

ANGUS COUNCIL

ANGUS COUNCIL - 22 AUGUST 2007

**SUBJECT: FINALISED ANGUS LOCAL PLAN REVIEW
OBJECTIONS TO MODIFICATIONS FOLLOWING THE PUBLIC LOCAL INQUIRY**

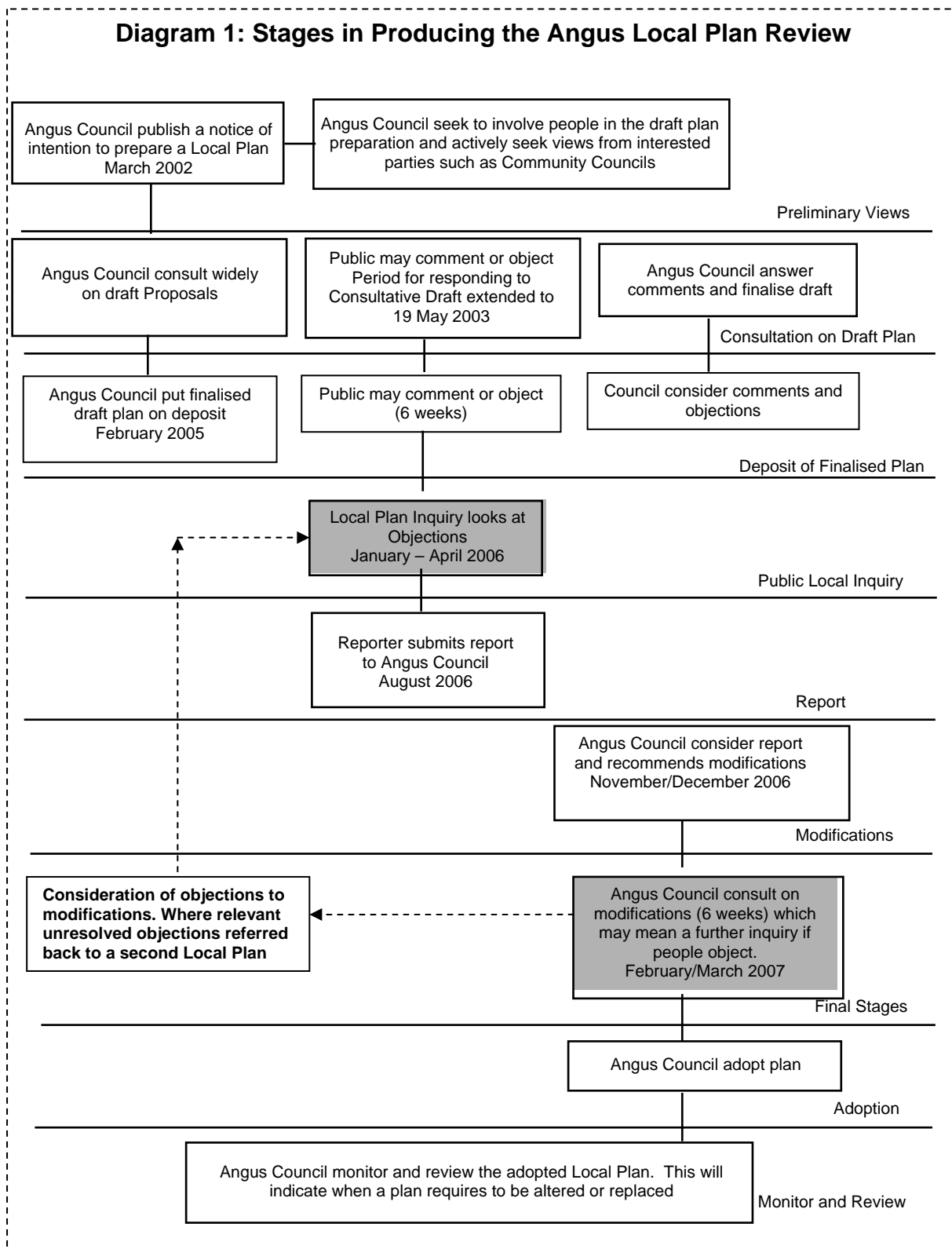
REPORT BY DIRECTOR OF INFRASTRUCTURE SERVICES

Abstract: This report summarises and responds to objections received to the proposed post inquiry modifications to the Finalised Angus Local Plan Review. Some new issues have been raised which would require a further Local Plan Inquiry and the report outlines the procedures required to take this forward. The report also looks at the implications for Development Management arising from this and the current stage in the local plan process.

1 RECOMMENDATION

It is recommended that the Council:-

1. note the number, spread and broad substance of objections lodged to the published post inquiry modifications and agree to accept those relevant late objections received between 28 March and 30 March 2007;
2. note that in accordance with Scottish Executive advice on best practice and in compliance with the Freedom of Information (Scotland) Act 2002, copies of objections are available for public inspection;
3. agree this report, including the detailed assessments set out in [Schedule 1](#) accompanying this report, as the basis for preparing the Councils response to the objections;
4. agree to publish any modifications arising from (3) above in advance of a second Public Local Inquiry for those matters where a further change has been agreed by Angus Council to the Finalised Angus Local Plan Review;
5. authorise the Head of Planning & Transport to make arrangements for holding a second Public Local Inquiry only into those matters of unresolved objection agreed by Angus Council as raising new issues and as set out in this report;
6. agree that arrangements be made to appoint a Programme Officer, on a part-time temporary basis, to assist in organising and managing procedures leading up to and during the second Public Local Inquiry;
7. agree that policies and proposals of the Angus Local Plan Review (as proposed to be modified) not subject to further modification or scrutiny by a second Public Local Inquiry be considered as a material consideration to be taken into account when dealing with development enquiries and planning applications with very significant weight to be attached to them given their status; and
8. note that further progress reports will be submitted as appropriate.



2. BACKGROUND

- 2.1 Angus Council, at their meetings of 16 November and 14 December 2006 and subsequent meeting of the Infrastructure Services Committee of 25 January 2007, agreed their response to the Inquiry Reporters' conclusions and recommendations contained in the Report on Objections to the Finalised Angus Local Plan Review (August 2006) following the Public Local Inquiry held between 23 January and 25 April 2006. Where appropriate, the Council agreed the need for further modifications to the Angus Local Plan Review (Report Nos. 1342/06; 1481/06 and 78/07 refer). The relevant modifications were advertised on 14 February 2007 as required by the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 and the statutory six week period for objections ended on 27 March 2007.
- 2.2 A total of 66 individuals, companies and agencies submitted 84 representations to the Local Plan Review post inquiry modifications. 76 representations were formal objections to the content of the post inquiry modifications, including 5 late objections received within days of the closing date. Of the remaining 8 representations, 4 were representations of support and 4 related to a matter which did not arise from any of the published post inquiry modifications. These latter representations are therefore not valid at this stage of the Local Plan process. Table 1 sets out the number and subject area of objections.

Table 1: Distribution of Objections

Topic			Objections to modifications	Other representations
Countryside housing			11	
Coastal tourism & access				1
Wind energy policy			4	1
Arbroath retail			3	1
Forfar			8	2
Kirriemuir	Beechwood Place	28		
	Sunnyside	18		
	Hillhead	2		2
	Total	48	48	
Friockheim			2	
Monifieth				1
Total objections			76	8

- 2.3 This report summarises and responds to the objections received and outlines the next steps in the procedure towards adopting the Local Plan. Diagram 1, on the adjacent page sets out the key stages in preparing a local plan and highlights the current stage in the process.
- 2.4 A copy of the objections received has been placed in the Members' Lounge, and a summary, assessment and recommendation in respect of each objection is appended as Schedule 1 to this report.

3. LEGAL POSITION

- 3.1 Section 11 of the Town and Country Planning (Scotland) Act 1997 requires that 'every planning authority shall prepare local plans for all parts of their district,.....'. There is therefore a statutory duty on Angus Council to prepare an up-to-date local plan(s) for their administrative area. Local Plans set out detailed policies and specific proposals for the development and use of land and also guide day to day planning decisions and increasingly inform investment decisions.

