of the bungalows.

At the time that IC/03/409 was being assessed the applicant worked full time and farmed 550 acres of land at Hattrick Farm and 112 acres at Mid Glen Farm with between 800 and 900 cattle. The applicant employed two full time and one part time workers and the justification for the additional houses was that the workload required additional on-site staff at Hattrick Farm.

At that time the applicant also owned East and West Hattrick Cottages as well as 2 Hattrick Cottages and each of these were rented to agricultural workers.

The two semi-detached bungalows approved under IC/03/409 were subsequently erected and occupied by agricultural workers.

## **THE LEGISLATIVE POSITION**

The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 introduced a right to apply to the Council to have a Planning Obligation modified or discharged. They also introduced a right of appeal to the Scottish Ministers where a planning authority refuses an application or fails to determine it within the set time period of two months.

The Regulations allow a planning authority to approve or refuse such an application but not to determine that the Obligation should be subject to any modification other than set out in the application. The planning authority is required to take into account any changes in circumstances which mean that the Obligation is no longer reasonable. An application for discharge or modification of an Obligation has to be assessed against the same criteria for the creation of an Obligation. These are set out in Scottish Government Circular 3/2012 as follows:

- Necessity
- Planning purpose
- Relationship to proposed development
- Scale and kind
- Reasonableness

These form the basis of the assessment of the application.

## **DEVELOPMENT PLAN POLICIES**

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

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

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

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

## **CONSULTATIONS**

No consultations were required.

## **PUBLICITY**

This type of application does not require advertisement.

## **SITE NOTICES**

This type of application does not require a site notice.

## **PUBLIC PARTICIPATION**

No representations were received.

## **ASSESSMENT**

The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 introduced a right to apply to the Planning Authority to have a Planning Obligation modified or discharged.

The applicant's agent has indicated that circumstances have changed since IC/03/409 was approved. Mid Glen Farm is no longer owned by the applicant and does not form part of the farming area. In addition it has been indicated that 200 acres of the 550 acres that comprised Hattrick Farm relating to the previous application was in fact rented. This 200 acres is no longer rented. The farm holding is therefore now 350 acres. Of the remaining 350 acres, 50 acres is held on a short term rental from Quarrier's Homes and these fields are located immediately adjacent to the built up area of the village.



There are now 400 cattle at the farm and the applicant operates the farm himself with one additional part time worker.

The applicant also no longer owns 2 Hattrick Cottages and remains the owner of East and West Hattrick Cottages, although these properties are rented out but not to agricultural workers. The two houses which are the subject of this application are currently occupied, but not by agricultural workers.

In November 2011, the then Scottish Government Chief Planner wrote to all planning authorities to clarify the Scottish Government's view on the use of conditions or obligations to restrict the occupancy of new rural housing. He confirmed that, while it may still be necessary to assess critically the justification for a proposed rural dwelling, it should not be necessary to restrict the occupancy of that dwelling. The advice was that such restrictions (which include restrictions on who may occupy a property and on how it may be disposed of) should generally be avoided, due to the difficulty they can cause for those seeking to obtain finance.

In June 2014, the Scottish Government published an updated Scottish Planning Policy (SPP). Paragraph 81 of SPP indicates that in accessible or pressurised rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanization of the countryside,

a more restrictive approach to new housing development is appropriate, and plans/decision-making should generally guide development to locations within or adjacent to settlements. SPP also indicates that plans/decision-making should generally set out the circumstances in which new housing outwith settlements may be appropriate, avoiding the use of occupancy restrictions.

This has been done in the adopted Inverclyde Local Development Plan which sets out the Spatial Development Strategy to direct residential development to existing built-up areas. Although no policies within the Local Development Plan are applicable in determination of an application of this nature, it should be noted that Policy 14 relates to development in the Green Belt and Countryside and outlines the circumstances in which such development may be acceptable. This policy however does not require the occupancy of development in such areas to be restricted through a planning obligation or a planning condition.

Scottish Government advice contained in Circular 3/2012 on planning obligations indicates that legal obligations/agreements are required to be: necessary; fulfil a planning purpose; relate to the development; be appropriate in scale and kind; and be reasonable. The Circular indicates that if a legal obligation fails any of these requirements, then generally a legal agreement would not be appropriate.

