

ANGUS COUNCIL

MINUTE of SPECIAL MEETING of **ANGUS COUNCIL** held in the Town and County Hall, Forfar on Thursday 16 November 2006 at 2.00 pm.

Present: Provost BILL MIDDLETON, Depute Provost STEWART McGLYNN, Councillors FRANK ELLIS, IAIN GAUL, JACK GIBB, ALEX KING, The Hon R J LESLIE MELVILLE MBE, DAVID LUMGAIR, IAN MACKINTOSH, GLENNIS MIDDLETON, PETER MURPHY, ROB MURRAY, PETER NIELD, GEORGE NORRIE MBE, PETER NIELD, KITTY RITCHIE, MARK SALMOND, RON SCRIMGEOUR, DAVID SELFRIDGE, JENNIFER SPEIRS, RICHARD SPEIRS, ROBERT SPINK, SHEENA WELSH and TERRY WOOD.

Apologies: Apologies for absence were intimated on behalf of Councillors IAN ANGUS, JOY MOWATT, ROBERT MYLES, HELEN OSWALD and BILL ROBERTON.

Provost BILL MIDDLETON, in the Chair.

1. DECLARATIONS OF INTEREST

The Council resolved to note that no declarations of interest were made.

However, Councillor Henderson intimated that he had been contacted by the agent for a potential developer of the K3 site in Kirriemuir (Land South of Beechwood Place). He assured the Council that he had not offered any advice or expressed an opinion on the matter, and had confined his response to acting as a conduit for contacting planning officials.

2. FINALISED ANGUS LOCAL PLAN REVIEW - REPORT OF PUBLIC LOCAL INQUIRY

With reference to Article 6 of the minute of meeting of the Infrastructure Services Committee of 24 August 2006, there was submitted [Report No 1342/06](#) by the Director of Infrastructure Services setting out the Inquiry Reporters' conclusions and recommendations contained in the Report on Objections to the Finalised Angus Local Plan Review and providing the basis for preparing Angus Council's Statement of Response as required by planning legislation. The Report also outlined the procedures associated with the preparation and publication of proposed modifications as part of the process towards adopting the Angus Local Plan Review.

Schedule 1 to the Director's Report provided the Reporters' conclusions and recommendations in full on each Inquiry item. Appendix 1 to his Report provided a summary by chapter headings. The responsibility for agreeing or not agreeing these recommendations rested with the Council and, as such, differed from the procedures associated with both Structure Plans and Planning Application Appeals, where the final decision rested with the Scottish Ministers. The Council was responsible for the final content of the Local Plan and was therefore not obliged to accept the Reporters' recommendations. However, as an independent and impartial party, the Reporters' conclusions and recommendations merited the most careful attention in taking forward the Local Plan to adoption.

The Council was required to set out its response to each of the Reporters' recommendations in a statement giving reasons for accepting or rejecting each recommendation. Schedule 1 accompanying the Director's Report dealt with each of the items considered at the Inquiry, outlining the nature of the objection, the Reporters' conclusions and recommendation, the Head of Planning and Transport's comments and the recommendation to the Council. The level and nature of further changes recommended by the Reporters was small in comparison to the number of items which were dealt with by the Inquiry. Table 2 within Report No 1342/06 provided a summary of changes recommended by the Reporters together with the Head of Planning and Transport's recommendation to accept or reject these changes. In summary, the Head of Planning and Transport recommended that the Council agree to the majority of the recommendations made by the Reporters and that Schedule 1 formed the basis for the Council's Statement of Response.

The Report concluded that there had been a significant measure of support from the Reporters to many of the policies and proposals contained in the Local Plan Review and the three rounds of pre-inquiry modifications published by the Council. The Reporters had also recommended further changes to 34 of the 157 items dealt with at the Inquiry, some of which were of a minor nature.