- 3.2 The Angus Local Plan was adopted in November 2000. Angus Council has been undertaking a review and roll forward of the local plan and the Angus Local Plan Review is now at an advanced stage in the process, having been subject of a public local inquiry and post inquiry modifications.
- 3.3 The procedures and arrangements for this second stage of objections (i.e. to post inquiry modifications) are similar to those followed when the Finalised Angus Local Plan Review was originally placed on deposit in February 2005. The Council are required to consider all valid objections to post inquiry modifications thoroughly, conscientiously and fairly and determine whether the plan should be further modified in response to those objections.
- 3.4 Angus Council is required to prepare a statement of response to each objection, giving a decision and reasons for that decision in respect of each objection. This is an important stage in the local plan process as several topics of objection have been the subject of previous consideration and decision by Angus Council at both the Finalised Local Plan stage and post inquiry stage.
- 3.5 The Head of Planning and Transport has commented on each of the areas of objection and it is incumbent on the Council to either accept or reject each recommendation. Should the Council choose to reject any recommendation sound land use planning reasons will be required in support of that decision. In all instances the Council must act reasonably and in consideration of the information before them. It should be remembered that in publishing post-inquiry modifications in February 2007, Angus Council has already approved and published a statement of response to the Local Plan Reporters' Recommendations and therefore to significantly depart from that position the Council will require to have sound planning reasons (which may include a material change of circumstances). Reference is also made to the advice of the Head of Law And Administration as set out in Report No 1416/06 to the Special Council meeting of 16 November 2006 in considering Angus Council's response to the Public Local Inquiry Reporters' conclusions and recommendations into unresolved objections to the Finalised Angus Local Plan Review. The considerations set out there (not to adopt in its Local Plan any proposals which do not conform to the approved Dundee and Angus Structure Plan and to state reasons which are not simply a repetition of a previously discounted argument) apply equally here in considering this Report.
- 3.6 The Council must also decide, in the case of objections to modifications which it does not accept, whether those objections should be referred to a second Local Plan Inquiry. The Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 make it clear that in the case of objections to modifications which relate to new matters the Council must allow an objector to be heard at a second PLI. The Local Plan Regulations also give the Council a discretionary power to allow other objections to be considered at a second PLI. There is no reported Scottish case law on the tests which apply in relation to the Council's decision on whether to hold a second Local Plan Inquiry although there have been some cases (albeit in relation to differently worded Local Plan Regulations) in England which may provide useful guidance to the Council. The English High Court has ruled that considerations which would generally be relevant to the Council's decision on whether to hold a second Local Plan Inquiry include:-
- a) whether or not the issue raised had been previously subject to independent scrutiny by an Inspector (Local Plan Reporter in Scotland) so as to provide independent evaluation of the opposing contentions;

- b) the current advice in the relevant Government Guidance on Local Plan Inquiries. The Council should note that the Code of Practice for Local Plan Inquiries (Scottish Executive 1996) indicates that **'a further inquiry will only be required where a proposed modification has generated objections on a matter which has not already been considered at inquiry. Thus an inquiry into a proposed modification will not be necessary if it has resulted from a recommendation made by the Reporter, unless there has been a material change in circumstances;'**
- c) the practical implications of a second inquiry and, in particular, whether it would potentially be of material benefit to the decision making process;
- d) delay and the desirability of securing an up to date adopted Local Plan; and
- e) fairness to the objector and to other parties.

3.7 The High Court has indicated that as with all decisions of this kind, the determination whether or not to hold a further Inquiry should seek to achieve fairness, balancing the interests of all relevant parties. The question of what is fair to the relevant parties is a matter for discretion of the Council subject to the principles of administrative reasonableness which have been set down by the Courts.

3.8 To summarise, the discretionary power afforded by the Regulations to refer other objections which have not been withdrawn to a second PLI is subject to the overarching requirement upon the Council as a statutory public authority to act reasonably. A very important issue in this is whether there is material new information or circumstances in relation to an outstanding objection to warrant it being referred back to a second PLI. Without this it is difficult to see what benefit to the planning of the area would arise and referral to a second inquiry might well result in an unreasonable expenditure of public funds by prolonging the second PLI and the Report on it to that end.

4. RESPONSE TO OBJECTIONS

Part 2: Sustainable Communities

Housing - Policy SC6: Countryside Housing – New Houses, Schedule 2 and margin text

4.1 **David Armstrong** and the **Fox Planning Consultancy** have objected to the omission of margin text setting out the definition of greenfield land. Angus Council had previously agreed and published a pre-inquiry modification (December 2005) on this matter which was confirmed by the Reporter following the PLI. The omission of the definition from the post inquiry modifications composite text for countryside housing was a technical omission.

Recommendation: Modify the Local Plan to incorporate the previously agreed margin text. This is a technical matter and not one that would require a further separate round of modifications or referral to a second PLI

4.2 **David Armstrong** and the **Fox Planning Consultancy** have also objected to Schedule 2(f) in that it specifies that the extension of property curtilage into greenfield land will not be allowed in respect of Policy SC6(c): Rural Brownfield Sites. This matter was previously considered by the Reporter during the 2006 PLI who did not recommend the change sought by the objectors. The current objection raises no new

planning issue and there is no material change in circumstances to warrant modification to the policy as published or referral to a second PLI.

Recommendation: No change. Do not refer the objections to a second PLI.

- 4.3 Three other objections by the **Fox Planning Consultancy** relate to a previous objection to the definition of ribbon development in the margin text. While the original matter was submitted to the Local Plan Inquiry the objection was not referenced or referred to in the Reporter's Report raising doubt as to whether the Reporter considered the objection. Given this unusual position it is considered that the objector should be afforded the opportunity of having these related matters heard by a further Inquiry. The objections should therefore be referred to a second PLI.

Recommendation: No change. Refer the objections to a second PLI.

- 4.4 The **Fox Planning Consultancy** has objected to Policy SC6: Countryside Housing – New Housing seeking the amendment of the policy to make provision for the erection of housing within redundant walled gardens. Although a new issue not previously raised at any stage of the Local Plan Review process, it is an objection to a policy that has been subject to modification and is therefore considered to be competent.

- 4.5 Policy SC6 provides the basis for assessing proposals for new housing in the countryside throughout Angus but cannot cover every eventuality. Development proposals within redundant walled gardens should be considered on their individual merits, taking into account the terms of Policy SC6 as modified and any appropriate information/evidence from the applicant in support of their particular case. This would be treated as a material consideration in determining a planning application. It is not considered necessary to amend Policy SC6 to include separate guidance for proposals to erect housing in Walled Gardens. No modification to the Local Plan Review is recommended and the matter should be referred to a second PLI.

Recommendation: No change. Refer the objection to a second PLI.

Large Country Houses Policy

- 4.6 Objections (3) have been received from Select Homes (Tayside) Limited, R G Skea and the Fox Planning Consultancy. Members may recall that a policy on this matter had not been included in the Finalised Local Plan Review but was recommended for inclusion by the Reporter. The objection is to the wording of the policy.
- 4.7 The objections by **Select Homes (Tayside) Ltd** and **R G Skea** to the proposed policy relate to the requirement for new country house proposals to be set into an established landscape. While the objectors support the re-inclusion of the policy they consider that the pre-condition of an existing landscape should not be required and point to the fact that in dealing with recent planning applications the Council has departed from its own position. It is important that this matter is resolved at this stage as the policy will provide the basis for considering future applications.
- 4.8 The Head of Planning & Transport suggests that there are three options on this aspect of the policy for consideration by Members where development sites initially have:

- a) No existing landscape setting. This would mean that a structural landscape scheme would be required as part of the development and would take many years to mature to provide the context for the new house. This would also mean that any site in the countryside would be potentially developable;
- b) A limited form or scale of landscape setting. As with the above, the reinforcement of a landscaping setting would be needed as part of any planning submission. Similarly it would lead to the potential for a wide range of sites to come forward with the added difficulty of trying to determine what 'limited' would mean;
- c) A good quality landscape setting already in situ. This is likely to limit the number of potential sites. It is expected that some form of management plan would probably be needed which could include additional planting to ensure the long term future of the landscape setting.

- 4.9 The Reporter considered that there was merit in the principle of including a policy in the Finalised Local Plan Review that addresses the possible scope for larger country houses that would make a major contribution to the future architectural heritage of Angus. However the issue of the requirement for established landscaped grounds or in terms of the minimum floor areas specified were matters of detail for the Council to consider and determine. In recommending the reinstatement of a large country houses policy, the Reporter suggested that the wording of the policy should provide adequate safeguards *"to avoid potential misuse of that policy by developers seeking to promote larger new properties in the countryside that do not meet the stringent criteria to be specified in line with the stated aims of the policy"*.
- 4.10 The basis behind this policy is not about allowing large houses in large gardens – it is about creating an architectural and landscape legacy of which there are many examples in Angus and without which the landscape quality in Angus would be poorer. As a measure of quality, it should be noted that some existing country houses and their grounds in Angus are included in the Inventory of Historic Gardens and Designed Landscapes. The requirement for an existing landscape setting should therefore be a pre-requisite to the granting of planning permission.
- 4.11 Traditionally, the landscape setting would have been established along with the building of the house in order to create an 'estate' setting for the property over a significant area of land. It is considered unlikely that proposals of a similar scale would come forward today, and therefore new country houses should be sited within a substantial area of existing landscaped ground. In exceptional circumstances it is considered that the opportunity for a new country house could exist where a scheme of planting, approved as part of the overall design concept for the new country house, reinforces areas of existing landscaping in and around the site. The policy should not allow for a new country house where there is no existing landscaped context.
- 4.12 The requirement for sites to have an established landscape setting is an important point of principle. Removal of this requirement or failure to apply it when considering development proposals would mean that virtually any area of ground in rural Angus could be considered a suitable site for a large country house. The very essence of the policy is the promotion of development of exceptional quality. This would establish an undesirable precedent and open up significant areas of Angus for potential development. The recommendation is therefore for no change to the wording of the policy as existing and the matter should be referred to a second PLI

Recommendation: No change. Refer the objections to a second PLI.

