

**FINALISED ANGUS LOCAL PLAN REVIEW
REPORT OF SECOND PUBLIC LOCAL INQUIRY**

**STATEMENT OF RESPONSE
BY
ANGUS COUNCIL**



SEPTEMBER 2008

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K2: Housing – Hillhead, Kirriemuir

Objector(s)

Select Homes (Tayside) Ltd
J & J Learmonth
Guild Homes (Tayside) Ltd

Objector Reference(s)

871/2/2 & 871/3/1
71/1/3 & 71/2/1
872/2/1

Procedure

Hearing

Reporter

Jill Moody

BACKGROUND

The allocation of 120 houses K2 at Hillhead was included in the Finalised Angus Local Plan Review, with a first phase restriction of 60 houses in the period to 2011. Following the emergence of a site beside K2, the council published pre-inquiry modifications that deleted the greenfield Beechwood Place site and amended the K2 site boundary to include the extra land, with 120 houses up to 2011 specified for the original, greenfield portion of the site. No house numbers were apportioned to the additional land.

In response to objections to Hillhead, the Reporters at the first local plan review inquiry in 2006 confirmed the greenfield element of the site, but they limited the release to 40 houses in the period to 2011 and recommended deletion of the adjacent brownfield, extra part of the site, because it was still in industrial use. To provide choice in the housing land supply, the Reporters also recommended the allocation of land at Sunnyside for around 40 houses, for release in the same period to 2011 (core production CP 14, pages 284 to 292).

In assessing the Reporters' recommendations, the council identified an overall shortfall of 85 houses in the Forfar, Kirriemuir & the Glens Housing Market Area up to 2011. Officials then recommended that part of this shortfall should be addressed in Kirriemuir by amending the phasing of site K2 Hillhead from 40 to 80 houses in the period to 2011. Councillors rejected this, instructing instead that a site at Beechwood Place should be included for 40 houses. Post-inquiry modifications to that effect were published in February 2007 but because objections were received, the council reverted to the originally recommended re-phasing of K2 Hillhead to allow 80 houses in the period to 2011. Accordingly, a second round of post-inquiry modifications were published in September 2007. Objections were again received, but this time the council resolved to make no further change, preferring instead that the objections are considered at this second inquiry.

REPORTER'S CONSIDERATION

The council's proposed pre-inquiry modification was for a larger site, and for a total allocation at K2 Hillhead of 120 houses up to 2011. However, the previous Reporters' recommendation is explicit, i.e. they reduced the size of the site at K2, but kept and allocated the same total number of houses on the remainder, with the caveat that the first phase to be developed before 2011 was restricted to 40 houses (core production CP 14, paragraphs 1.116, 2.1155, and 2.1251). The Reporters seem not to have allocated the full amount of housing to the initial phase because of 3 main factors, which were:

- the need to accord with the approved structure plan by including some provision for beyond 2011, albeit subject to review;
- the apparent drainage constraints; and
- the need to provide choice through developing different sites within Kirriemuir, as opposed to within its wider housing market area.

Based on the above, I find that the whole of Hillhead was allocated for housing development, but the balance of the amount was being set aside for later use.

Housing Policy 1 from the approved Dundee and Angus Structure Plan (core production CP 1, pages 21 and 22) expects that local plans will:

- allocate sites to meet Schedule 1 up to 2011; and
- take account of the indicative scale and distribution of the land identified in Schedule 1 for development beyond 2011.

Given that, the previous Reporters' recommendation accords entirely with the approved structure plan.

SPP 3 confirms that monitoring should occur via the annual audit process (core production CP 32, paragraph 65), and that development plan alterations can be used to address any housing land shortfall, unless longer term allocations and releases can be brought forward (paragraph 66). The supporting structure plan text (core production CP 1, paragraph 4.17) and the remainder of Housing Policy 1 add that if the annual monitoring process reveals a shortfall in the 5 year effective land supply, local plan allocations will be the preferred means of identifying alternative development sites, and the potential contribution from sites that form part of the established land supply will be considered next. The structure plan glossary defines the established land supply as including the remaining capacity of sites under construction, sites with planning permission, and sites in adopted local plans (page 80), so that for this particular local housing market area, allocated sites where the local plan review has phased development beyond 2011 are part of the established land supply. More specifically, the balance of the K2 site is in the established supply, mainly because it is allocated in the local plan review. But the evidence also now shows clearly that the balance has enough spare capacity to accommodate the shortfall, and that the site is now effective because it is free from constraint and can be developed within the required timescale.