To satisfy the necessity test it must be determined that a planning obligation, rather than some other form of control, is required in order to achieve the desired objective. The current advice indicates that legal obligations should not be used where the matter can be adequately controlled by a planning condition. At the time planning application IC/03/409 was being assessed there was justification for additional houses at this location based on the amount of agricultural workers required for the farm operations. The additional houses were considered acceptable against the relevant development plan policies at that time although it was best practice to apply restrictions on occupancy through a Section 75 Agreement. It is not clear from the Report of Handling whether IC/03/409 would have been refused if there had been no Section 75 Agreement or if the applicant declined to sign the Agreement.

The planning purpose test requires the Obligation to be related to the use and development of land. It is expected that the justification for seeking an Obligation should be rooted in the development plan. At the time application IC/03/409 was considered there was no requirement in the relevant development plan policies to restrict occupancy through a legal agreement or planning condition.

The relationship to the development and scale and kind tests are considered satisfied in this instance because the effect of the Obligation does not extend beyond the houses and is proportionate to the harm (unjustified housing development in the open countryside) that the development plan policies seek to avoid.

The reasonableness test requires the Obligation to be reasonable in the particular circumstances of the case. The Circular requires regard to be had to any change in circumstances. It can now be seen from the information submitted on behalf of the applicant that the farming operations at this location have reduced both in terms of the amount of land farmed and numbers of cattle. This in turn has reduced the amount of labour at the farm with one full time and one part time agricultural worker now engaged in the farming operations. The two houses are not required at this time to be occupied by agricultural workers. Should the farm operations require additional full-time workers in the future the applicant has other houses available to accommodate them.

Both houses are also established at this location and in planning/land use terms there is no differentiation between a house occupied by an agricultural worker or occupied by someone else.

Consequently, given the above, it is considered that the Section 75 Legal Agreement would not accord with the advice in Circular 3/2012 on account of not being necessary, does not serve a planning purpose and is not reasonable.

In addition, the removal of the legal agreement would not raise any significant issues in terms of the Local Development Plan and therefore, on balance, it is considered acceptable for the planning obligation/agreement to be discharged/removed in the terms sought.

## **RECOMMENDATION**

That the Section 75 Agreement in respect of the occupancy of North and South Hattrick Cottages be discharged.

Stuart Jamieson  
Head of Regeneration and Planning

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact Sean McDaid on 01475 712422

**Report To:** The Planning Board

**Date:** 7 October 2020

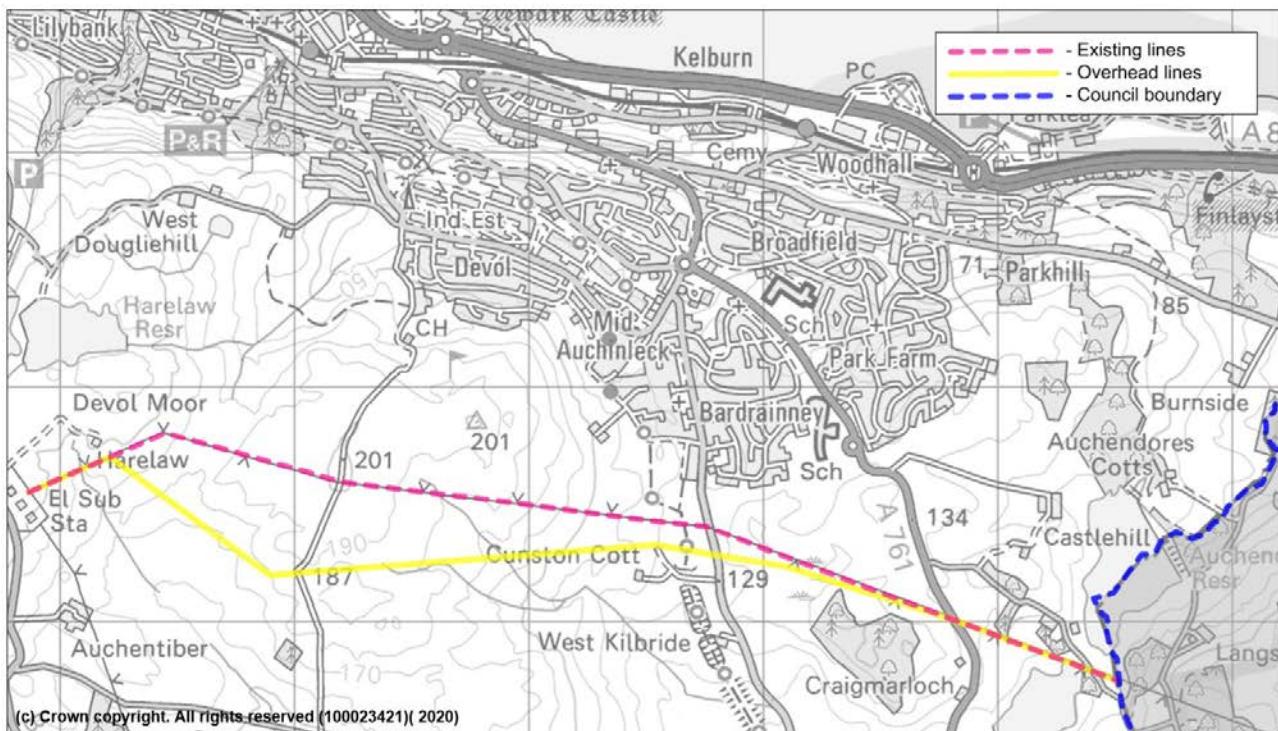
**Report By:** Head of Regeneration and Planning