- 4.13 An objection by the **Fox Planning Consultancy** seeks amendment to the policy wording to clarify what would be regarded as an appropriate site in landscape terms. In particular clarification is sought as to whether a clearing within woodland could be considered as being an appropriate site within an established landscape and urges Angus Council to amend the text in line with the views of the Forestry Commission.
- 4.14 Planning & Transport has discussed this matter with the Forestry Commission who have indicated that they do not consider a clearing within a commercial plantation to be a suitable site for a house. Although there may be circumstances where a site may be acceptable on land within woodland, each case would need to be looked at on its individual merits. The recommendation is therefore for no change to the wording of the policy as existing and the matter should be referred to a second PLI

<p>Recommendation: No change. Refer the objection to a second PLI.</p>

Part 3: Environment & Resources

Energy - Policy ER33 Renewable Energy Developments, Policy ER34: Wind Energy and Supporting Text

- 4.15 The **British Wind Energy Authority (BWEA)** has submitted a representation in support of Policy ER33 Renewable Energy Developments and four objections to the detailed wording of Policy ER34 criterion (a), (b) and aspects of the supporting text. The objections relate to a difference of opinion on the use of individual words and also the requirement to demonstrate the reasons for site selection. Similar objections were considered by the 2006 Inquiry and the current objections are a restatement of their earlier position. The Reporter considered in some depth the various objections made to aspects of the energy policies and supporting text at the PLI. These current objections by BWEA raise no new planning issues and there is no material change in circumstances to warrant either a second PLI or modification to amend the paragraph or policy wording in whole or part.

<p>Recommendation: No change. Do not refer the objections to a second PLI.</p>

Part 4: Towns and Villages

Arbroath – Retail: deletion of Policy A15, deletion of paragraph 25, and to modification of Policy A17

- 4.16 Three objections have been received; 2 from members of the public (J Sanderson and K Bender) and one on behalf of Macdonald Estates & ASDA Stores Limited to the deletion of the Westway site for a food retail store. The **Macdonald Estates/ASDA Stores Limited** objection also refers to the deletion of Policy A15: Provision of Food store Development and paragraph 25 and raises points in relation to the requirements of SPP8 Town Centres and Retailing (published August 2006); quantitative and qualitative retail deficiencies; accessibility of the Westway site; public support for Westway; impact on town centres; and conformity with the Dundee and Angus Structure Plan. The objections by **Sanderson and Bender** relate to the grounds that the Reporter has not taken account of the wishes of the people of Arbroath; the Council was right to support its constituents; and the smaller store at Westburn will not provide the choice of goods a larger store would.
- 4.17 The objections relating to public opinion, accessibility/congestion, quantitative and qualitative issues (choice and scale), impact on town centres and accordance with the Structure Plan were extensively discussed at the Local Plan Inquiry (Report on Objections to the Finalised Angus Local Plan Review, Volume 2, pages 29 to 77, para 2.96 to 2.251). No new matters have been raised by the current objectors and

there is no material change in circumstances to warrant any further modifications to the Local Plan Review or a second PLI.

- 4.18 The objection relating to aspects of SPP8 Town Centres and Retailing implies that the Local Plan should be modified to reflect an SPP published 18 months after the Finalised Local Plan Review was published, and 4 months after the Local Plan Inquiry was held. Since the Inquiry was held 5 SPP's (Scottish Planning Policy) and 7 PAN's (Planning Advice Notes) have been published by the Scottish Executive. All of these can be material considerations in the assessment and decision making process relating to planning applications, but the Local Plan need not be amended in response to their publications unless the policy position was significantly different from the Local Plan position. This is not the case in relation to SPP8 and the Angus Local Plan Review position.
- 4.19 SPP8 generally continues but refines the Scottish Executives policy and 're-emphasises the Executive's support for town centres, and acknowledges their role as locations for a broad range of land uses'. (SPP8: Town Centres and Retailing page 1, para1). The introduction of a hierarchy of centres as proposed in SPP8 is taken by the objector to imply that the Westway Retail Warehouse Park will be identified as a 'commercial centre'. Whilst the Westway Retail Park may fit the criteria for a commercial centre, it would not affect the basis of the Reporter's decision to amend the Local Plan Review to restrict retail use of the site to non-food retail warehouses for the sale of durable goods. It is clear however in the guidance that those other commercial centres should properly be restricted in the nature and type of trade that they undertake. It does not therefore provide an open argument for convenience retailing to be located in every commercial centre. This part of the objection on behalf of MacDonald Estates/ASDA Stores Ltd does not therefore raise any new land use planning issues. There is no material change in circumstances to warrant any further modifications to the Local Plan Review.
- 4.20 The local planning history of this site stretches back some 10 years, several planning applications and 3 Public Inquiries with the Westway site considered suitable by successive Reporter's for non-food retail warehousing. Given the above there is no new land use planning issues and no material change in circumstances to warrant any further modifications to the Local Plan Review or a second PLI.

<p>Recommendation: No change. Do not refer the objections to a second PLI.</p>

Forfar, Kirriemuir & the Glens Housing Market Area – housing land allocations

- 4.21 The majority of objections received relate to housing land allocations in the Forfar, Kirriemuir & the Glens Housing Market Area. These include objections from members of the public, land owners and developers with in some instances objections cross relating to more than one site.
- 4.22 In Forfar objections relate to the following sites:
- F4: Housing Wester Restenneth – objection by Webster Contracts Ltd to the additional 50 houses released at F4:Wester Restenneth in the period to 2011 for reasons of effectiveness and request that the 50 houses be allocated to a site at Westfield;
 - new F7: Housing - Gowanbank – objection by Webster Contracts to the inclusion of the site for housing at Gowanbank for reasons of effectiveness and request that the 60 houses be allocated to a site at Westfield;

- F8: Housing – Slatefield – objection by Select Homes (Tayside) Ltd to the wording of the proposal, limiting the site to a maximum of 5 houses;
- F9: Safeguarded Site - North of Turfbeg
 - objection by Elite Homes (Tayside) Ltd to the detailed wording of the safeguard policy;
 - objections by both Webster Contracts Ltd and Muir Homes Group Ltd to the principle of the inclusion of F9 Turfbeg as a safeguarded site;
- F7: New Neighbourhood - Westfield, Forfar - objections by both Webster Contracts Ltd and Muir Homes Group Ltd to the deletion of the proposed new neighbourhood at Westfield;
- Suttieside, Forfar – objection by G K Robertson to the continued omission of land. (This matter is dealt with in Section 5 – Other Representations)

4.23 In Kirriemuir objections relate to the following sites:-

- K2: Housing – Hillhead
 - objection by J & J Learmonth requesting that in preference to the allocation of the site south of Beechwood Place the proposal for K2: Hillhead should be modified to allow 80 houses in the first phase as per the recommendation by the Director of Infrastructure Services to Angus Council in December 2006;
 - objection by one member of the public to additional traffic movement and increased congestion in town centre.
- K3: Housing - Sunnyside
 - objection by members of the public (14), Webster Contracts Ltd, Guild Homes (Tayside) Ltd; and Select Homes (Tayside) Ltd; to the effectiveness of this site;
 - objection by J & J Learmonth requesting the an extension to the allocated site at K3: Sunnyside in preference to the allocation of K4: land south of Beechwood Place;
- K4: Housing - South of Beechwood Place
 - objections by members of the public (24), Webster Contracts Ltd and J & J Learmonth to the principle of the inclusion of this site;
 - objection by Select Homes (Tayside) Ltd to the site boundary requesting that it is extended to the south to line up with the boundary of the adjacent employment site;

Background and Context

4.24 Throughout the Local Plan Review process there has been considerable interest in the Forfar, Kirriemuir and the Glens Housing Market Area by both land owners and developers with the promotion of a wide range of sites for housing development in both Forfar and Kirriemuir. Many of the sites were considered at the Local Plan Public Local Inquiry held in the early part of 2006. The Inquiry Reporters' recommended that the land supply in Forfar and Kirriemuir for the period to 2011 should comprise the sites set out in Table 2 below.

4.25 In the Local Plan period from 2011 to 2016, the Reporter recommended Phase 2 at Wester Restenneth, Forfar for 150 houses; safeguarding a site at Turfbeg, Forfar for future housing development (circa 300 houses) and Phase 2 at Hillhead, Kirriemuir for 80 houses.

