

# Kilmacolm Residents' Association

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Mr Tom Arthur MSP  
Minister for Public Finance, Planning and Community Wealth  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

## **Case Reference (type of case) - NA-280-001 (Notified application)**

Authority (and reference) - Inverclyde Council (20/0245/IC)

We understand that Ministers have been notified by Inverclyde Council of the Council's intention to grant planning permission in principle to a housing development on green belt land in the village of Kilmacolm. This site is known as "West of Quarry Drive" or "WOQD". Because the Council own a part of the site in question, the decision to grant is being notified to Ministers as a Category 1 development as defined in Planning Circular 3/2009.

We now ask that Ministers use their powers to "call in" this application for the following reasons:

1. The proposed development is contrary to the current Inverclyde Development Plan because it is on land currently designated as green belt. The Officer's Report that was submitted to Inverclyde Council's Planning Board provided a comprehensive and accurate assessment of this point and reached the unequivocal conclusion that "The proposal is contrary to the Clydeplan Strategic Development Plan and significantly contrary to the adopted 2019 Inverclyde Local Development Plan" (our underlining).

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2. The proposal is for more than 50 houses and therefore is defined as a major development in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.
3. In its decision to grant planning permission, Inverclyde Council failed to comply with the requirement set out in paragraph 13 of Planning Circular 3/2009 that it should demonstrate “that they have carefully considered the development plan and there is reasonable justification for departing from its terms” In our view, this decision represents a significant and unjustified departure from the development plan
  - a. The Council were advised by their planning officers that granting this application would help to address “an indicative shortfall of approximately 100 units in the Inverclyde part of the Renfrewshire Housing Sub-Market Area” but this is not a discrete housing market or sub-Market area to which a specific housing land requirement attaches. It is, rather, a “local authority sub-area” which forms part of the already well-supplied Renfrewshire HSMA. We have obtained confirmation of this point from Clydeplan and attach the relevant correspondence. In addition to the Kilmacolm and Quarriers local authority sub-area, Inverclyde also contains two other sub-areas (Inverclyde East and Inverclyde West) but Inverclyde Council does not identify Housing Land Requirements for these.
  - b. Inverclyde Council’s Housing Technical Report that accompanies the proposed LDP <https://www.inverclyde.gov.uk/assets/attach/14027/Housing-Land-Technical-Report-2021-as-published-.pdf> shows that the Renfrewshire HSMA has ample capacity to fulfil its private Housing Land Requirement both for the 2019-24 period (Table 7) and for the following eight years (Table 8). These tables also demonstrate that there is an adequate supply of effective housing land for both periods for the Inverclyde Council area (private and social) as well as in the Inverclyde HMA private category. There is, in other words, no housing land shortfall at Council, HMA or HSMA level that granting this application could alleviate.
  - c. Table 10 of the Council’s Housing Technical Report purports to show that there is a shortfall of housing land for the 2021-26 period for the Inverclyde Council Area and the Inverclyde HMA (in both cases, private sector). These shortages only arise, however, because the Table only includes the programmed supply for that period rather than the effective supply. This approach appears to be incompatible with PAN 1/2020.
  - d. Since there is already an ample supply of housing land in the Renfrewshire HSMA, the approval of this additional site could have the effect of “crowding out” sustainable housing sites elsewhere in the HSMA.
  - e. Even if it were the case that Inverclyde Council was required to add further capacity to the Renfrewshire HSMA, paragraph 125 of Scottish Planning Policy stipulates that “Proposals that do not accord with the Development Plan should not be considered acceptable unless material considerations

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indicate otherwise. Where a proposal for housing development is for sustainable development ... the shortfall is a material consideration in favour of the proposal." So only a proposal for sustainable development assessed using the principles contained in paragraph 29 of SPP can tip the balance towards approval (in the absence of any other material consideration). While the Officer's Report does consider the sustainability of the site it does not conclude that the site would represent a sustainable development, merely that it is more sustainable than other land release options that were considered. The requirement is that the proposed development be sustainable, not merely that it be more sustainable than alternative sites. A centipede is taller than an amoeba but that does not mean that the centipede is a tall creature.

4. By granting planning permission for this site (which is one of several proposed by the Council in its emerging Local Development Plan) before the emerging LDP has been consulted upon, examined or approved by Ministers, the Council is effectively removing the independent scrutiny that the Examination process would have provided for what is a controversial housing site. This would be contrary to the Scottish Government's commitment to plan-led development and would set a dangerous and damaging precedent.

Ministers may find some background information helpful in reaching their decision.