**Report No:** 20/0001/EAA

**Contact Officer:** Sean McDaid

**Contact No:** 01475 712422

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



## SUMMARY

- This is a consultation with the Council under the Section 37 of The Electricity Act 1989.
- The proposal presents no conflict with the Inverclyde Local Development Plan.
- No objections have been received.
- The recommendation is not to object to the proposal but to request conditions be imposed on a grant of planning permission.

## **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 (formerly 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.

In circumstances where important issues are raised the Ministers can decide to hold a public local inquiry before decisions are taken including if objected to by the planning authority or other consultee.

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. The consent and deemed planning permission may be subject to conditions.

## **SITE DESCRIPTION**

The overhead power line is to run from Erskine Substation located in the Renfrewshire Council area to the Devol Moor Substation in Inverclyde. The Erskine Substation is adjacent to and north of the M8 where the slip road leads to the M898 Erskine Bridge. Devol Moor Substation is located in the Green Belt approximately 2km to the south of Greenock and Port Glasgow and approximately 4.5km to the north-west of Kilmacolm.



Auchenbothie Road – looking west

The overall length of the proposed overhead power line is 16.75km with approximately 5km of this located in Inverclyde.

The route of the overhead power line within Inverclyde runs in a general west to east direction in the rural area between Port Glasgow and Kilmacolm from the existing Devol Moor Substation up to the administrative boundary with Renfrewshire Council. The part of the route within Inverclyde is in a varied rural landscape that has moorland and improved upland pasture to the west. There is rolling pasture land and pastoral valley with a section of rocky hills/ridges to the east.

The landscape undulates with woodland at various points. There are golf courses and reservoirs at the west and east sides of the route respectively.

At the moment there are 17 steel towers in Inverclyde that support the existing overhead power line. The existing overhead line is approximately 200m at its closest point to the southern edge of Port Glasgow and approximately 700m at its closest point to the northern edge of Kilmacolm.

There are other man-made structures in the surrounding landscape including other overhead power lines traversing the landscape as well as wind turbines and lines supported on wooden poles. In particular there is a 400kv overhead line supported by steel towers to the south. There are also individual farms and houses located throughout the landscape.

## PROPOSAL

The overall proposal is to install a new overhead power line between the two substations along a similar route as existing. There are 62 steel towers to be removed across the entire route, including the 17 within Inverclyde. The existing towers have a maximum height of 20m.

The existing overhead line is over 75 years old and is coming to the end of its operational life and requires to be replaced to ensure electricity supplies are maintained in accordance with the applicant's legal duties.



Between B788 and Auchenbothie Road – looking north

The overhead power line is to be supported by wooden poles that are indicated as being a combination of single poles or double (known as H) poles. These poles have a standard height of 15m including steelwork and insulators at their top. However poles may vary in height depending on where they are to be erected and to take account of road and railway crossings; traversing over elevated land; and over structures or features. It has been indicated the heights of the poles from ground level to the top of the insulators mounted on top of them range from 9.76m to 18.76m with an average height of 12.3m. The spans between the poles range from 38.66m to 114.57m, with an average span length of 92.96m, to accommodate any constraints and variations in topography.

There are to be 182 poles erected across the entire route of which 53 are to be erected in Inverclyde.

The route of the new overhead line in Inverclyde is as follows. From Devol Moor Substation it follows the alignment of the existing route in a south-west to north-east direction for approximately 0.4km (between poles 182 and 178 identified on the plans) before running in a north-west to south-east direction for approximately 0.8km (between poles 178 and 169). The route then turns to run in a general west to east direction (between poles 169 and 146) for approximately 2km before running in a general north-west to south-east direction (between poles 146 and 130) for approximately 1.6km to the boundary with Renfrewshire Council.