Table 2: Sites identified by the Reporter 2001 – 2011 - 2016

	2001 -2011	2011 - 2016
Forfar		
F4 Wester Restenneth	phase 1 - 100	phase 2- 150
F5 Whitehills nursery	100	---

F6 Dundee Road (Guide dogs site)	100	---
Gowanbank	60	---
Slatefield	5	---
Turfbeg	---	Circa 300 subject to confirmation of proposals by a subsequent Local Plan
Kirriemuir		
K2 Hillhead	phase 1 - 40	phase 2 - 80
Sunnyside	40	---
Landward		
3 sites	72	----
TOTAL	517	530

- 4.26 The Reporter did not support the use for housing of a number of sites in the towns of Forfar and Kirriemuir including the proposed new neighbourhood at Westfield (Proposal F7) which the Reporter recommended should be deleted from the Finalised Local Plan Review.
- 4.27 In assessing and considering the Reporters conclusions and recommendations, the Head of Planning & Transport noted that the local plan allocations for the period 2001 – 2011 confirmed by the Reporter (as set out in Volume 2, paragraph 2.894 of the Report of objections to the FAPLR) totalled 517, a shortfall of 85 units to meet the remaining requirement of 602 units to fully meet the Dundee and Angus Structure Plan housing allowance of 1085 for the period 2001 – 2011. (Angus Council Statement of Response – Report of Public Local Inquiry, Volume 2 pages 112 – 114 refers).
- 4.28 In order to redress this shortfall, the Head of Planning & Transport advised that in keeping with the principles established by the Reporter's Recommendations which support the allocation of sites within the existing built up areas of the towns, the identified shortfall and provision of a small margin of flexibility could be addressed by amending the phased delivery of housing on the allocated sites at F4: Wester Restenneth, (Forfar) and K2: Hillhead, (Kirriemuir) which were confirmed by the Reporter for residential development. This approach is considered to be consistent with the Dundee and Angus Structure Plan and national planning advice provided by Scottish Planning Policy (SPP) 3 Planning for Housing and Planning Advice Note (PAN) 38 Housing Land (Revised 2003).
- 4.29 Angus Council at their meeting of 16 November 2006 agreed the proposed modification to rephase the delivery of housing at F4: Housing - Wester Restenneth. However with regard to Kirriemuir, Angus Council at their meeting of 14 December 2006 determined not to accept the rephasing of the K2: Housing – Hillhead site for 80 houses in the period to 2011 and instructed the Head of Planning & Transport to allocate 40 houses on land south of Beechwood Place, Kirriemuir. Post inquiry modifications were then published on 14 February 2007 reflecting this position.

Overview and Recommendation

- 4.30 As mentioned in paragraph 3.6 above, the Local Plan Regulations require the Council to refer any objections to new matters to a second PLI. The Regulations also give the Council a discretionary power to allow persons who have objected in relation to other matters to be heard at a second PLI. In my view a unique set of circumstances

have arisen in the Forfar/Kirriemuir Housing Market Area, namely the identification of a shortfall of housing which was not taken into account by the Reporters at the first PLI. A number of objectors to proposed modifications have referred to sites which have already been considered at the first PLI. On the face of it some of these objections do not raise any new planning issues in relation to those particular sites. In view of the unique situation referred to, the Council has to consider carefully whether to accept those objections and if not, whether to exercise its discretion to allow such objectors to appear at a second PLI.

- 4.31 The following paragraphs set out my recommendations in relation to the objections to Forfar/Kirriemuir modifications. Paragraphs 4.32 - 4.71 deal with whether to accept competent objections to the Forfar and Kirriemuir modifications while Paragraphs 4.72 - 4.76 deal with my recommendations in relation to the need for a second inquiry in relation to these objections.

Response to Objections

- 4.32 The following sections of the report set out the recommended response to the objections to post inquiry modifications as they relate to housing sites in Forfar and Kirriemuir.

Forfar

F4: Housing - Wester Restenneth

- 4.33 An objection has been made by **Webster Contracts Ltd** to the increase in the allocation of houses at F4: Housing - Wester Restenneth from 100 units to 150 units in the period to 2011 on the basis that the site is incapable of effective delivery in the Plan period. Webster Contracts Ltd conclude that if the site at F4 Wester Restenneth is not effective then the 50 houses should be reallocated to a site at Westfield, Forfar. This new site at Westfield would only cover a small proportion of the Westfield new neighbourhood site originally allocated in the Finalised Angus Local Plan Review.
- 4.34 The primary argument being advanced is that the site at Wester Restenneth has not been demonstrated as being effective in terms of drainage, ground contamination and primary school capacity. The tests for effectiveness of housing land are set out in SPP3 Planning for Housing and in more detail in PAN 38 Housing Land (Revised 2003). The essential requirement is that for housing land to be considered as effective it is *'expected to be free of development constraints in the period under consideration, and will therefore be available for construction of housing'*. (PAN 38 Glossary).
- 4.35 Issues of ground contamination and drainage were considered by the Reporter before confirming the allocation of the site at Wester Restenneth and therefore are not new matters. The position regarding school provision in Forfar was known at the time of the 2006 PLI and was available to the Reporter. It should also be noted that there was no objection from the Director of Education to the allocation of land at F4: Housing - Wester Restenneth. As with all schools the roll and available capacity is kept under review by the Director of Education.
- 4.36 Webster Contracts Ltd is not objecting to the overall allocation of the site for around 250 housing units but to the Councils decision to rephase the delivery of an additional 50 units over and above the 100 units recommended by the Local Plan Reporter in the period to 2011. It should also be noted that a planning application for the erection of 150 houses on this site has been submitted by a national builder - Gladedale (North East Scotland) Ltd who clearly consider the site to be effective. In addition as part of the 2006 Annual Housing Land Audit for the Dundee & Angus Structure Plan

Area, the company confirmed that they expected to build 150 houses over the period to 2011.

- 4.37 Although the principle of development at F4: Housing - Wester Restenneth was endorsed by the Reporter at the Local Plan PLI in 2006, the rephrasing of the site to allow an additional 50 houses to come forward in the period to 2011 is a new matter not considered by the Reporter and as such should be subject to independent scrutiny at a second PLI.

Recommendation: No change. Refer the objection to the rephrasing of the site from 100 units to 150 units in the period to 2011 to a second PLI.

F7: Housing - Gowanbank

- 4.38 The objection by **Webster Contracts Ltd** is to the allocation of 60 housing units at F7 Housing - Gowanbank and relates to issues of site effectiveness. Webster Contracts Ltd conclude that if the site at F7 Gowanbank is not effective then the 60 houses should be reallocated to a site at Westfield. This new site at Westfield would only cover a small proportion of the Westfield New Neighbourhood site originally allocated in the Finalised Angus Local Plan Review (February 2005).
- 4.39 The objector focuses on proximity of the site to the Restenneth landfill site, drainage constraints and issues of ownership of a track which bisects the site as reasons for the site not being effective in the Local Plan period to 2011. The issue of proximity to the landfill site was specifically considered by the Reporter at the PLI in 2006 (in paragraph 2.805) and found not to be an impediment to development. Similarly the Reporter concluded that the site was effective in relation to drainage and access (paragraph 2.806).
- 4.40 In addition, a planning application has been submitted for the outline erection of housing at F7: Gowanbank. The applicant has certified that they control all the land in question. (Planning Application 06/01685/OUT refers) The question of the right of way is therefore a matter which should be dealt with at the planning application stage and not to the principle of development. The objection by Webster Contracts Ltd does not raise any new land use planning issues, and there is no material change in circumstances to warrant any further modifications to the Local Plan Review.

Recommendation: No change.
Please see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

F8: Housing - Slatefield

- 4.41 The objection by **Select Homes (Tayside) Ltd** is to the detailed wording of the proposed modification. The objector requests that the wording be modified to reflect the Reporter's original recommendation of 'around 5 houses'. While the Reporter had recommended the inclusion of this site for a 'high quality development of around 5 houses' the Council in accepting the site had included the words 'maximum of 5 houses'. This issue revolves around the status and capacity of the access road from Dundee Road to accept further development. This position has now been resolved by the Head of Roads and consequently the wording of the proposal could be slightly more flexible.
- 4.42 Any additional development at F8: Slatefield beyond 5 houses should however be limited as requested by the Reporter to the lower end of the suggested range 5 – 10 houses.

Recommendation: Agree to modify the Local Plan Review.
Modify the wording of the proposal in line with the original recommendation by the Reporter and include the words 'of around 5 houses' to replace 'a maximum of 5'.

