

**Report To:** The Planning Board

**Date:** 1 March 2023

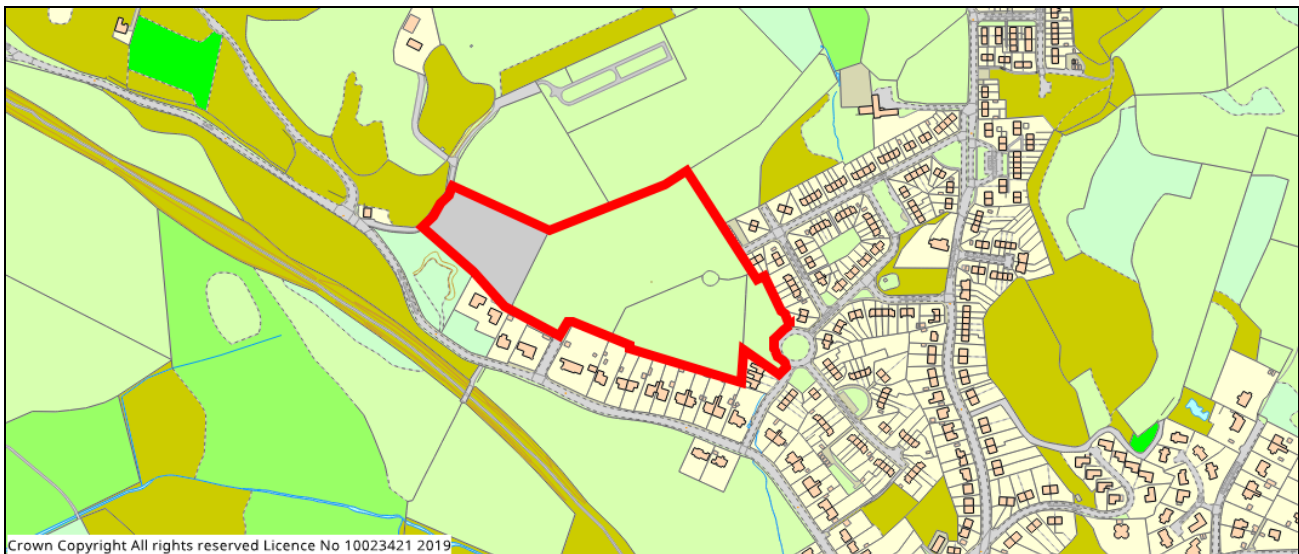
**Report By:** Director  
Environment & Regeneration

**Report No:** 20/0245/IC  
  
Major Application  
Development

**Contact Officer:** Sean Mc Daid

**Contact No:** 01475 712412

**Subject:** Decision on the planning application called-in by the Scottish Ministers in respect of residential development to include access, roads, open space, landscaping, drainage and other associated works (planning permission in principle) (major) at  
  
Land west of Quarry Drive, Kilmacolm



## SUMMARY

- The planning application in principle was called-in by the Scottish Ministers to determine the application themselves.
- The Scottish Ministers grant planning permission in principle subject to conditions.

Details of the application decision may be viewed at:  
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=121586>

## INTRODUCTION

A Pre-Determination Hearing was carried out on 28th April 2021 by the Planning Board as the proposed development is a Major Development and considered to be significantly contrary to the adopted 2019 Inverclyde Local Development Plan.

On 4th May 2021 the full Council agreed with the recommendation that notification of the application be made under The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 to the Scottish Ministers, indicating the Council's intention to grant planning permission in principle, subject to conditions. The notification of the recommendation is required as the Council owns a small part at the eastern side of the application site and the proposal is significantly contrary to the adopted 2019 Inverclyde Local Development Plan.

On 5th July 2021 notification was received from the Scottish Ministers that they directed the application be referred to them for determination. The Scottish Ministers considered the case raises issues of national significance with regard to the interpretation and application of Scottish Planning Policy, and in view of Inverclyde Council's interest in the proposed development, to allow further scrutiny of the reasons for proposing to approve it as a significant departure from the development plan.

### **CALL-IN BY THE SCOTTISH MINISTERS**

The Scottish Ministers appointed David Buylla as the Reporter to consider the application and report back to them.

The Reporter considered the main issues relevant to the determination of the application taking account of the submissions made by all parties to the application including those of the local residents who have commented on the proposals. Having considered all of the relevant matters the Reporter's overall conclusion is that, despite the site being in a location where housing development would not normally be supported, the proposal is, overall, in accordance with the development plan due to its compliance with Clydeplan policy 8, the purpose of which is to respond to an identified shortfall in the effective housing land supply by permitting housing development on appropriate sites (even those which would not normally be considered suitable for such development).