The new overhead line runs further to the south of the existing route in the area between pole 178 and where it is to cross Auchenbothie Road. At its furthest distant point the new overhead line is to be approximately 0.45km south of the existing route.

There is also to be ancillary development with a construction compound adjacent and to the north of Devol Moor Substation. This will be used to store materials and equipment as well as site offices and staff welfare facilities. There are also to be temporary access tracks, watercourse crossings, working areas around the pole bases and stone laydown areas located throughout the route.

It has been indicated that the construction activity is to run from May 2022 until November 2023. This is to comprise enabling works, erecting the new poles, decommissioning the existing overhead power line, commissioning the new overhead power line and reinstatement works. In particular accesses will have to be prepared and woodland felled followed by the delivery of the poles, excavating their foundations and then erecting the poles. The conductors will then be erected on top of the poles, the overhead lines attached and commissioned. The attachment of the overhead lines will be done in sequence along the route once a sufficient number of poles have been erected. Any temporary infrastructure will be removed and reinstatement works carried out.

The type of accesses required will depend on the sensitivity of the location, the type of land use and ground conditions. If access tracks are required they will consist of wood/steel matting, floating tracks or cut and fill tracks. If tracks have to cross a watercourse a temporary bridge will be used.

The existing overhead line will be de-commissioned and removed directly following the commissioning of the new overhead line. This will involve the steel towers being cut and dismantled and foundations removed to a minimum depth of 1m below ground level. Following this the area will then be cleared and the ground reinstated. It has been indicated that the removal of the towers and foundations typically takes 4 to 5 days and the removal of all the towers will take approximately 12 months.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

The Section 37 application has been accompanied with an Environmental Impact Assessment (EIA) as it is considered there are likely to be significant effects on the environment. The EIA compiles, evaluates and presents the likely significant environmental effects resulting from the proposed development. The EIA also identifies and incorporates appropriate mitigation measures in order to avoid, reduce and where possible to remedy potential significant environmental effects.

The scope of the EIA was informed by the Scoping Opinion provided by the Scottish Government Energy Consents Unit in February 2019. A number of topics were “scoped out” where no likely significant effects are anticipated. These “scoped out” topics relate to: traffic and transport; construction and operational noise; air quality; socio-economics, tourism and recreation; climate change; land use; aviation, defence and telecommunications; human health; and major accidents and disasters.

The likely significant environmental effects identified in the EIA relate to: landscape and visual amenity; ecology and ornithology; geology, hydrology, hydrogeology, water resources and peat; cultural heritage; and forestry.

## NATIONAL PLANNING POLICY

### National Planning Framework for Scotland (NPF3)

NPF3 is the Scottish Government's long term spatial and economic strategy and plans for infrastructure investment and development priorities over the next 20 to 30 years, focusing on supporting sustainable economic growth and the transition to a low carbon economy. The proposed overhead line is considered to be a national development within NPF3 and is to form part of the enhancement of electric grids to facilitate renewable energy generation.

### Scottish Planning Policy (SPP)

SPP on Delivering Heat and Electricity indicates the planning system should support the transformation to a low carbon economy and support the development of a range of electricity generation from renewable energy technologies. SPP also indicates that the efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable sources are vital to reducing greenhouse gas emissions.

## DEVELOPMENT PLAN POLICIES

### Clydeplan – Glasgow and the Clyde Valley Strategic Development Plan 2017

#### **Policy 10 (extract)**

Delivering Heat and Electricity

In support of the transition to a low carbon economy and realization of the Vision and Spatial Development Strategy, support should be given, where appropriate, to alternative renewable technologies and associated infrastructure.

### Inverclyde Local Development Plan 2019

There are a number of policies in the adopted LDP that relate to this proposal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Policy 15 - Soils**

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

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

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

## **Policy 29 - Listed Buildings**

Proposals for development affecting a listed building, including its setting, are required to protect its special architectural or historical interest. In assessing proposals, due consideration will be given to how the proposals will enable the building to remain in active use.

Demolition of a listed building will not be permitted unless the building is no longer of special interest; it is clearly incapable of repair; or there are overriding environmental or economic reasons in support of its demolition. Applicants should also demonstrate that every reasonable effort has been made to secure the future of the building.

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

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

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

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

### Natura 2000 sites

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

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

In such cases, the Scottish Ministers must be notified.