F9: Safeguarded Site - North of Turfbeg

- 4.43 An objection has been made by Elite Homes (Tayside) Ltd to the detailed wording of the safeguard policy. Further objections by both Webster Contracts Ltd and Muir Homes Group are to the principle of the inclusion of F9:Turbeg, Forfar as a safeguarded site.
- 4.44 While **Elite Homes (Tayside) Ltd** accept the decision of Angus Council to include a safeguard policy for land north of Turfbeg, Forfar they object to the wording of the modification that 'the possible future allocation of the site will require to be confirmed by a future local plan'. In recommending the inclusion of Turfbeg as a safeguard site for development of 300 houses in the period beyond 2011, the Reporter stated (Volume 2, paragraph 2.879) that '*Development proposals will require to be confirmed by a future local plan*'. Given this position the Council feel justified that the wording of the post inquiry modification reflects the recommendation of the Reporter. In support of their position, the objector makes reference to paragraph 66 of SPP3 Planning for Housing. However this paragraph specifically refers to 'longer term allocations and releases' a situation that is not applicable at F9: North of Turfbeg, where the site is 'safeguarded'. Given the reference by the Reporter to confirmation of proposals by a future local plan it is considered that the objection does not raise any new planning issues and there is no material change in circumstances to warrant any further modifications to the Local Plan Review.

Recommendation: No change. Please see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

- 4.45 The Muir Homes Group and Webster Contracts Ltd object to the inclusion of F9: Safeguarded Site – North of Turfbeg, Forfar. **Muir Homes Group** fundamentally disagree with the Reporter in terms of his professional opinion on matters of traffic, access and landscape vulnerability and are seeking the site deleted from the Local Plan Review and replaced with land at Westfield, Forfar. The objection by **Webster Contracts Ltd** disagrees with the Reporters conclusions and recommendation and is seeking the deletion of F9: Safeguarded Site – North of Turfbeg and the reinstatement of land at Westfield.
- 4.46 The PLI specifically addressed landscape and visual impact and accessibility of the site and made a reference to provision for new primary school education. In relation to landscape the Reporter indicated '*that in landscape impact and visual terms, the development of the objection site (Turbeg) would relate to the existing settlement boundary in an acceptable manner. I therefore conclude that the objection site (Turbeg) is acceptable for residential land allocation insofar as landscape setting and visual impact is concerned*'. (PLI Report, Volume 2, paragraph 2.875). The matter of landscape setting was clearly addressed by the Reporter in his assessment. The Reporter also commented on traffic and accessibility matters. (PLI Report, Volume 2, paragraphs 2.876 – 2.877). He acknowledged that '*in terms of walking distances while Turfbeg was at the upper limit for many local attractionsthe release of any greenfield land on the edge of Forfar would inevitably lead to more onerous walking distancesI conclude that development at Turfbeg should not be ruled out insofar as pedestrian access is concerned*'. These elements of the

objection therefore raise no new land use planning matters. It should be noted that the Reporter stopped short of allocating land at Turfbeg, recommending that the site should be identified as safeguarded. Angus Council accepted this recommendation.

- 4.47 As far as primary school provision is concerned this is not a matter that needs to be considered at this stage in the process, notwithstanding that the primary school provision and distribution of schools was known at the time of the PLI. No objections have been received from the Director of Education to F9: Safeguarded Site. Detailed matters, including education provision will be investigated as part of any subsequent Local Plan Review and taken into account in confirming land allocations at that time. The objections by Muir Homes Group and Webster Contracts Ltd to F9: Safeguarded Site - North of Turfbeg raise no new planning issues and there is no material change in circumstances to warrant any further modifications to the Local Plan Review.

Recommendation: No change. Please see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

Deletion of Proposal F7: New Neighbourhood - Westfield

- 4.48 Objections have been made by the Muir Homes Group and Webster Contracts Ltd to the deletion of F7 New Neighbourhood Westfield. In principle the **Muir Homes Group** disagree with the argument advanced by the Reporter in coming to his conclusion and recommendation in relation to Westfield and the subsequent endorsement of this view by the Council. The Muir Homes Group is requesting that the plan should be modified to include Westfield as a safeguarded site in place of F9: Safeguarded Site – North of Turfbeg.
- 4.49 In dealing with the objection by the **Muir Homes Group**, the Reporter did not support the principle of any housing development at Westfield and made clear his reasoning in the Report on Objections. (Volume 2, pages 178 – 200). The Council has accepted his views. Consequently to consider safeguarding the site for future housing would not accord with the Reporter's recommendations or the Council's view. The objection by Muir Homes Group does not raise any new land use planning issues, and there is no material change in circumstances to warrant any further modifications to the Local Plan Review.

Recommendation: No change. Please see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

- 4.50 The objection by **Webster Contracts Ltd** is also to the deletion of F7: New Neighbourhood – Westfield, on the basis that the alternative land proposed for allocation at various sites in Forfar and Kirriemuir is incapable of effective delivery in the Plan period. There are therefore related objections to sites at Wester Restenneth and Gowanbank; and an objection to the safeguarded site at Turfbeg. In addition and in support of their contention that Westfield, Forfar should be reinstated either in whole or part, Webster Contracts have objected to the allocation of housing land at both Sunnyside and south of Beechwood Place, Kirriemuir
- 4.51 The primary argument being advanced by **Webster Contracts Ltd** is that the sites allocated for housing in Forfar at Wester Restenneth and Gowanbank, and in Kirriemuir at Sunnyside and Beechwood Place, are not effective and that consequently to rectify the position the proposal for the new neighbourhood at Westfield should be reinstated.

- 4.52 The tests for effectiveness of housing land are set out in SPP3 Planning for Housing and in more detail in PAN 38 Housing Land (Revised 2003). The essential requirement is that for housing land to be considered as effective it is '*expected to be free of development constraints in the period under consideration, and will therefore be available for construction of housing*'. (PAN 38 Glossary). An assessment of the objection sites in Forfar at F4: Housing - Wester Restenneth and F7: Housing - Gowanbank are detailed in sections above, while sites in Kirriemuir at K3: Housing - Sunnyside and K4: Housing – South of Beechwood Place are considered later in this report.
- 4.53 The deletion of the Finalised Local Plan Review site F7: New Neighbourhood - Westfield arises directly from the Reporter's recommendations. The objector was represented at the 2006 PLI and led a number of expert witnesses who gave comprehensive evidence in support of the site at Westfield. The objector has not raised any new issues in support of Westfield and there has been no material change in circumstances.
- 4.54 With the exception of Wester Restenneth, Forfar and Beechwood Place, Kirriemuir the modifications to which Webster Contracts Ltd object arise directly from the recommendations of the Reporter who considered that evidence. Based on the above I am not recommending any further modifications to the Local Plan Review.

Recommendation: No change. Please see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

Kirriemuir

K2: Housing - Hillhead

- 4.55 Objections have been received from J & J Learmonth and one member of the public. In addition letters in support of the post inquiry modifications have been received from Richard Lawson and Select Homes (Tayside) Ltd.
- 4.56 The objection by **J & J Learmonth** relates to the post inquiry modification restricting development at K2: Housing - Hillhead to a first phase of 40 houses in the period to 2011 and to the decision of the Council to allocate land south of Beechwood Place contrary to the recommendation by the Director of Infrastructure Services. While the published modification for Hillhead is wholly in line with the recommendation by the Inquiry Reporter the objection is linked with the issue of addressing the shortfall of housing numbers as a result of the Reporters arithmetic error in meeting the full Structure Plan allowances for the Forfar, Kirriemuir and the Glens HMA. My professional advice remains as set out in Report 1481/06 to Angus Council on 14 December 2006, that the phasing of the allocation at Hillhead should be adjusted to accommodate additional housing (40) required to meet the Structure Plan allowance for the HMA.
- 4.57 My recommendation is that the Council should accept the objection to the rephasing of Hillhead for the reasons set out in my previous reports. Agreement to this position would require the publication of a further round of modification, a 6 week period for objection and consideration of any objections, with competent unresolved objections referred to a PLI. In the event that the Council does not accept this recommendation I would recommend that the matter is referred to a second PLI.

Recommendation: Agree to Modify the Local Plan Review and (i) maintain the allocation of 120 houses at Hillhead with a first phase of 80 houses in the period to 2011; and

(ii) do not allocate land south of Beechwood Place for 40 houses.

In the event that the Council does not accept this recommendation see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

- 4.58 The objection by the **member of public** relates to the general principle of development at Hillhead, as the objection refers to car parking issues and congestion in the town as a result of more housing development in Kirriemuir. Matters relating to accessibility and traffic associated with development of the Hillhead site for 120 houses were considered as part of the PLI, with the Reporter endorsing the principle of Hillhead for housing purposes. This objection therefore raises no new issues and there is no material change in circumstances to warrant any further modification to the Local Plan Review.