Accordingly, the Director of Infrastructure Services suggested that the majority of the Reporters' main policy recommendations be agreed by the Council and, that for those items where modification was now being proposed, the relevant procedures be implemented. The modifications would be prepared and then advertised for a period of six weeks and any objections would be reported to a future meeting of the Infrastructure Services Committee. The timescales for progressing the Local Plan towards adoption would be dependent on the degree and nature of any objections received to the relevant proposed modifications.

There was also submitted [Report No 1416/06](#) by the Director of Corporate Services setting out the Head of Law and Administration's advice to members in considering this matter. The Report concluded that Angus Council was under statutory duty to ensure that it did not adopt in its Local Plan any planning proposals which did not conform to the Dundee and Angus Structure Plan. Rejection of the Reporters' proposals might result in the Council being in breach of that statutory duty if its justification for doing so was not based on sound planning reasons. In addition, the Report reminded members that, in addition to the statutory obligation contained in section 17(3) of the Town and Country Planning (Scotland) Act 1997, the Council was under a public law duty to act reasonably in considering all matters before it with an open mind and to address fairly and intelligibly the substance of the issues raised in the Report.

Before the Council debated the matter, the Chief Executive made a statement, in which he reminded members that the purpose of this special meeting was to consider the Report on objections to the Finalised Angus Local Plan Review. Two Scottish Executive Reporters had carried out a Public Local Inquiry into all objections lodged to the Angus Local Plan Review, and they had made recommendations in respect of all objections heard at the Inquiry and those objectors who elected to rest on written submissions. The Reporters believed that the recommendations contained in their three volumes would lead to the Local Plan conforming to the provisions of the Dundee and Angus Structure Plan. He also referred to Report No 1342/06 by the Director of Infrastructure Services addressing the Report of the Public Local Inquiry on objections to the Finalised Angus Local Plan Review.

He also referred members to Report No 1416/06 by the Director of Corporate Services providing legal advice on the duties incumbent upon the Council in considering the Report of the Public Local Inquiry.

He concluded by saying that, as a Council, members were not obliged to adopt the recommendations put forward by the Reporter. However, he asked members to note from the officer Reports the legal duties on them to ensure that any proposed changes to the Angus Local Plan were in conformity with the Dundee and Angus Structure Plan and were supported by proper planning reasons. For that reason, if any members proposed any changes to the proposals recommended by the Director of Infrastructure Services, they would require to state these reasons in support of those changes and the Head of Planning and Transport and the Head of Law and Administration would, in turn, provide advice to the meeting on whether or not these proposed reasons met the Council's duties before the Council was asked to take a decision on any proposal.

The Provost indicated that he proposed to deal with Volumes 1, 2 and 3 separately and that he would invite motions and amendments to be proposed as appropriate.

Motion

Councillor Selfridge, seconded by Councillor Ritchie, moved that Report No 1342/06 by the Director of Infrastructure Services be accepted and that the Council resolve as follows:-

- (i) to note the findings and recommendations contained in the Report on Objections to the Finalised Angus Local Plan Review in relation to unresolved objections and pre-Inquiry modifications to the Finalised Angus Local Plan Review;

- (ii) approve the Director's Report, including the detailed assessment set out in Schedule 1 accompanying the Report, as the basis for preparing, publishing and advertising the Council's Statement of Response as required under the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983;
- (iii) to authorise the Head of Planning and Transport to prepare and publish proposed modifications to the Local Plan Review arising from (ii) above to be advertised, place on deposit and where appropriate notified to relevant previous objectors; and
- (iv) to note that a further report would be prepared, for consideration by the Infrastructure Services Committee, on any objections received in due course to relevant published modifications as part of the process towards adopting the Angus Local Plan Review.

Having had regard to advice by the Head of Law and Administration, the Provost ruled incompetent an amendment by Councillor King on Arbroath major retail developments (Policies A10, A15 and A16).

Amendment 1

COUNCILLOR HENDERSON, SECONDED BY COUNCILLOR MACKINTOSH, MOVED AS AN AMENDMENT THAT, IN RELATION TO CAR PARKING FACILITIES IN KIRRIEMUIR, THE COUNCIL ACCEPT THE REPORTERS' RECOMMENDATION THAT THE FORMER DEPOT BE IDENTIFIED ON THE KIRRIEMUIR INSET MAP AS A POSSIBLE CAR, COACH AND LORRY PARK; AND THAT THERE SHOULD BE A SIMILAR ENTRY IN THE KIRRIEMUIR SETTLEMENT STATEMENT.