### Sites of Special Scientific Interest

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

### Protected Species

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

### Local Nature Conservation Sites

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

### Local Landscape Area

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

### Non-designated sites

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

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

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

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

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

## **Policy 38 - Path Network**

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

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

## **Policy 39 - Water Environment**

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

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

**Draft Supplementary Guidance on “Energy” applies.**

## **CONSULTATIONS**

The planning authority is not responsible for consulting on this type of application, rather it is a consultee in the application process. Requests were made to the Scottish Government Energy Consents Unit, who administer the application process, to share any consultation responses they received for record purposes, however these have not been forthcoming.

## **PUBLICITY**

Applications for consent for overhead lines with a voltage of 132kV or above must be advertised by the applicant, not the planning authority, in accordance with the requirements of the Electricity (Applications for Consent) Regulations 1990 (as amended). The advert is to include details of how members of the public can make representations to the application.

In addition and in accordance with The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 details of the application are to be published by the applicant in the local press, in the Edinburgh Gazette, and on the applicant's website.

The adverts appeared in the Edinburgh Gazette on 17 June 2020, 22 June 2020 and 24 June 2020 and in the Greenock Telegraph on 19 June 2020 and 26 June 2020.

## **SITE NOTICES**

There are no site notices required for this type of application.

## **PUBLIC PARTICIPATION**

Requests were made to the Scottish Government Energy Consents Unit to share any representations they received for record purposes, however these have not been forthcoming. No representations were submitted direct to Inverclyde Council.

## **ASSESSMENT**

In accordance with consultation procedures, the Council requires to indicate its view on the proposal indicating whether it supports or opposes the development. The key consideration for the Council is how the proposal relates to its Local Development Plan.

The key policies of the LDP in relation to the proposed development are Policy 4, in respect of supplying energy, and Policy 14 in respect of the Green Belt and Countryside.

Policy 4 indicates that proposals for infrastructure for the generation, storage or distribution of heat and electricity will be supported in principle where they contribute to a reduction in greenhouse gas production. Select assessment criteria are set out in the policy including impact on landscape, historic buildings and places, and these are addressed below. The remaining criteria are not impacted by this proposal. The associated draft supplementary guidance on "Energy" does not specifically address the nature of the proposal but it should be viewed as a facilitator of the renewable energy agenda given the forthcoming connection of the Greenock windfarm (presently under construction) to the Devol Moor electricity sub-station.

With regard to Policy 14, the proposal is for infrastructure with a specific locational need and is therefore supportable in principle in the Green Belt, subject to it being appropriately designed, located and landscaped.

In order to determine the acceptability of the proposal, its key impacts require to be considered. These are primarily:

- Impact on landscape and visual amenity;
- Impact on the natural environment; and
- Impact on the built environment.

I consider the best means of determining these impacts and therefore the position which the Council should take is through consideration of the Environmental Impact Assessment which addresses all of these points.

This assessment will therefore consider the significant environmental effects identified in the EIA that the proposed development will have on Inverclyde. A summary of these effects are given in each section below.

### Landscape and Visual Amenity

This considers the potential effects of the proposal on landscape character and visual amenity during the construction and operation of the overhead line as well as the decommissioning and removal of the existing overhead line. Cumulative effects with other developments have also been considered.

There are no designated landscapes along the route of the new overhead line although the Clyde Muirshiel Regional Park is located to the west.

The study area for the landscape and visual assessment is a 3km radius from the new overhead line and is accompanied with 11 representative viewpoints. Four of these are located in Inverclyde which are at the south side of Port Glasgow, Devol Road, B788 Kilmacolm Road and the junction of Port Glasgow Road and Auchenbothie Road with a fifth located just over the administrative boundary in Renfrewshire Council at Finlaystone Road.



Between B788 and Auchenbothie Road – looking towards Devol Moor sub-station

The potential impact on Greenock has not been considered because the location of the new overhead line would not be theoretically visible from this urban area. Although the overhead line would theoretically be visible from Kilmacolm, woodland on higher ground to its north, the nature of the landform to the north of the village and the built form within the village reduces actual visibility to the extent that a detailed analysis from the village was not justified. There will be potential impact at the south side of Port Glasgow primarily because of the location of the overhead line. The EIA predicts that the overall magnitude of visual change on the representative viewpoint facing south from Port Glasgow is considered to be low and not significant. Any impacts are considered to be positive because the removal of the steel towers are offset by erecting smaller poles.

It is considered that the main visual impact of the proposed development is the change from the existing steel towers to an increased number of lower height poles supporting the new overhead line as well as the differing position of part of the route. How the changes are perceived will depend on where the viewer is in the landscape or on which route or part of the path network that person may be travelling. Views of the new overhead line will also depend on where the viewer is in relation to it and will be affected by any intervening topography or the presence of trees/vegetation.