Recommendation: No change. Please see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

K3: Housing - Sunnyside

- 4.59 Objections to the proposed allocation of land at Sunnyside for 40 houses, south of the existing site K (b), were received from fourteen (14) members of the public, Webster Contracts Ltd, Guild Homes (Tayside) Ltd, and Select Homes (Tayside) Ltd. In addition, J & J Learmonth has objected indicating that the site should be extended to allow for a further 40 houses.
- 4.60 The objections by **members of the public** are essentially to the principle of development of the site and the fact that it was included only at the Local Plan Review post inquiry modifications stage following the PLI. Several of the objectors had made representation to the sites inclusion in the Consultative Draft Local Plan 2003 but because the site was not included in the Finalised Plan had not continued their objection. Objections by **Webster Contracts Ltd, Guild Homes (Tayside) Ltd and Select Homes (Tayside) Ltd** are primarily about the effectiveness of the site and particularly the ability of the site to be accessed.
- 4.61 Uncertainty relating to access arrangements was acknowledged and dealt with by the Reporter (Volume 2, paragraphs 2.1219 – 2.1223) in determining the suitability of Sunnyside for allocation as a housing site. Since the PLI Angus Council Housing Committee at their meeting of 1 March 2007 agreed in principle to a Deed of Servitude being granted over part of the Mortarholes garage site to enable an access road to be constructed. This is subject to agreeing a valuation for the Deed of Servitude. (Report 193/07 refers). In addition a Reserved Matters planning application (reference number 05/1825/REM) for the erection of 39 dwellinghouses on the existing K(b) site had been submitted, but a decision by the Development Control Committee at their meeting of 15 February 2007 was deferred to allow a more comprehensive report regarding access arrangements to be submitted in due course. (Minute 25, report 213/07 refers) Further consultation with Angus Council Roads Division indicated that a technical solution, meeting Angus Council Roads Standards, could be achieved by a minor realignment of Lindsay Street. Angus Council's Development Control Committee at their meeting of 12 July 2007 subsequently approved the reserved matters application, including the provision of a new access, at Mortarholes, Kirriemuir. (Report 660/07 dealing with 05/1825/REM refers). The effectiveness of housing sites will continue to be monitored through the Annual Housing Audit.

- 4.62 It should also be noted that since the PLI in 2006, the previous uncertainty relating to drainage capacity has been resolved following agreement between Scottish Water, Scottish Environment Protection Agency (SEPA) and Angus Council allowing for up to 180 houses equivalent over a three year period to 2009. This should allow for existing sites in Kirriemuir and opportunities for new housing and employment land proposed through the Angus Local Plan Review to come forward in the period to 2011. (Report 77/07 – Kirriemuir Drainage Constraint, Infrastructure Services Committee, 25 January 2007)
- 4.63 Issues of access and drainage were considered at the PLI in 2006 and the Reporter concluded that *'the current lack of effectiveness is not a matter that should preclude the allocation of the objection site of 2 hectares at Sunnyside for residential use it being reasonable to expect that the site will become effective within the period of the local plan review'*.
- 4.64 Objections by **members of the public** relate to a range of matters including amenity and privacy issues, traffic circulation, access, landscape and visual impact, land use and education capacity. In coming to his recommendation to allocate the site at Sunnyside, the Reporter specifically refers to landscape and visual impact, land use, accessibility, traffic, wider community benefits and other matters. (PLI Report, Volume 2 pages 296 – 298) There has been no objection from the Director of Education to the inclusion of sites allocated for housing within Kirriemuir. Issues relating to amenity and privacy are matters to be addressed as part of any subsequent planning application and do not affect the effectiveness of the site for housing purposes. In conclusion these objections raise no new planning matters and there is no material change in circumstances to warrant any further modification to the Local Plan Review.
- 4.65 Although the objection by **J & J Learmonth** to the omission of a further area of land for housing at Sunnyside is a new matter and not one that was considered at the 2006 PLI, a limited reference to this site is contained in the Inquiry Report at paragraph 2.1222 (Volume 2). The Reporter had noted the suggestion only, concluding that he was not *'in a position to assess this larger area in terms of visual and landscape impact or in respect of the implications of the link North Mains Road and I have therefore not taken this matter any further'*.
- 4.66 The proposed third phase of development at Sunnyside is promoted by the landowner in response to the decision of the Council to allocate land south of Beechwood Place for 40 houses, contrary to the recommendation of the Reporter and the advice of Head of Planning & Transport. The objector however supports the Head of Planning & Transport's position that K2 Housing – Hillhead should be rephased from 40 units to 80 units in the period to 2011 in order to meet the Structure Plan requirements, in preference to the allocation of land south of Beechwood Place. A third phase at Sunnyside would be instead of K4: Housing – South of Beechwood Place. I have concerns that J & J Learmonth would not be able to deliver all three phases of Sunnyside (some 120 houses) in the period to 2011. I also have concerns relating to landscape and visual impact and traffic matters. No information has been submitted in support of this position. In the circumstances I am not recommending any further modification to the Local Plan Review.

Recommendation: No change. Please see paragraphs 4.72 – 4.76 for my recommendations on referring this objection to a second PLI

K4: Housing - South of Beechwood Place.

- 4.67 Objections to this modification were received from Select Homes (Tayside) Ltd, Webster Contracts Ltd, J & J Learmonth and members of the public (25). With the exception of Select Homes (Tayside) Ltd (the promoter of the site) who wish the site boundary extended further to the south to align with the southern boundary of the proposed adjacent business park, the objections by **Webster Contracts Ltd, J & J Learmonth and members of the public** oppose the principle of housing at this location.
- 4.68 At their meeting of 14 December 2006, the Council, following considerable discussion determined to include a site south of Beechwood Place for 40 houses contrary the recommendation of the Reporter and the advice of Head of Planning & Transport. (Report 1481/06 refers). In general objections to the modification have been received on a range of issues including land use, insufficient social infrastructure, against the Reporters recommendation, sufficient other land available, roads, traffic and amenity issues, and landscape impact.
- 4.69 My report to Angus Council in December 2006 set out the implications of development on land south of Beechwood Place and dealt with a number of the points of objection now being made (report 1481/06 refers). Having reviewed the position, the view of the Head of Planning and Transport remains the same as at December 2006, that Angus Council should reconsider the decision to allocate the site south of Beechwood Place for housing and that the phasing of the allocation at Hillhead should be adjusted to accommodate part of the additional housing (40) required to meet the Structure Plan allowance.
- 4.70 If the Council does not accept this recommendation, the Council should note that K4: Housing – South of Beechwood Place is a new site, where the background to the Council’s decision to allocate the site and the development area has not previously been subject to public scrutiny. Consequently this matter should now be referred to a second PLI. (See also paragraphs 4.72 – 4.76 below.)

**Recommendation: Agree to modify the Local Plan Review and
i) do not allocate land south of Beechwood Place for 40 houses; and
(ii) maintain the allocation of 120 houses at Hillhead with a first phase of 80 houses in the period to 2011.**

In the event that the Council does not accept this recommendation this objection should be referred to a second PLI.

- 4.71 The objection by **Select Homes (Tayside) Ltd** seeks to extend the southern boundary of the proposed K4: South of Beechwood Place housing site. The Infrastructure Services Committee agreed the boundary of the Beechwood Place site at their meeting of 25 January 2007. (Report 78/07 refers). The southern boundary is formed by a well defined physical feature – an access track leading to East Muirhead Farm - while the boundary proposed by the objector breaks into the adjacent large agricultural field and is an arbitrary boundary with no defining features or edge. The boundary as set out in the published post inquiry modification is considered to be more practical while still allowing for landscaping along the southern boundary.

Recommendation: The recommendation in relation to K4: Housing - South of Beechwood Place is set out following paragraph 4.70 above. If the Council does not accept that position, then the recommendation in respect of the

specific objection by Select Homes (Tayside) Ltd to extend the southern boundary of the site is no change with the matter being referred to a second PLI.

Requirement for second Inquiry

- 4.72 Although in many cases the above issues which have been raised are not new it could be said that no independent Reporter had looked at the particular opposing contentions in the strategic context which exists now because of the shortfall in housing numbers. The Scottish Executive's guidance on Local Plan Inquiries suggests that a second Inquiry into a proposed modification is not necessary if it has resulted from a Reporter's recommendation unless there has been a material change in circumstances. It could be said that the emergence of the 85 house shortfall is a material change in circumstances which would warrant a reconsideration of sites which had already been considered at the Local Plan Inquiry. It should be stressed that the second PLI will focus on how the 85 house shortfall within the Housing Market Area should be addressed but is not a general reopening of the previous cases of the various sites in Forfar and Kirriemuir.
- 4.73 Whilst a second Inquiry into sites which had already been considered at the Local Plan Inquiry in the Forfar/Kirriemuir area would take longer than a limited inquiry into only new matters arising from objections in this area it seems to me that there is a benefit in having all of the current objection sites considered in the light of current circumstances to ensure that the Council has an accurate up to date view from an independent third party on the competing arguments put forward by various objectors.
- 4.74 Although a longer inquiry will inevitably delay to some extent the process of delivering an adopted Local Plan it is clear from the other recommendations made elsewhere in this report that the Council will have to hold a second Local Plan Inquiry in any event. In those circumstances I would expect any potential delay beyond what will exist anyway to be measured in weeks rather than months.
- 4.75 Finally in terms of fairness to the individual objectors and to those who have sites allocated within the Local Plan it seems to me that re-opening the Inquiry in relation to each of the objection sites is certainly fair to the individual objectors in the Forfar/Kirriemuir area. Section 6 of this report deals with the implications of my recommendations on development management and taking account of the advice which I have given there I would suggest that the re-opening of the Inquiry will not necessarily prejudice those who have submitted planning applications or those who might submit planning applications on sites which are the subject of objection. The Council would in each case have to consider the nature of the objections lodged and the prospects of those objections being successful through the Local Plan process in coming to a view on the weight to attach to the Angus Local Plan Review in its decision on any planning application.
- 4.76 Taking these circumstances into account it seems to me that it would be in the best interests of the planning of the area to refer the objections set out in Table 3 to a second PLI.