Although the current shortfall has not emerged through the annual monitoring process, the effect is largely the same, in that the council has identified that insufficient land has been allocated in the local plan review to meet the approved structure plan requirement. Arguably therefore, a shortfall exists in the amount of land allocated for the period up to 2011. In addressing this, the approved structure plan and SPP 3 give a clear instruction that the deficiency should be resolved by looking first for a local plan allocation that is part of the established land supply as defined. I am satisfied that the council has followed that process exactly, and has identified part of the balance of K2 as the only existing available option in Kirriemuir. Therefore, I am also satisfied that the council's intention to accelerate development of K2 and to use some of the balance of that allocation to offset the current 40 house shortfall, is entirely appropriate against SPP 3 and the approved structure plan.

Equally, under the above circumstances, I find no justification in national planning policy or in the approved structure plan for disregarding the potential contribution that a site like K2 might make, in favour of another that may or may not have been considered at the last inquiry, but which is certainly not allocated or even safeguarded for future use. Policy does not support the contention that other sites like Beechwood Place and the extra land at Sunnyside can simply be slotted in instead of, or in advance of, an allocated site like K2, when neither site is even brownfield land. I find also that it is not possible to speculate what number or range of sites the Reporters might have recommended in favour of had they known of the numeric shortfall in the allocated sites. But I am certain the process of selecting K2 involved a comparison between it and the other sites drawn to their attention at the time, i.e. including Beechwood Place and at least part of Sunnyside. Further, based on the above summarised conclusions, the outcome favoured the phased allocation at K2 Hillhead.

If in future, the annual monitoring process produces a shortfall in the effective housing land supply, SPP 3 and approved structure plan Housing Policy 1 impose a clear response hierarchy, with the development plan process remaining the proper central forum for considering the full range of other competing options, i.e. promoting an alteration to the development plan or granting advance planning permission. In other words, if a shortfall in the effective land supply emerges, response mechanisms are in place to address it. However, in this regard, I note the council's evidence in the most recent housing land supply audit (council production 1), that no shortfall of land is predicted for the later period beyond 2016, and I find that the figures in the approved structure plan are intended to be indicative anyway, and quite specifically subject to review (core production CP 1, paragraph 4.16 and Schedule 1).

Based on the previous Reporters' conclusions, I find no doubt that they considered the wider community benefits to be derived from developing K2 in the context of the bigger site proposed via the pre-inquiry modifications, i.e. including the industrial land (core production CP 14, paragraphs 2.1164 to 2.1177, section Wider Community Benefits), but that the conclusions explicitly exclude the industrial land from the eventual allocation (paragraph 2.1175). However, of greater significance is the conclusion that overall, the community benefits do not amount to an overriding reason for the designation of Hillhead as a sole housing allocation (paragraph 2.1177). I construe this as meaning that any diminution that might be perceived now in the value of those benefits has no bearing on the fundamental acceptability of the allocation and the ability of the smaller site to contribute to the housing land supply, because it did not justify the original allocation. In other words, development with housing is neither dependant upon nor justified by these benefits. But even if it were, the previous Reporters accepted that:

- the health centre need not be confined to within K2 (paragraph 2.1166);
- the council's standard for affordable housing to be applied was 15%, and K2 has no potential to provide more than any other site (paragraph 2.1167);
- an improved school drop-off point was not inextricably linked to housing development and could be achieved irrespective of it (paragraph 2.1168); and
- the provision of accessible open space was not in the pre-inquiry modification, but it should be provided in accordance with the council's recognised standard (paragraph 2.1169).

I also note the council's evidence that apart from the health centre, the need for which has been over taken by events that are outwith the council's control, these other benefits have all been accounted for by the approved development brief, the various planning applications, and in the section 75 agreement under negotiation, so that they will all be provided. Therefore, based on all of the above, I find no reason to accept the view that these expectations have diminished, and especially to an extent that might undermine the original K2 allocation.

The previous Reporters also considered landscape, visual, and traffic impacts for Hillhead, and they were satisfied on all counts that the impacts would be wholly acceptable (paragraphs 2.1178 to 2.1186, and 2.1193 to 2.1196). Further, I note that in discussion at the hearing session, all of the objectors to the proposed post-inquiry modifications accepted these conclusions.