On a vote being taken, members voted as follows:

For the motion:-

Provost Bill Middleton, Depute Provost McGlynn, Councillors Ellis, Murray, Nield, Norrie, Ritchie and Selfridge (8).

For the amendment:-

Councillors Gaul, Gibb, Henderson, King, Leslie Melville, Lumgair, Mackintosh, Glennis Middleton, Murphy, Salmond, Scrimgeour, Jennifer Speirs, Richard Speirs, Spink, Welsh and Wood (16).

The amendment was thereupon declared carried and the motion was amended accordingly.

Amendment 2

COUNCILLOR HENDERSON, SECONDED BY COUNCILLOR GAUL, MOVED THAT IN RELATION TO THE ALLOCATION OF THE ADDITIONAL 40 HOUSES IN THE PERIOD TO 2011 TO KIRRIEMUIR WITHIN THE FORFAR, KIRRIEMUIR AND GLENS HOUSING MARKET AREA (PAGE 114 OF SCHEDULE 1 TO REPORT 1342/06), CONSIDERATION BE DEFERRED TO ALLOW THE DIRECTOR OF INFRASTRUCTURE SERVICES TO REPORT BACK ON THE IMPLICATIONS OF ALLOCATING THOSE NUMBER OF HOUSES TO THE BEECHWOOD PLACE (K3) SITE INSTEAD OF THE HILLHEAD SITE (K2).

On a vote being taken, members voted as follows:

For the motion:-

Provost Bill Middleton, Depute Provost McGlynn, Councillors Ellis, King, Lumgair, Nield, Ritchie, Salmond, Selfridge, Jennifer Speirs and Terry Wood (11).

For the amendment:-

Councillors Gaul, Gibb, Henderson, Leslie Melville, Mackintosh, Glennis Middleton, Murphy, Murray, Norrie, Scrimgeour, Richard Speirs, Spink and Welsh (13).

The amendment was thereupon declared carried and the motion was further amended accordingly.

Amendment 3

COUNCILLOR RICHARD SPEIRS, SECONDED BY COUNCILLOR JENNIFER SPEIRS, MOVED THAT THE FOLLOWING THREE ADDITIONAL RECOMMENDATIONS BE ADDED TO THE MOTION (AS NOW AMENDED).

- (V) NOTES THAT THE CLEAR WISHES OF THE PEOPLE OF ARBROATH, ITS COUNCILLORS AND ANGUS COUNCIL HAVE BEEN IGNORED BY THE REPORTERS IN RESPECT OF SITE A 16: WESTWAY;
- (VI) AGREES THAT THE POWERS OF THE REPORTERS ARE EXCESSIVE; AND
- (VII) INSTRUCTS THE CHIEF EXECUTIVE TO WRITE TO THE SCOTTISH EXECUTIVE DEMANDING A REVIEW OF THE REPORTING SYSTEM WITH A VIEW TO HAVING THE POWERS OF THE REPORTERS REDUCED.

On a vote being taken, members voted as follows:

For the motion:

Provost Bill Middleton, Depute Provost McGlynn, Councillors Ellis, Gibb, Lumgair, Mackintosh, Glennis Middleton, Murray, Ritchie, Scrimgeour and Selfridge (11).

For the amendment:

Councillors Gaul, Henderson, King, Leslie Melville, Murphy, Nield, Norrie, Salmond, Jennifer Speirs, Richard Speirs, Spink, Welsh and Wood (13).

The amendment was thereupon declared carried and the motion (as amended by the divisions recorded above) became the substantive motion before the meeting.

Amendment 4

COUNCILLOR KING, SECONDED BY COUNCILLOR MURRAY MOVED THAT THE MOTION BE AMENDED BY THE DELETION OF PARTS (VI) AND (VII).