Table 3: Forfar and Kirriemuir sites - objections not recommended for acceptance, to be referred to a second PLI

Paragraph reference	Local Plan Site Reference	Objector
	Forfar	
4.33 - 37	F4: Housing Wester Restenneth	Webster Contracts Ltd
4.38 - 40	F7: Housing - Gowankbank	Webster Contracts
4.43 - 44	F9: Safeguarded site – North of Turfbeg	Elite Homes (Tayside) Ltd
4.45 - 47		Webster Contracts Ltd
4.45 - 47		Muir Homes Group
4.48 - 49	Deletion of F7: New Neighbourhood - Westfield	Muir Homes Group
4.50 - 54		Webster Contracts Ltd
	Kirriemuir	
4.55 -57	K2: Housing- Hillhead	J & J Learmonth
4.58		Member of the public (see schedule 1 for name)
4.59 - 66	K3: Housing - Sunnyside	Webster Contracts Ltd
4.59 - 66		Guild Homes (Tayside) Ltd
4.59 - 66		Select Homes (Tayside) Ltd
4.59 - 66		Members of the public (14) (see schedule 1 for names)
4.59 - 66		J J Learmonth
4.67 – 4.70	K4: Housing – South of Beechwood Place	Webster Contracts Ltd
4.67 – 4.70		J & J Learmonth
4.67 – 4.70		Members of the public (25) (see schedule 1 for names)
4.71		Select Homes (Tayside) Ltd

Recommendation: That in order to meet the housing allowances set out in the Dundee & Angus Structure Plan in respect of the Forfar, Kirriemuir and the Glens Housing Market Area for the period to 2011, the shortfall of the 85 houses left unallocated by the Inquiry Reporter be considered by a second public inquiry and that the objections to the sites set out in Table 3 above be further considered in this context.

Friockheim Village: Fk2: Housing – South of Gardyne Street

- 4.77 Two objections have been received from local residents that the land identified for development has encroached further along Gardyne Street than Guild Homes (Tayside) Ltd originally proposed.
- 4.78 The issue of definition of the site boundary relates to a matter which has already been considered at the 2006 PLI. The extended site was the area considered by the Reporter at the 2006 Inquiry (PLI Report, Volume 3, paragraph 3.344 refers). Accordingly the objections raise no new planning issues and there are no material changes in circumstances to warrant a further PLI or to make further modifications.

Recommendation: No change. Do not refer the objections to a second PLI.

5. OTHER REPRESENTATIONS

Coastal tourism and access

- 5.1 The Ministry of Defence (MOD) object to any word or action that supports marine tourism or coastal use that could jeopardise the existing MOD live firing ranges. Members will be aware that live firing ranges are located at Barry Links/Buddon Camp. MOD refer to the wording of paragraphs 2.95, 3.59 and at Part 4, Carnoustie paragraph 5 as examples of possible matters of concern. The specific text references relate to pre-inquiry modifications and objections at this stage in the Local Plan process are therefore not competent. There is no material change in circumstances to warrant either modifications to the Angus Local Plan Review or a second PLI. However the Head of Planning & Transport recognises the general concerns raised by MOD and has agreed to their suggestion to establish informal officer liaison meetings (between MOD and Planning & Transport) to deal with planning matters of mutual interest.

Recommendation: No change. Do not refer the objection to a second PLI.

Forfar: Land at Orchardbank – conflict of land use

- 5.2 The objection by Alastair Allan relates to the perceived conflict between residential and business uses at Orchardbank industrial area and is generally similar to that dealt with earlier by the 2006 inquiry although it also challenges matters of procedure relating to the submission of documents to the Inquiry Reporter. It does not deal with any aspect of a published post inquiry modification and so technically is not a competent objection at this stage. The Reporter had information from both the objector and the Council at the 2006 Inquiry and having considered the position recommended no change to the Local Plan as published. There is no material change in circumstances to warrant either modifications to the Angus Local Plan Review or a second PLI.

Recommendation: No change. Do not refer the objection to a second PLI.

Forfar:– Omission of land at Suttieside

- 5.3 The objection by G K Robertson is not to a published modification but to a recommendation by the Reporter and subsequent decision of Angus Council not to include land at Suttieside for development. The objector considers that in rejecting his site following the PLI the Reporter had *'not fairly nor fully considered the planning merits of Suttieside and his recommendation to the Council to make no change to the local plan review.....is flawed, arbitrary, subjective, unsubstantiated and indeed inconsistent with conclusions drawn at the Angus Local Plan Inquiry 2000.'*
- 5.4 All the information submitted by both the objector and the Council was available for consideration by the Reporter at the PLI. The Reporter shared the *'opinion of the Council that Suttieside Road quickly becomes rural in character and that the disused railway line provides a clear settlement boundary to the south. Insofar as I have concluded that there is no requirement to release greenfield land beyond the settlement boundary of Forfar in the period to 2011 and that in the period between 2011 – 2016 other land should be considered for release, I conclude that there is no strategic reason to allocate the land at Suttieside Road for housing purposes'*. (Report on Objections, Volume 2, paragraph 2.820) The Council accepted this recommendation and rejected any modification of the Local Plan Review in respect of this site. As the objection by G K Robertson is not to a published modification of the Local Plan Review it is not competent. The objection raises no new planning issues

and there is no material change in circumstances to warrant any further modifications to the Local Plan Review or reference to a second PLI.

Recommendation: No change. Do not refer the objection to a second PLI.

Monifieth: garden ground classified as area of visual amenity

- 5.5 A late representation was received from Gilbert Grosset, Monifieth and relates to the inclusion of part of his garden ground in Queen Street, within an area covered by the Open Space Protection Policy SC29. By way of clarification this area is covered by a longstanding Tree Preservation Order and has a value in terms of landscape, hence its inclusion in an open space protection area in both the adopted Angus Local Plan (Policy RT5) and the continued designation in the Finalised Angus Local Plan Review (Policy SC29). In addition the site has been subject of recent unsuccessful planning applications.
- 5.6 In terms of the local plan procedures, the representation cannot be considered a competent objection at this stage of the process as it relates to a policy which was included in the original Finalised Local Plan Review and not to a published post inquiry modification. There are no material changes in circumstances to warrant modification to the Local Plan Review or reference to a PLI.

Recommendation: No change. Do not refer the objection to second PLI.

6. IMPLICATIONS FOR DEVELOPMENT MANAGEMENT

- 6.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 6.2 In Angus the development plan comprises:
- Dundee and Angus Structure Plan (approved 2002); and
 - Angus Local Plan (adopted 2000)
- 6.3 The review and roll forward of the Angus Local Plan through the Angus Local Plan Review has reached the stage where policies and proposals can be considered a material consideration to be taken into account in the determination of planning applications. This would apply to the majority of the Local Plan Review policies and proposals. The exception to this is where post inquiry modifications are subject to further objection which will be referred to a second Public Local Inquiry. In such cases the weight that could be given to policies and proposals is less.
- 6.4 The question of how a Planning Authority should deal with planning applications in a situation where there is a degree of uncertainty about how the emerging development plan might ultimately look has been considered by the Courts many times, most recently in the context of challenges to the redevelopment of the former Steelworks at Ravenscraig, North Lanarkshire.
- 6.5 Planning legislation and case law makes it clear that a Planning Authority cannot simply refuse to progress applications because of the stage that a Local Plan Review has reached. It may however be that applicants agree that it would be inappropriate for the Planning Authority to determine the application at the appropriate stage and in

those circumstances it is possible to agree an extension to the usual 2 month time limit within which Planning Authorities are required to determine applications.