The housing supply shortfall and the fact that the Reporter concluded that this proposal can be regarded as development that would contribute to sustainable development means the proposal can also draw support from Scottish Planning Policy paragraph 33. This tilts the planning balance further in favour of approval. There would be some adverse impacts from developing this site however, these do not significantly and demonstrably outweigh the beneficial contribution it would make to the five year supply of effective housing land.

The Ministers agreed with the Reporter's finding and recommendation that the proposed development is, overall, in accordance with the development plan; there is a shortfall in the housing land supply (whichever method is used to calculate the five year target), the presumption in favour of development that contributes to sustainable development is a significant material consideration; the proposed development would contribute to sustainable development; and the adverse impacts of the proposed development would not outweigh the benefits (including the contribution to the five year supply of effective housing land).

On 12th May 2022 the Scottish Ministers issued a Notice of Intention that indicated they were minded to grant permission in principle for the proposed development subject to conditions and the completion and registration of a planning obligation (or other suitable alternative arrangement) securing 25% of on-site accommodation as affordable and a developer contribution towards off-site works that will improve the walking and cycling environment in Kilmacolm. The details of the off-site works would be left to the Council and the applicant to agree but were likely to include improvements to footways between the application site and the village centre and a lowering of the speed limit on Port Glasgow Road, to the west of the site.

The Scottish Ministers deferred their formal decision on the planning application, in the first instance for a period of 6 months, to enable the relevant obligation, or other suitable arrangement, to be completed and registered or recorded to Ministers' satisfaction.

The Scottish Ministers issued a Procedure Notice on 16th November 2022 seeking comments from the planning authority, the applicant, Kilmacolm Community Council, Kilmacolm Residents' Association and Kilmacolm Civic Trust on the implications of the Revised Draft National Planning Framework 4 (NPF4) for the determination of the application.

The Scottish Ministers have indicated that despite the proposed development not being supported by some revised draft NPF4 policies, Ministers consider that these aspects, and the various adverse impacts of the development, do not outweigh the benefits of the proposed development. The Revised Draft NPF4 and the issues raised in the further procedure do not alter Ministers' conclusion that the proposed development accords with the development plan and there are no material considerations that indicate that permission should be refused.

It has been confirmed that a legal agreement had been signed and recorded at the Register of Sasines and a copy of that agreement was provided to the Scottish Ministers. The registered Section 75 agreement addresses the requirements set out and the Scottish Ministers are satisfied with its terms.

The Scottish Ministers conclude that the proposed development accords with the development plan and there are no material considerations that indicate that permission should be refused.

## **DECISION BY THE SCOTTISH MINISTERS**

Accordingly on 26th January 2023 the Scottish Ministers granted planning permission in principle for the proposed development subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of five years beginning with the date of grant of this permission.

Reason: Section 59 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to planning permission in principle limiting its duration. Five years is the default period set by law and there is no material reason indicating that a different period should be set.

2. Development shall not commence until an application for approval of matters specified in conditions containing details of the proposed site layout has been submitted to and approved in writing by the planning authority. The proposed layout shall be shown on a plan at a scale of 1:500 showing the position of all buildings, roads, means of access, footpaths, parking areas (distinguishing, where appropriate, between private and public spaces), and vehicular turning areas. The development shall be fully in accordance with the details as approved.

Reason: To ensure that the layout of the development is acceptable, and as subsequent approval is required for these matters in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997.

3. Development shall not commence until an application for approval of matters specified in conditions containing details of the proposed floor plans and elevations of all buildings showing dimensions as well as the type and colour of all external materials, has been submitted to and approved in writing by the planning authority. The development shall be fully in accordance with the details as approved.

Reason: To ensure that the designs and finishes used in the development are acceptable, and as subsequent approval is required for these matters in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997.

4. Development shall not commence until an application for approval of matters specified in conditions containing details of the type and colour of all hard surfacing materials have been submitted to and approved in writing by the planning authority. The development shall be fully in accordance with the details as approved.

Reason: To ensure that the hard surfacing materials are of acceptable types and colours, and as subsequent approval is required for these matters in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997.

5. Development shall not commence until a phasing plan has been submitted to and approved in writing by the planning authority. Thereafter the development shall proceed fully in accordance with the approved phasing plan.

Reason: To ensure that the phasing of the development is appropriate.

6. Development shall not commence until an application for approval of matters specified in conditions containing details of the proposed ground levels throughout the site and proposed finished floor levels, in relation to a fixed datum point, has been submitted to and approved in writing by the planning authority. The details shall include existing ground levels taken from the same fixed datum point. The development shall be fully in accordance with the details as approved.