It is recognised that there may be more poles compared to the existing steel towers however this has to be balanced against the fact that these are to be lower in height and have a significantly reduced presence in the landscape due to their built form. The new overhead line will have a much reduced visual impact when compared to the existing overhead line/towers and in some parts of the landscape will not be readily visible from general public view such as to the east of the area to the north of Kilmacolm. This is because of the undulating more intricate landscape with woodland at this part of the route which provides topographic screening compared to the moorland further to the west. Views of the overhead line will also depend on where the viewer is when travelling along the roads network or along core paths.

Following completion of the new overhead line it is considered the steel towers of the other overhead lines will be the dominant feature in the landscape. In addition wind turbines are also locally dominant features.

Overall it is considered the proposed overhead line will have a reduced visual impact and this impact, including any cumulative impact with other structures in the landscape, is acceptable. The proposed overhead line is therefore considered to comply with Local Development Plan Policies 1, in that in general terms it will not adversely impact on any sense of place, 4 and 14 in that the landscape impact is acceptable. It is also considered to have no implications for Policy 38 in terms of impact on the core path network.

#### Ecology and Ornithology

There are no internationally or nationally designated sites in Inverclyde. There are Local Nature Conservation sites and the existing and proposed overhead lines pass through these. These are:

Devon Road Upland (mosaic of wet heathland and acid grass with local areas of dry heath, bracken and gorse scrub);

Crosshill Road Heath (areas of acid grassland, bracken, heathland, rock exposure, broom scrub and mire vegetation);

Craigmarloch Wood (variety of tree species with the understorey dominated by bracken; at the north edge there is gorse and relic heathland);

Leperstone Reservoir (open water body with marginal vegetation).

Field surveys were carried out to identify habitats as well as the presence of any protected species. Breeding bird and flight activity surveys were also undertaken.

The various habitats along the route are suitable for bat species although the impact of the development on bat populations is unlikely to be significant given that bats forage over a wide area and habitats. Otters are present within the study area although given the nature of the proposed development combined with the absence of important resting site the impact is not considered to be significant. The type of watercourses in Inverclyde are not considered to be optimal locations for water voles and no burrows were recorded. The overall study area offers suitable wide-ranging habitat for badger and given the details of the proposal the construction activity will have no direct physical impact on any sett. The waterbodies are not considered to be suitable for great crested newt.

Curlew, Greylag Geese, Lapwing, Herring Gull and Pink-Footed Geese are considered to be most affected by collision risk with the new overhead line and line markers are to be added between poles 128 and 148 (i.e. at the east part of the route in Inverclyde) where species that are vulnerable to collision risk have been frequently recorded.

Prior to construction and decommissioning further protected species surveys are to be undertaken to ensure the works are carried out in accordance with relevant nature conservation legislation.

An Ecological Clerk of Works is to be appointed during construction of the new overhead line as well as during removal of the existing line to ensure compliance with environmental legislation, project specific mitigation, to monitor the effectiveness of the line markers and ensure the implementation of an Environmental Management Plan.

The EIA predicts there will be no significant effects for habitats or breeding/wintering birds.

It is considered that given the relatively limited area of ground occupied by the new poles to support the overhead line that the impact on the abovementioned habitats will not be significant. The proposed overhead line is considered to comply with Policy 33 of the adopted Inverclyde Local Development Plan in that the presence of protected species has been investigated and it has been established that the proposed impacts will be acceptable and as the proposal will not have a significant adverse impact on the affected Local Nature Conservation Sites.

#### Geology, Hydrology, Hydrogeology, Water Resources and Peat

The routes of the existing and proposed overhead line in Inverclyde are within the catchment of the River Gryffe and there are a number of minor watercourses as well as the Luperstone Reservoir at the east close to the administrative boundary with Renfrewshire Council.

The route of the new overhead line passes over a number of the minor/unnamed watercourses as well as the north-east part of the reservoir. Some of the minor watercourses and the reservoir are identified on SEPA's Flood Map as being susceptible to surface water flooding. There are no public drinking water supply catchments although in Inverclyde there are three private water supply sources identified in close proximity to the route of the new overhead line. It has been indicated that prior to construction further investigation will be undertaken to establish the position of the private water supply pipes to avoid damage and monitoring of water quality will be undertaken before, during and after construction.