On a vote being taken, the members voted as follows:

For the motion:

Councillors Henderson, Murphy, Nield, Salmond, Jennifer Speirs, Richard Speirs and Wood (7).

For the amendment:

Provost Bill Middleton, Councillors Gaul, Gibb, King, Leslie Melville, Lumgair, Mackintosh, Glennis Middleton, Murray, Norrie, Ritchie, Spink and Welsh (11).

No vote:

Depute Provost McGlynn, Councillors Ellis, Scrimgeour and Selfridge.

The amendment was thereupon declared carried and the motion was amended accordingly, resulting in the Council making the following resolution:

- (I) TO NOTE THE FINDINGS AND RECOMMENDATIONS CONTAINED IN THE REPORT ON OBJECTIONS TO THE FINALISED ANGUS LOCAL PLAN REVIEW IN RELATION TO UNRESOLVED OBJECTIONS AND PRE-INQUIRY MODIFICATIONS TO THE FINALISED ANGUS LOCAL PLAN REVIEW;

- (II) TO APPROVE THE DIRECTOR'S REPORT, INCLUDING THE DETAILED ASSESSMENT SET OUT IN SCHEDULE 1 ACCOMPANYING THE REPORT, AS THE BASIS FOR PREPARING, PUBLISHING AND ADVERTISING THE COUNCIL'S STATEMENT OF RESPONSE AS REQUIRED UNDER THE TOWN AND COUNTRY PLANNING (STRUCTURE AND LOCAL PLANS) (SCOTLAND) REGULATIONS 1983, SUBJECT TO THE FOLLOWING:
- (A) THAT IN RELATION TO CAR PARKING FACILITIES IN KIRRIEMUIR, THE COUNCIL ACCEPT THE REPORTERS' RECOMMENDATION THAT THE FORMER DEPOT BE IDENTIFIED ON THE KIRRIEMUIR INSET MAP AS A POSSIBLE CAR, COACH AND LORRY PARK; AND THAT THERE SHOULD BE A SIMILAR ENTRY IN THE KIRRIEMUIR SETTLEMENT STATEMENT; AND
- (B) THAT IN RELATION TO THE ALLOCATION OF THE ADDITIONAL 40 HOUSES IN THE PERIOD TO 2011 TO KIRRIEMUIR WITHIN THE FORFAR, KIRRIEMUIR AND GLENS HOUSING MARKET AREA (PAGE 114 OF SCHEDULE 1 TO REPORT 1342/06), CONSIDERATION BE DEFERRED TO ALLOW THE DIRECTOR OF INFRASTRUCTURE SERVICES TO REPORT BACK ON THE IMPLICATIONS OF ALLOCATING THOSE NUMBER OF HOUSES TO THE BEECHWOOD PLACE (K3) SITE INSTEAD OF THE HILLHEAD SITE (K2).
- (III) TO AUTHORISE THE HEAD OF PLANNING AND TRANSPORT TO PREPARE AND PUBLISH PROPOSED MODIFICATIONS TO THE LOCAL PLAN REVIEW ARISING FROM (II) ABOVE TO BE ADVERTISED, PLACED ON DEPOSIT AND WHERE APPROPRIATE, NOTIFIED TO RELEVANT PREVIOUS OBJECTORS;
- (IV) TO NOTE THAT A FURTHER REPORT WOULD BE PREPARED, FOR CONSIDERATION BY THE INFRASTRUCTURE SERVICES COMMITTEE, ON ANY OBJECTIONS RECEIVED IN DUE COURSE TO RELEVANT PUBLISHED MODIFICATIONS AS PART OF THE PROCESS TOWARDS ADOPTING THE ANGUS LOCAL PLAN REVIEW; AND
- (V) TO NOTE THAT THE CLEAR WISHES OF THE PEOPLE OF ARBROATH, ITS COUNCILLORS AND ANGUS COUNCIL HAVE BEEN IGNORED BY THE REPORTERS IN RESPECT OF SITE A16: WESTWAY.