Overall therefore, while I will consider the merits of the other site options suggested in the context of the linked, site specific objections, I am satisfied that the objections raise nothing in respect of K2 Hillhead that was not considered before, or that otherwise justifies departing from the views and recommendations expressed by the previous Reporters, or that might

prevent bringing an additional 40 houses forward at K2 Hillhead for development before 2011.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the council adheres to the proposed post-inquiry modification to increase the allocation for the site described as K2: Hillhead, for an extra 40 homes.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Council's position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and confirm the Local Plan Review modification as follows:

"K2 : Housing – Hillhead

7.6 hectares of land between Kinnordy Road and Shielhill Road is allocated for around 120 dwellings. A first phase of 80 units will be permitted for development in the period to 2011.

Proposals should all be in accordance with a development brief which will be prepared for this site and which will include details of the following requirements:

- **vehicular access from Kinnordy Road. Access from Shielhill Road may be permitted if suitable arrangements can be agreed to relocate or redesign the drop-off/pick-up point for pupils of Northmuir Primary School;**
 - **15% of the capacity of the site to provide LCHO affordable housing; and**
 - **proposals for suitable use and maintenance of the land not required for phase 1.**
-

K3: Housing – Sunnyside, Kirriemuir

Objector(s)

Select Homes (Tayside) Ltd
Guild Homes (Tayside) Ltd

Objector Reference(s)

871/2/3
872/1/1

Supporter

J & J Learmonth

Procedure

Hearing

Reporter

Jill Moody

BACKGROUND

The site was included in the consultative draft version of the Angus Local Plan (2003) as site K4: Sunnyside. However, it was deleted from the finalised version in response to objections received, and it was replaced by K3: Housing – Land South of Beechwood Place. The Reporters conducting the first inquiry considered an objection to the omission of this site from the local plan review, and they recommended that it should be allocated for around 40 houses to provide an element of choice in the local Kirriemuir housing market. In doing so, they recognised that constraints like access needed to be resolved, but they concluded that there was a reasonable expectation that these issues would be resolved within the plan period. Angus Council accepted the Reporters' recommendation and published a post-inquiry modification in February 2007, whereby the site became K3 Sunnyside for about 40 homes. Although this proposed modification was the subject of further objection, the council resolved to maintain it, and to have these objections considered at a second inquiry.

REPORTER'S CONSIDERATION

I find no connection between these objections to the proposed allocation of site K3 at Sunnyside and the housing land supply shortfall issue that affects Kirriemuir's housing market area. Therefore, there is no issue to be considered about the number of houses. That said, I note that the concerns raised relate to the ability of the site to be developed inside the required timescale.

Following the last inquiry, the previous Reporters acknowledged that the K3 Sunnyside site suffered drainage and vehicular access difficulties, to the extent that it was not actually effective at the point they considered the objections to its omission. However, they were satisfied that K3 was capable of becoming effective in the required plan period, i.e. before 2011, and that the shortcomings should not prevent its allocation (core production CP 14, paragraphs 2.1220 and 2.1222). Accordingly, they recommended that the site should be allocated and the council accepted that view in the proposed post-inquiry modifications.

The approved structure plan glossary defines effective housing land as *that part of the established housing land supply that is expected to be free of constraints in the 5 year period under consideration and will therefore be available for construction of houses* (core production CP 1, page 80). This definition is repeated in the margin text of the finalised local plan review (core production CP 5, page 19) and it reflects national planning policy in SPP 3. In addition, PAN 38 states that to be effective, it must be shown that within the period under consideration, the site will be available for the construction of housing and be free of the listed range of constraints (core production CP 40, paragraph 29). The objectors are challenging compliance only in terms of ownership and infrastructure. For ownership, PAN 38 expects that an effective site *is in the ownership or control of a party which can be*

expected to develop it or to release it for development. For infrastructure, PAN 38 expects that *the site is either free of infrastructure constraints, or any required infrastructure can realistically be provided by the developer or another party to allow development.*

Looking firstly at ownership, I have received no evidence to show that the owner of the K3 housing site is not likely to release it for development. However, there is an issue about ownership of the access route because it crosses council owned land at the Mortarholes lock-up garages. The previous Reporters considered this issue and found the prospects of development to be good. The evidence available in respect of these current objections and this second inquiry is that formal agreement has now been reached and signed by the council, and is being registered, whereby vehicular access can be formed to the required standard at Mortarholes and used to serve the K3 site along with the adjoining land at K(b).