Reason: To ensure that the ground and floor levels are appropriate, and as subsequent approval is required for these matters in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997.

7. Development shall not commence until an application for approval of matters specified in conditions containing details of surface water management and Sustainable Drainage Systems proposals has been submitted to and approved in writing by the planning authority. Field drains shall be installed around the perimeter of the site to prevent surface water run-off to adjacent properties. For the avoidance of doubt the discharge rate shall be at pre-development greenfield run-off rates.

Thereafter the development shall be fully in accordance with the details as approved and the matters that are approved shall be implemented in their approved form.

Reason: To ensure that appropriate surface water management and sustainable drainage systems measures are provided, and as subsequent approval is required for these matters in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997.

8. Development shall not commence until an application for approval of matters specified in conditions containing details of all walls (including any retaining walls) and fences to be erected on site has been submitted to and approved in writing by the planning authority.

The development shall be fully in accordance with the details as approved.

Reason: To ensure that appropriate boundary treatments are provided.

9. Development shall not commence until an application for approval of matters specified in conditions containing details of the visibility splays to be provided in both directions at the junction of the new access with Wateryetts Drive has been submitted to and approved in writing by the planning authority.

Thereafter the visibility splays shall be accordance with the approved details and maintained free from obstruction.

Reason: To ensure that appropriate visibility splays are provided and retained.

10. Development shall not commence until an application for approval of matters specified in conditions containing details of the proposed landscaping/planting at the site has been submitted to and approved in writing by the planning authority. The details shall include:

- i) details of any earth mounding, hard landscaping, grass seeding and turfing;
- ii) a scheme of tree and shrub planting, incorporating details of the number, variety and size of trees and shrubs to be planted as well as identifying trees that are to be retained or removed;
- iii) details of the translocation of Greater Butterfly-Orchid, Common-spotted and Northern-marsh Orchids;
- iv) details of planting for a defensible Green Belt boundary;
- v) details of the phasing of these works;
- vi) proposed levels for the landscaping.

Thereafter the landscaping/planting shall be implemented in accordance with the approved details.

Reason: To ensure that appropriate landscaping and planting is provided.

11. Development shall not commence until an application for approval of matters specified in conditions containing details of the provision of equipped play area(s) has been submitted to and approved in writing by the planning authority. The details shall include:

- a) details of the type and location of play equipment, seating and litter bins to be situated within the play area(s);
- b) details of the surface treatment of the play area, including the location and type of safety surfaces to be installed;
- c) details of fences to be erected around the play area(s);
- d) details of the phasing of these works; and e) details of the future maintenance of the play area(s).

Thereafter the play area(s) shall be implemented as approved and maintained in accordance with the approved details.

Reason: To ensure appropriate equipped play area provision.

12. For the avoidance of doubt the details submitted in relation to conditions 2 and 3 above shall allow for the following:

- i) Parking provision shall not exceed the following levels:
  - 1 parking space for a 1 bedroom house;
  - 2 parking spaces for a 2 or 3 bedroom house;
  - 3 parking spaces for a 4 bedroom house.
- ii) Visitor parking shall not exceed 0.25 spaces per dwelling.
- iii) The minimum dimensions of driveways shall be 3 metres wide by 5.5 metres long per bay and the driveway gradients shall not exceed 10%.
- iv) Any visitor parking spaces shall be a minimum of 2.5 metres by 5.0 metres.
- v) All roads within the site shall be a minimum of 5.5 metres wide.

- vi) Visibility splays of 2.4 metres x 43.0 metres x 1.05 metres (25.0 metres if appropriate traffic calming is provided to achieve 20 mph speed limit) at junctions and 2.0 metres x 20.0 metres x 1.05 metres should be provided from each driveway.
- vii) All footways within the site shall be a minimum of 2.0 metres wide.
- viii) All roads shall have a gradient of 8% or less.
- ix) Any turning heads shall be in accordance with the National Roads Development Guide.
- x) Traffic calming features should be introduced to reduce speeds to less than 20 mph.

Reason: To ensure that an appropriate level of parking is provided in the site and that the roads and footways are acceptable.

13. For the avoidance of doubt the dwelling houses shall incorporate sustainability-enhancing measures based upon those outlined in the Sustainable Development Strategy (September 2020) by Icení Projects Ltd. Development shall not commence until an application for an approval of matters specified in conditions has been submitted to and approved in writing by the planning authority relating to the proposed sustainability-enhancing measures to be installed in each dwelling house. Thereafter the matters that are approved shall be implemented in their approved form before the occupation of any dwelling house on the site.