There are two areas of peatland to the west and east of the A761 Port Glasgow Road. The route of the new overhead line runs along the south side of the peatland to the west and through the centre of the peatland to the east. These are indicated as being shallow having been modified through farming practices and are therefore considered to be of low sensitivity.

The land take involved for the erection of each new pole is limited and the applicant has indicated given their prior experience and implementing accepted good practice during construction, operation and decommissioning, and the current regulatory context, many potential effects on the water and soil environment can be avoided or reduced.

It is anticipated that the main environmental effects on geology, hydrology, etc will be during construction in terms of constructing new or upgrading access tracks, watercourse crossings, forestry removal, use of heavy machinery and excavation of pole bases.

The EIA predicts that minor effects will occur during construction of the new overhead line and during the decommissioning of the existing line.

It is considered that given the relatively limited area of ground occupied by the new poles to support the overhead line that the impact will not be significant on geology, hydrology, hydrogeology, water resources or peat. The conclusions of the EIA in this regard are accepted. The proposed overhead line is therefore considered to comply with Local Development Plan Policies 8, in not creating a flood risk, 15, as it is not development on prime agricultural land and the impacts on carbon rich soils are regarded as acceptable, and 39 in having no anticipated significant adverse effects on the water environment.

#### Cultural Heritage

This assesses both above and below ground heritage assets such as World Heritage Sites, Listed Buildings, Scheduled Monuments, Gardens and Designed Landscapes, Battlefields and Conservation Areas and archaeological sites, and the impact of the proposed development as a result of either direct physical or setting change.

Within the study area for the entire route of the overhead line, which is a 3km radius from the new overhead line, there are a number of the aforementioned heritage assets including the Antonine Wall World Heritage Site.

Within Inverclyde and in close proximity to the route of the new overhead line there are two Scheduled Monuments (Craigmarloch Wood fort and High Castlehill enclosure) and one Category B Listed Building (Cloak, Cloak Road, by Kilmacolm - formerly "Mosside").

Given the relative close proximity of the new overhead line to these particular cultural heritage assets there is potential for their settings to be affected.



Between B788 and Auchenbothie Road – looking west

Craigmarloch Wood fort is approximately 200m from the route of the new overhead line and the existing overhead line. It is located within dense woodland and its presence is not evident from outwith the wood. The EIA indicates that the magnitude of change between the existing and new overhead lines is none and the significance of effect is none. This is because the fort is located in the woods and the new overhead line will not be perceptible from the fort and will make little impact on its setting.

A number of poles will be visible from the High Castlehill enclosure and although there will be a greater number of poles than the existing towers the new poles will be smaller in height and mass. These will be perceptible but not prominent and will make little impact on its setting. The EIA indicates that the magnitude of change between the existing and new overhead lines is none and the significance of effect is none.

The new overhead line is to be approximately 150m south and south-east of the Category B listed Cloak and will follow the route of the existing overhead line. The new overhead line will be perceptible in long distance views of this building from Finlaystone Road across Auchendores Reservoir however will be set back from the woodland that surrounds it. The woodland will screen views of the new overhead line from the listed building. The EIA predicts that the magnitude of change between the existing and new overhead lines is negligible and the significance of effect is none.

The magnitude of change and the significance of the change as predicted in the EIA on these cultural heritage assets is agreed. The potential impact of the new overhead line is therefore considered to be very limited and does not adversely impact the identified cultural heritage assets in Inverclyde. The proposed overhead line is therefore considered to comply with Policies 1, 4, 29 and 31 of the adopted Inverclyde Local Development Plan.

### Forestry

The applicant has indicated surveys and additional consultation with Scottish Forestry has informed the alignment of the overhead line to minimise felling of broadleaf woodland. Within Inverclyde the areas of woodland along the route of the new overhead line are located around the Devol Moor Substation, at Craigmarloch Wood (located between Auchenbothie Road and Port Glasgow Road) and immediately to the north-east of Leperstone Reservoir.

Along the route of the new overhead line there is to be a 70m wayleave and trees are to be felled within this corridor as follows.



Cloak Road - looking west

At Devol Moor Substation there are conifers and broadleaf trees in groups around its perimeter and broadleaf trees located on the east side to be removed.

At Craigmarloch Wood a corner at its north side requires broadleaf trees to be removed. This involves a limited amount of the larger wood at this location and it not considered to adversely impact on the integrity of the overall wood.

The most extensive tree felling is to occur over a length of 160m in proximity to Leperstone Wood. Broadleaf trees in an area are to be removed in the area to the north-east of the reservoir.