In terms of infrastructure, I note that the council has satisfied itself that vehicular access can be achieved to K3 in accordance with the required safety standards, and that it has resolved to grant planning permission for K(b) on that basis. In addition, the statement from Scottish Water (core production CP 84) confirms that generally, Kirriemuir is no longer subject to the same level of development restriction or uncertainty as applied at the last inquiry. I understand from that statement, that applications for drainage connections to development sites will now be considered by Scottish Water on a first come first served basis and overall, there seems to be enough spare capacity to accommodate the required level of house building, as envisaged by approved structure plan Housing Policy 1.

Therefore, I find no impediment to the principle development on K3 in either respect. The objectors may still disagree about the technical solutions to be used in addressing these issues, i.e. the way in which access and drainage connections to K3 might actually be formed. But I consider these are detailed considerations for the council and other relevant authorities to determine. Fundamentally, they are not issues for me to consider as part of this local plan inquiry process.

Based on the above, I am satisfied that the position as regards the effectiveness of the K3 Sunnyside site is now even stronger and more certain than it was at the last inquiry, because the site may now be regarded as actually effective in terms of complete ownership and infrastructure provision as compared to the PAN 38 criteria. Further, I find no evidence to justify overturning the previous reporters' conclusion that the site is, in planning terms, suitable for housing development.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the council adheres to the proposed post-inquiry modification to allocate the site described as K3: Sunnyside, for about 40 homes.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Council's position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and confirm the Local Plan Review modification as follows.

K3 : Housing - Sunnyside

2 hectares of land south of site K(b) : Westfield/Lindsay Street, is allocated for around 40 dwellings.

Access will be taken from site K(b). Development will require to have regard to the edge of town location with appropriate landscaping, particularly planting along the western and southern boundaries. The benefits of the southerly aspect of the site should be reflected in an energy efficient layout and design.

K3: Housing – Sunnyside, Kirriemuir

Objector(s)	Objector Reference(s)
Stephen Whyte	187/1/1
Mrs Lorna Allison	240/1/1
Mr & Mrs Garden	352/1/1 & 353/1/1
Neil Sutherland	504/1/1
Mr & Mrs Brown	508/1/1 & 606/1/1
Mr Allison	1089/1/1
Heather & Blair Hood	1093/1/1
Marjory D. Wallace	1094/1/1
Mr & Mrs Little	1095/1/1 & 1097/1/1
Robert & Kathleen Gourlay	1098/1/1 & 1099/1/1

Procedure	Reporter
Written Submissions	Jill Moody

BACKGROUND

The site was included in the consultative draft version of the Angus Local Plan (2003) as site K4: Sunnyside. However, it was deleted from the finalised version in response to objections received, and it was replaced by K3: Housing – Land South of Beechwood Place. The Reporters conducting the first inquiry considered an objection to the omission of this site from the local plan review, and they recommended that it should be allocated for around 40 houses to provide an element of choice in the local Kirriemuir housing market. In doing so, they recognised that constraints like access needed to be resolved, but they concluded that there was a reasonable expectation that these issues would be resolved within the plan period. Angus Council accepted the Reporters' recommendation and published a post-inquiry modification in February 2007, whereby the site became K3 Sunnyside for about 40 homes. Although this proposed modification was the subject of further objection, the council resolved to maintain it, and to have these objections considered at a second inquiry.

REPORTER'S CONSIDERATION

I find that the views of these objectors were withdrawn and not considered at the last local plan inquiry through the belief that the council was no longer promoting the site at Sunnyside for development. On that basis, it is entirely appropriate for me to consider them now, in response to the proposed post-inquiry modifications.

That said, Section 17(3) of the Town and Country Planning (Scotland) Act 1997 prohibits the adoption of a local plan that does not conform to the appropriate approved structure plan. Therefore, the council must make sure that the local plan review accords with the current approved structure plan specified 5 year housing land requirement for Kirriemuir. In other words, the local plan review must allocate enough housing land to accommodate the number of housing units specified in the approved structure plan (core production CP 1, Housing Policy 1). As it stands, the local plan review would fall short of meeting that requirement, but it would fail to an even greater extent without Sunnyside.