Reason: To ensure that the development incorporates measures to reduce the carbon footprint of the development in order to off-set its relatively inaccessible location.

14. Following approval of the matters specified in the above conditions, development shall not commence until the trees shown to be retained in the details approved under Condition 10 ii) have been protected by suitable fencing fully in accordance with details of the location and type of fencing that shall be submitted to and approved in writing by the planning authority in advance. Fencing shall be erected on at least the fullest extent of the canopy on broadleaf trees and half the height of conifer trees as set out in BS5837/2012.

Reason: To ensure that trees are protected during construction.

15. For the avoidance of doubt any site clearance work shall be undertaken outwith the bird breeding season March to August inclusive unless otherwise agreed in advance in writing by the planning authority. Any request to carry out site clearance works during the bird breeding season shall be accompanied with a pre-construction bird breeding survey.

Reason: To ensure the protection of breeding birds within the application site.

16. For the avoidance of doubt each dwelling house shall have an electric vehicle (EV) charging point of at least 7 kilowatt output and a secure locker for home deliveries. Development shall not commence until an application for an approval of matters specified in conditions has been submitted to and approved in writing by the planning authority relating to the proposed electric vehicle charging points and secure lockers. Thereafter the matters that are approved shall be implemented in their approved form before the occupation of each dwelling house.

Reason: In order to mitigate the climate changing impact of the proposed development.

17. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of

archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the planning authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken in accordance with the agreed programme.

Reason: In order to identify and protect any archaeological remains and to allow the Planning Authority to consider this matter in detail.

18. Unless otherwise agreed in writing by the planning authority, development shall not commence until the bus stop on Wateryetts Drive (stop number IN418) has been relocated fully in accordance with details that have first been submitted to and approved in writing by the planning authority. The details to be submitted shall be on scaled drawings and include the provision of a layby and additional hardstanding to ensure vehicles can align at the stop and for the stop to be accessible.

Reason: To ensure the bus stop is relocated to an acceptable location and standard in an appropriate timescale.

19. Development shall not commence until an Environmental Investigation and Risk Assessment, including any necessary Remediation Scheme with timescale for implementation, of all pollutant linkages has been submitted to and approved in writing by the planning authority. The investigations and assessment shall be site-specific and completed in accordance with current codes of practice. The submission shall also include a Verification Plan. Any subsequent modifications to the Remediation Scheme and Verification Plan must be approved in writing by the Planning Authority prior to implementation.

Reason: To satisfactorily address potential contamination issues in the interests of human health and environmental safety.

20. Before any dwelling house hereby permitted is occupied the applicant/developer shall submit a report for approval in writing by the Planning Authority confirming that the works have been completed in accordance with the agreed Remediation Scheme and supply information as agreed in the Verification Plan. This report shall demonstrate that no pollutant linkages remain or are likely to occur and include (but not limited to) a collation of verification/validation certificates, analysis information, remediation lifespan, maintenance/aftercare information and details of all materials imported onto the site as fill or landscaping material. The details of such materials shall include information of the material source, volume, intended use and chemical quality with plans delineating placement and thickness.

Reason: To ensure contamination is not imported to the site and confirm successful completion of remediation measures in the interest of human health and environmental safety.

21. In the event of suspected contamination that becomes evident during site works, consequential works shall not be implemented until a remediation methodology statement has been submitted to and approved in writing by the planning authority.

Reason: To ensure all contamination issues are recorded and dealt with appropriately.

22. Development shall not commence until details of a survey for the presence of Japanese Knotweed has been submitted to and approved in writing by the planning authority. For the avoidance of doubt, this shall contain a methodology and treatment statement where any is found. Development shall not proceed until appropriate control measures as approved in writing by the planning authority, have been implemented. Any significant variation to the

treatment methodology shall be submitted for approval, in writing by the planning authority prior to implementation.

Reason: To help arrest the spread of Japanese Knotweed in the interests of environmental protection.

23. For the avoidance of doubt 5% of the residential units on site shall be wheelchair accessible housing. The details of the proposed wheelchair accessible housing shall be submitted for approval in writing by the planning authority at the same time as the application to be submitted under conditions 2 and 3 above.

Reason: To ensure the development incorporates wheelchair accessible housing and the planning authority has the necessary information to ensure these are acceptable at this location.

24. The first occupants of each of the homes hereby approved shall be provided with a Travel Pack upon first occupation of their home, in a format that shall be submitted to and approved in writing by the planning authority in advance. The Travel Pack shall provide details of bus services, local village facilities and sustainable travel options.

Reason: To assist in improving the sustainability of travel by future occupiers of the site.

## **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 McDaid on 01475 712412.