The area of broadleaf trees to be removed in Inverclyde extends to approximately 1 hectare. Areas for potential re-planting have been identified, subject to agreement with landowners, however none of these areas are located in Inverclyde.

The EIA predicts that the magnitude of change involved in removing trees/woodland is major to moderate and the significance of effect is major to moderate. This assessment is agreed with.

The removal of trees is being carried out for operational/technical reasons. The trees to be removed at Devol Moor Substation are away from general public view from the B788 Kilmacolm Road and this lessens the visual impact of their removal. The removal of trees at Craigmarloch Wood involves a limited amount of the larger wood at this location and it not considered to adversely impact on the

integrity of the overall wood. Given where this wood is located in the landscape, where it can be viewed from, taking into account the intervening topography, the visual impact of the tree removal is lessened. The removal of trees adjacent to Leperstone Reservoir would be most evident in close proximity to this location although this is at a minor road. Existing topographical screening would limit the visual impact from further afield from the existing settlements or from more heavily trafficked roads. In addition the benefits of the proposal are considered to outweigh their loss by maintaining electricity supply.

It is therefore considered that the extent of tree removal within Inverclyde is acceptable. The proposed overhead line is therefore considered to comply with Policy 34 of the adopted Inverclyde Local Development Plan.

#### Summary of Environmental Effects

It is considered that the conclusions of the potential significant environmental effects that have been identified in the EIA in Inverclyde are agreed with when assessed against the relevant development plan policies. The new overhead line is considered to accord with NPF3, Scottish Planning Policy and Clydeplan.

The main impact associated with this proposal on Inverclyde and the one that will be most noticeable will be the visual change from steel towers to poles as well as a different alignment for part of the route. Although there may be more poles compared to the existing steel towers, this has to be balanced against the fact that these are to be lower in height. The lower height of the poles will reduce the overall visual impact of the new overhead line as well as lessening its visual prominence when compared to the existing overhead line. There will remain other taller overhead lines traversing the landscape that have a greater visual impact. The new overhead line is therefore considered to accord with the relevant policies of the adopted Inverclyde Local Development Plan.

It is considered that the change in visual impact is acceptable and any cumulative impact of the new overhead line with other structures is also acceptable.

#### **RECOMMENDATION**

It is recommended that the response to the Scottish Ministers is that Inverclyde Council does not object to the proposed overhead line. It is also recommended that the Scottish Ministers attach the following conditions to any deemed planning permission that may be granted:

1. The development shall be undertaken in accordance with the application submission and the Environmental Impact Assessment Report (June 2020).
2. Development shall not commence until the planning authority has approved in writing the terms of appointment by the applicant of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent ("PMO"). The terms of appointment shall:
  - a. Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;
  - b. Require the PMO to submit a report to the planning authority summarising works undertaken on site, within a timescale agree with the planning authority; and
  - c. Require the PMO to report to the planning authority any incidences of non-compliance.
3. Development shall not commence unless the planning authority has approved in writing the terms of appointment of an independent Ecological Clerk of Works (ECoW). The terms of appointment shall require the ECoW to:

- 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.

The ECoW shall be appointed on the approved terms throughout the period from commencement of development, throughout any period of construction activity and during any period of post-construction reinstatement works.

4. Development shall not commence unless a Construction Environmental Management Plan ("CEMP") has been submitted to and approved in writing by the planning authority in consultation with SNH and SEPA. The CEMP shall provide site-specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling.
5. Development shall not commence until the applicant submits to the planning authority proposals for line markers for the purpose of bird diversion between poles 128 and 148. The proposals shall identify the nature and exact location of the line markers to be used. Development shall not commence until the planning authority, in consultation with SNH, has given its approval in writing to the proposals. The line markers shall thereafter be installed in accordance with the approved proposals and shall be regularly inspected and maintained for the lifetime of the development, unless otherwise agreed in writing with the planning authority. Line markers shall be inspected and maintained each year and shall only take place in September each year.
6. 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.
7. 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.

#### Reasons

1. To ensure the development is carried out in accordance with the approved details.
2. To ensure the effective monitoring of any conditions.
3. To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the development.
4. To ensure that all construction operations are carried out in a manner that minimises their impact on air, land, water and local ecological interests, and that the mitigation measures contained in the environmental statement accompanying the application, or as otherwise agreed, are fully implemented.

5. In order to mitigate the potential for bird strikes resulting from installation of the overhead line.
6. To ensure that all temporary works are removed in a timely manner and the ground properly reinstated.
7. To ensure the existing steel towers do not remain in position.

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Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact Sean McDaid on 01475 712422