The previous Reporters took the view that more than one site should be used in Kirriemuir to accommodate the approved structure plan requirement and, after comparing a range of options, they chose to allocate Sunnyside along with Hillhead (core production CP 14, paragraph 2.1251). In doing so, the Reporters accepted the principle of:

a greenfield land release to satisfy the housing land requirement;
extending Kirriemuir to the south west; and
creating a new urban edge with landscaping.

They also took account of the impact of and relationship between the allocation and the existing houses and built form at Sunnyside. In particular, the previous Reporters concluded that:

the site would not be especially visible or have a considerable landscape impact in views along Glamis Road;
layout, design, and tree planting could be used to soften and thereby to avoid creating an abrupt urban edge;
layout and design could also be used to reduce the impact on the residential amenity and privacy of existing residents;
the viability of the remaining agricultural land was at best doubtful; and
the volume of traffic arising would be low enough that existing roads could accommodate it safely, albeit with improvements (core production CP 14, paragraphs 2.1211 to 2.1217).

I have received no new evidence that leads me to disagree with their conclusions on any of these issues, especially given the compact shape and contained form of the proposed site, the relatively small number of houses on Sunnyside that would be directly affected by development, and the potential to use early landscaping to soften and contain the site. I note that these considerations all satisfy SPP 3. Further, I note that the council has since resolved to grant planning permission for the K(b) site and has received an application for outline planning permission for the K3 site. I expect that the above detailed design issues will be considered as part of that development management process. The objectors may still disagree about the technical solutions to be used in addressing the issues, i.e. the relationship to the existing housing, the landscaping, and the way in which access might actually be formed to K3, but I consider these are detailed considerations for the council and other relevant authorities to determine. Fundamentally, they are not issues for me to consider as part of this local plan inquiry process.

The ability to achieve land to provide a vehicular access into the site was also considered before, with the conclusion that access was ultimately achievable (core production CP 14, paragraph 2.1219). I have considered this in more detail in the context of objections from Select Home and Guild Homes. Suffice to say here that the evidence for those objections satisfies me that the deliverability of development at the K3 Sunnyside site is now even stronger and more certain than it was at the last inquiry because the council has agreed a Deed of Servitude right to construct and use a vehicular access across the Mortarholes lock-up garage site. On that basis, K3 may now be regarded as effective in terms of the ownership and infrastructure criteria from PAN 38 (core production CP 40, paragraph 29).

However, these objections raise 2 new issues, i.e. access through Sunnyside and capacity at the High School. Firstly, I have no evidence to suggest that anything more than a pedestrian access is proposed from K3 through to Sunnyside, although I am inclined to agree that a proposal for vehicular access could impact on traffic safety and residential amenity along that street. However, this issue is again a matter for detailed consideration as part of the development management process and any continuing concerns should be raised with the council in that forum. For my purposes, there is no fundamental reason why the unconfirmed prospect of a secondary access via that route would not prevent this housing allocation from being confirmed. Secondly, the council's Director of Education has provided evidence to confirm that although capacity at the relevant Webster's High School is under pressure, so that it is an issue, enough space should be available to accommodate the number of extra pupils arising from this proposed development. Therefore again, I find

nothing in these additional concerns that would prevent the site from being allocated for development as per the previous Reporters' recommendation.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the council adheres to the proposed post-inquiry modification to allocate the site described as K3: Sunnyside, for about 40 homes.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Council's position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and confirm the Local Plan Review modification as follows:

K3 : Housing - Sunnyside

2 hectares of land south of site K(b) : Westfield/Lindsay Street, is allocated for around 40 dwellings.

Access will be taken from site K(b). Development will require to have regard to the edge of town location with appropriate landscaping, particularly planting along the western and southern boundaries. The benefits of the southerly aspect of the site should be reflected in an energy efficient layout and design.