- On May 25<sup>th</sup>, the DPEA Report into another proposed green belt housing development, Carsemeadow, also in the part of Inverclyde that falls into the Renfrewshire HSMA was published (PPA-280-2027-1). In his Report, Mr David Bullya identified two critical issues:
  1. Would the proposal be sustainable development, and
  2. Is there a shortfall in the effective five year housing land supply

With regard to the first issue, Mr Bullya concluded that the proposal would not be sustainable development using the criteria laid down in paragraph 29 of Scottish Planning Policy. While Carsemeadow and WOQD are not identical sites, there are sufficient similarities to make it doubtful whether the WOQD decision would lead to sustainable development.

With regards to the second issue, Mr Bullya concluded that "Across the Renfrewshire HSMA as a whole, the supply of effective housing land appears to be very healthy; therefore this provides no support to the proposal. The appellant's focus on only the Inverclyde part of that HSMA appears, on a strict interpretation of Clydeplan Policy 8, not to be supported by that policy – which refers to authority areas and HSMAs rather than parts of HSMAs." and "a demonstrable shortfall in the supply within the Inverclyde part of that HSMA would have been a material consideration in the proposal's favour. However, I am not convinced that there is any such shortfall. And I also question the logic in seeking to analyse housing demand within such a small, rural and relatively

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inaccessible area when there appears to be a healthy supply of suitable and effective housing land available elsewhere within the same HSMA.”

- This site, WOQD, was proposed as a potential housing site during the consultation period for the current (2019) Inverclyde LDP but was not taken forward by the Council. At that time, Inverclyde Council accepted that “the Inverclyde part of the Renfrewshire HSMA” was not a discrete HMA or sub-HMA. Inverclyde Council’s position was set out in response to the Reporter’s further information request and can be found here <https://www.dpea.scotland.gov.uk/Document.aspx?id=579158> The Reporter who examined the 2019 LDP considered this point in some depth and sought and obtained confirmation of the Council’s position from Clydeplan before accepting that it was correct. Clydeplan’s position is set out here <https://www.dpea.scotland.gov.uk/Document.aspx?id=579159> It is not at all evident why Inverclyde Council has changed its position on this point between 2019 and 2021. Such inconsistency does not assist plan-led development.
- The would-be developers of the WOQD site, having failed to have the site included in the 2019 LDP, then sought (in conjunction with others) a judicial review of the finalised LDP. The Court of Session found in July 2020 that there were “material flaws” in the way in which the adequacy of the housing land requirement had been calculated and quashed Chapter 7 of the LDP. Since then, however, Scottish Ministers have amended Scottish Planning Policy and introduced PAN 1/2020 in order to provide clarification of the methodology to be used in calculating the adequacy of the housing land supply (amongst other things). We are not qualified to opine on whether the changes introduced since the Court’s ruling would have produced a different outcome had they been in effect at that time, but Ministers will know if such was their intention.
- While we recognise that Scottish Ministers do not consider that the weight of public opinion in a case like this should have any bearing on their decision, we believe that it is relevant for Ministers to be aware that, had this WOQD site, been brought forward, as normal, under the emerging LDP, it would have been opposed (by the Kilmacolm Residents’ Association and the Kilmacolm Civic Trust as well as individuals) and would have represented an unresolved issue that would have required consideration by the Reporter conducting the Examination of the proposed LDP.

We understand that Ministers intentionally use their powers to call in planning applications very sparingly. We believe that this application raises three important questions of principle in Scottish Planning Policy:

1. When paragraph 125 of SPP allows that the sustainability of a housing site that would not otherwise be consistent with the development plan may be a “material consideration” in favour of granting planning permission, must the proposed development be absolutely sustainable or is it sufficient that it should be less unsustainable than any alternative site(s)?

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2. Is it appropriate for Inverclyde Council to treat that part of the Council area that forms part of the Renfrewshire Housing Sub Market Area as if it were a discrete HMA in its own right for which the Council must set a Housing Land Requirement even though the Strategic Development Plan does not?
3. Is it appropriate for a planning authority to grant planning permission in principle to a housing site that is contrary to the existing development plan on the grounds that it might become consistent with an emerging but, as yet, unpublished Local Development Plan if and when that emerging LDP becomes effective?

We wish to make it clear that we do not seek Ministerial intervention merely because Inverclyde Council has a financial interest in granting this application. Given the particular circumstances of this application, however, its timing in relation to the emerging Inverclyde LDP and its potential to set a precedent that undermines the plan-led development system, we consider that there are compelling reasons for Ministers to intervene.

Should Ministers or their advisers require further information or clarification we should be pleased to provide it.

Yours sincerely,

Bill Crookston (Chair)

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Copy of email correspondence with Clydeplan

This letter has also been sent by email to [tom.arthur.msp@parliament.scot](mailto:tom.arthur.msp@parliament.scot)