- 6.6 A Planning Authority will however have to consider very carefully the policies within its emerging Local Plan which would apply to any particular application and in particular whether those policies are the subject of ongoing objection through the Local Plan process. If the policy in question (eg a housing allocation) is central to the determination of a planning application but is still subject to objection a Planning Authority would first have to consider whether that objection had any reasonable prospects of success. Unless the Planning Authority could reasonably say that the objection had no reasonable prospects of success then it could not lawfully grant permission.
- 6.7 There are a number of planning applications which relate to sites in the Local Plan Review process which are still the subject of outstanding objections. These are set out in the table below together with a comment on each as it affects the local plan process only. There is no comment on the merits of the application which will be considered at the appropriate time when reporting to a Development Control Committee. In considering comments in relation to Local Plan Review sites which are also affected by planning applications members should ensure that any comments made at this stage relate to matters of Local Plan policy only and not to the merits of the planning application itself. To do so may prejudice Members from participating in the decision making process of the planning application at either the Development Control Committee or where relevant a subsequent meeting of Angus Council.

Application No	Application Details	Comment
04/00042/OUT registered 15 January 2004	Outline Erection of 8 Dwellinghouses on Land At Harlaw, Kinnordy Road, Kirriemuir by Breconsgate Ltd	This site is still subject to objections through the Local Plan process. If the Council was to determine the application in advance of Local Plan adoption it would have to specifically consider the objections and the likelihood of their success.
06/01598/OUT registered 10 November 2006	Outline planning permission for 100 houses at Westfield Loan, Forfar by Webster Property Developments	This site is still subject to objections through the Local Plan process. If the Council was to determine the application in advance of Local Plan adoption it would have to specifically consider the objections and the likelihood of their success.
06/01685/OUT registered 24 November 2006	Outline erection of housing development at land at Gowanbank, Forfar by Gowanbank LLP	This site is still subject to objections through the Local Plan process. If the Council was to determine the application in advance of Local Plan adoption it would have to specifically consider the objections and the likelihood of their success.
06/01834/OUT registered 21 December 2006	Outline planning permission for residential development (100 dwellinghouses) at land at Glamis Road, Forfar by Muir Homes	This site is still subject to objections through the Local Plan process. If the Council was to determine the

		application in advance of Local Plan adoption it would have to specifically consider the objections and the likelihood of their success.
07/00425/FUL registered 26 March 2007	Erection of 150 houses on land at Wester Restenneth, Forfar by Gladedale (North East Scotland) Ltd	50 of the units proposed in the period to 2011 are still subject to objections through the Local Plan process. If the Council was to determine the application in advance of Local Plan adoption it would have to specifically consider the objections and the likelihood of their success

7 NEXT STEPS

- 7.1 The procedures and regulations governing the pre and post Inquiry steps are set out in the Planning Regulations and the Code of Conduct for Public Local Inquiries. Guidance is also set out in Angus Council's Local Plan Charter.
- 7.2 The response by the Council to the various objections made to the Local Plan Review post inquiry modifications, as summarised in Section 4 above and also set out in the schedule accompanying this report, is another important stage in the Local Plan process. The Statement of Responses to Objections will be published at locations as previously agreed by Angus Council including on the Local Plan web page and at all Public Libraries and Access Offices. All objectors will be notified of the decision of the Council in respect of their objection and a copy of the appropriate response, as set out in the appendices, will be sent out to each objector. This will allow the objectors to consider their position and whether they wish to continue their objection.
- 7.3 Further Modifications approved as part of this report will be published for public inspection and objection (over a six week period) as soon as possible after the Council meeting, with the outcome being reported to Committee as soon as possible thereafter.
- 7.4 Arrangements for the second Local Plan Public Inquiry will continue to be progressed through the Directorate for Planning and Environmental Appeals (formerly SEIRU - Scottish Executive Inquiry Reporters Unit) with update reports brought forward to Committee as appropriate. Similarly preparation of the Council's evidence in relation to objections received and not withdrawn will continue along with organisation of legal representation to support the Council's position.
- Programme Officer
- 7.5 The Scottish Executive Development Department Code of Practice for Local Plan Inquiries advises that for all inquiries expected to last more than 1-2 days, the Planning Authority should appoint a Programme Officer with suitable administrative experience to assist in the management and organisation of the Inquiry. The person appointed may be a member of the Planning Authority's staff, but should not have been substantially involved in the preparation of the Plan, or an external contract appointment. He or she must be seen as an impartial officer of the Inquiry and will work directly for the Reporter, acting as the initial point of contact for all parties. The purpose and duties of a programme Officer were previously highlighted to Committee as part of preparing for the Finalised Local Plan Review PLI and set out in section 7

of Report 517/05 to the Infrastructure Services Committee at their meeting of 28 April 2005 but can be summarised as follows.

7.6 Once appointed, the programme Officer will, in consultation with the Reporter:-

- deal with general correspondence relating to the inquiry arrangements;
- maintain lists of objections;
- establish the nature of the cases to be presented, including whether witnesses are to be called;
- draw up a provisional programme and timetable (if this has not been done already), showing the running order for hearing the objections and how long the inquiry is likely to last;
- bring together objectors with a common interest;
- arrange for the exchange of documents by and between parties both before and during the inquiry;
- manage the day-to-day programme during the inquiry;
- arrange the Reporter's accompanied site inspections.

7.7 A Programme Officer was previously appointed for the 2006 PLI and has therefore gained considerable experience of administering a PLI. Although there are considerably fewer objections at this current stage and the Inquiry should be of less duration, it is considered that the appointment of a Programme Officer would be necessary to ensure the efficient administration of the Inquiry process. It is therefore proposed that where possible arrangements be made to re-appoint the previous Programme Officer on a part-time temporary basis to assist in organising and managing procedures leading up to and during the Public Local Inquiry.

8 FINANCIAL IMPLICATIONS

8.1 Financial issues arise at this stage in respect of:-

- the costs associated with a second PLI, including the costs of the Reporter, legal representation for the Council and appointment of a programme officer; and
- costs of advertisement.

8.2 There is no sum specifically contained in the Revenue budget for a second PLI and while every effort will be made to contain the costs within Planning & Transport's Revenue Budget for 2007/08 the need for additional resources will continue to be monitored.

9 HUMAN RIGHTS IMPLICATIONS

9.1 Potential human rights issues at this stage in the Local Plan process relate to adequately publicising Angus Council's Statement of Responses to Objections to the Local Plan Review post inquiry modifications, any further rounds of modifications and emerging arrangements for the Public Local Inquiry, thereby ensuring that sufficient opportunity is available to all interested parties, including objectors and other contributors, to view and make comments on the published material. The arrangements summarised in of this report, fully meet statutory requirements in publicising the Council's response on objections and the emerging arrangements associated with the Public Local Inquiry.

10 CONSULTATION

- 10.1 The Chief Executive, Director of Corporate Services, Director of Education, Director of Neighbourhood Services, Head of Finance, Head of Law & Administration, Head of Property, Head of Housing and Head of Roads have been consulted in the preparation of this report.

11 CONCLUSION

- 11.1 Following publication of post inquiry modifications to the Finalised Angus Local Plan Review, a number of objections have been received some of which raise issues that require further modification or the holding of a second Public Local Inquiry. Arrangements should now be put in place to take these matters forward as soon as possible through the publication of additional modifications and making arrangements for a second inquiry.

NOTE

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

- Town and Country Planning (Scotland) Act 1997
- Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 (Statutory Instrument 1983 No. 1590 (S149).
- The Code of Practice for Local Plan Inquiries - Scottish Executive 1996
- Report of the Public Inquiry into Unresolved Objections to the Finalised Angus Local Plan Review, Volumes 1, 2 and 3, by Richard E. Bowden, BSc(Hons), MPhil, MRTPI and Richard G. Dent, BA(Hons), DipTP, FMRTPI, August 2006
- Report No. 1342/06 Finalised Angus Local Plan Review – Report of Public Local Inquiry. Special Angus Council meeting 16 November 2006
- Report 1416/06 Legal advice on considering Report No 1342/06. Special Angus Council meeting 16 November 2006
- Report No. 1481/06 Finalised Angus Local Plan Review – Deferred Kirriemuir Item. Angus Council 14 December 2006
- Report No. 78/07 Finalised Angus Local Plan Review - Beechwood Place, Kirriemuir. Infrastructure Services Committee 25 January 2007
- Report 517/05 Finalised Angus Local Plan – Update on objections and next steps. Infrastructure Services Committee 28 April 2005
- Report No. 1081/05 Finalised Angus Local Plan Review – Responses to Objections and Progress towards Public Local Inquiry. Infrastructure Services Committee 8 September 2005
- Finalised Angus Local Plan Review Report of Public Local Inquiry - Statement of Response by Angus Council February 2007
- Finalised Angus Local Plan Review Modifications (post-inquiry). Angus Council February 2007
- Minute of Housing Committee, Angus Council, 1 March 2007
- Report No. 660/07 Planning Application 05/1825/REM – Land at Sunnyside, Westfield and Lindsay Street, Kirriemuir. Development Control Committee 12 July 2007
- SPP3 Planning for Housing Scottish Executive February 2003
- PAN38 Housing Land (Revised 2003) Scottish Executive February 2003

P&T/GDP/IAL/KW
14 August 2007

Eric S. Lowson
Director of Infrastructure Service