K4: Housing – South of Beechwood Place, Kirriemuir

Objector(s)

J & J Learmonth
Select Homes (Tayside) Ltd

Objector Reference(s)

71/1/1 & 71/2/4
871/2/1 & 873/3/2

Procedure

Hearing

Reporter

Jill Moody

BACKGROUND

Land south of Beechwood Place was not in the consultative draft version of the local plan review, but it was in the finalised version for around 50 homes as a phase 1 up to 2011, with a requirement to prepare a development brief incorporating access to the adjacent employment land referred to as K4: Working – East Muirhead of Logie. The housing site was included as an alternative greenfield site to Sunnyside, which had been deleted in response to objection. However, following objections to the inclusion of the Beechwood site, the emergence of a brownfield site beside K2 Hillhead, and taking account of an uncertain drainage position, the Beechwood Place site was deleted in the September 2005 pre-inquiry modifications.

After considering objections, the Reporters at the first local plan review inquiry, recommended in 2006 that the site should not be allocated, for landscape and visual impact reasons. They also recommended a knock-on adjustment to K4: Working.

In assessing the Reporter's recommendations, the council identified a shortfall of 85 houses in the Forfar, Kirriemuir & the Glens Housing Market Area up to 2011. Officials then recommended that part of this shortfall should be addressed in Kirriemuir by amending the phasing of site K2 Hillhead from 40 to 80 houses in the period to 2011. Councillors rejected this, instructing instead that a site at Beechwood Place should be included for 40 houses. Post-inquiry modifications to that effect were published in February 2007 but because objections were received, the council reverted to the originally recommended re-phasing of K2 Hillhead to allow 80 houses in the period to 2011. Accordingly, a second round of post-inquiry modifications was published in September 2007. Objections were again received, but this time the council resolved to make no further change to the local plan review, preferring instead that the objections are considered at this second inquiry.

REPORTER'S CONSIDERATION

The Select Homes objection falls into 2 main parts, namely the fundamental objection to the deletion of the Beechwood Place site from the proposed modifications, and the secondary objection that if it is reinstated, the site should be made bigger to make best use of the space and to relate as closely as possible to the configuration of the adjoining business park at East Muirhead of Logie.

Turning first to the fundamental objection, given improved drainage potential, the previous Reporters concluded that the approved structure plan housing land need in Kirriemuir should be satisfied on more than one site. They then considered a range of competing options that had been drawn to their attention by way of objections, to accommodate the balance of the amount subtracted from K2 Hillhead. The competing sites included Beechwood Place, and at least part of Sunnyside. The outcome of that process preferred Sunnyside for reasons explained in the first inquiry report (core production CP 14, pages 293 to 298).

In the context of the current shortfall of land to accommodate 40 houses in Kirriemuir, I have dealt with the policy background to the council's proposal to resolve this issue by accelerating development at K2 Hillhead, against the linked Select Homes objection to that site. I do not propose to repeat the argument here, other than to stress that I find no justification in national planning policy or in the approved structure plan for disregarding the potential contribution that a site like K2 might make, in favour of another site that was not allocated at the last inquiry. Policy does not support the contention that other sites like Beechwood Place and the extra land at Sunnyside can simply be slotted in instead of, or in advance of, an allocated site like K2, especially when that site is not even brownfield land. I find also that the future housing land position for the relevant housing market area has been taken into account, and that the approved structure plan specified review would be the proper way to consider any subsequent shortfall in supply. Therefore, based on all of the above, the council's response to the current situation of allocating the extra housing to K2 Hillhead is appropriate and the Beechwood Place site is not in contention.

I have also dealt with the issue of community benefits at Hillhead in the context of the linked K2 objection, so that I will only restate my conclusion that these expectations have not diminished, that the clear majority are now secure, and that the original K2 allocation stands undamaged by the minor changes that have occurred in the interim, due to circumstances beyond the council's control.

The previous Reporters took specific account of landscape and visual impact at Beechwood Place (paragraphs 2.1198 and 2.1199). They concluded that the proposed south boundary, which at that time was as now requested by the Select Homes objection, i.e. it lined through with the business park and was south of the farm access, offered little containment. As a result, the larger site then under consideration would have a high level of local visual impact, which they judged to be harmful. While the current Select Homes objection disagrees with that view, no new evidence has been presented to show that the impact of the reduced number of homes now under consideration would be better.

The previous Reporters accepted that their concerns over landscape and visual impact might need to be set aside if more housing allocations are needed (paragraph 2.1200). I am satisfied that position has not yet been reached because the existing K2 allocation has enough spare capacity to absorb the current need of 40 houses. Therefore, there is still no justification to set aside the Reporters' concerns, especially as I have no evidence to show that the impact 40 houses on a smaller site might not be worse. I have noted the suggestion that more land could be allocated for future development, but that position has not been justified by factual evidence to show a clear future need for more housing land beyond 2011. In contrast, the only evidence presented is the council's most recent housing land audit (core production CP 70 and council production 1), which shows an adequate supply. But if that situation should change, the whole Beechwood Place site could then be reconsidered as part of the review process envisaged by the approved structure plan and SPP 3, which I have referred to above and described in more detail elsewhere in this report.

As regards the link with the business park, the approved structure plan requires that local plans should provide a supply of employment land in the same way as for housing. For Kirriemuir, this amounts to up to 5 hectares (core production CP 1, Employment Policy 1, page 12). In satisfying this, the finalised local plan review proposed to allocate land at East Muirhead of Logie (paragraph 2.45), so the justification for the business park is based on the approved structure plan and not on a council vision of a southerly expansion of Kirriemuir based on a linked housing and business park development. The finalised local plan review proposals map shows the allocation as a 4 hectare business park at K4: Working – East Muirhead of Logie. However, the allocation is subject to the following caveats:

development is subject to a joint development brief with the then adjoining K3 Beechwood Place housing site;
longer term vehicular access to the business park via a new distributor road; and
both sites are to be subject to a combined landscaped and boundary treatment, to create best fit (page 142).

Therefore, the finalised local plan review created some linkage, but there is no suggestion that the development sites are interdependent. While I can see distinct advantages in pursuing a strategic development of that whole area via a planned, combined, and master planned approach, these benefits are only relevant if the housing development is fundamentally necessary or desirable. I have stated above my view that it is not currently necessary, and the previous Reporters found it to be undesirable. In reaching that view, they clearly balanced whether this benefit would outweigh their other concerns.

The previous Reporters considered an objection by Select Homes to K4, which stressed the benefits of the distributor road in providing good access to the business park. I note here a particular statement in the Reporters' summary of evidence from Select that *Even in the event of housing land not coming forward at this time, the local plan review should make adequate provision for a good quality access to the employment land. This is an important requirement in its own right but is also needed so as not to prejudice future housing at Beechwood Place* (core production CP 14, paragraph 2.1260). I consider that this statement suggests the housing and employment proposals were being presented and considered as separate packages, which differs from the current objection. I find nothing in the Reporters' summary of the corresponding housing site objection that contradicts that view (pages 263 to 265). Therefore, I am satisfied that the previous Reporters considered the proposals as divisible and recommended accordingly, i.e. that the business park should proceed whereas the housing should not. On that basis, the distributor road did not justify the business park alone, because other acceptable options existed directly off Forfar Road. Similarly, the predicted amount of traffic generally, and especially turning traffic through the Morrison Street/Glamis Road junction with the housing development was judged not to be enough to justify the new road, and thereby to outweigh the landscape and visual impact concerns that persuaded against allocation of the Beechwood Place site for housing (paragraph 2.1206).

Therefore, I find that the only new issue raised for consideration at this inquiry relates to the question of cross subsidy between the business park and the housing site. Although the concept of cross subsidy can be a valid planning consideration, in this case I have no clear factual, or quantifiable evidence to show where or why any funding gap might arise, or to show exactly how the profit from the housing would be ploughed back into some particular aspect of the business park development, and quickly enough to secure the urgent site start that all seem to want. I note here that Guild Homes offered a concession in the context of the K2 Hillhead site, whereby if this kind of evidence was produced, they would not oppose some housing allocation at Beechwood Place in place of K2. Clearly without this evidence, there can be no justification for invoking that concession. In discussing the issue at the Beechwood Place hearing session, it emerged that the concerns were because of private and contractual arrangements that seemed to prevent development of the business park in isolation. Clearly this is not a valid planning consideration, other than the extent to which it might stop delivery of a desirable development. However, with the council's available statutory compulsory purchase powers, the business park could still be implemented, although I accept that it would be delayed. Nevertheless, in all of these circumstances, I am satisfied that the cross subsidy issue is not of enough weight to justify allocating an otherwise unacceptable housing site, just to unlock the business park.

Consequently and overall, I find no reason to depart from either the correct policy response to the existing housing land shortfall, or the previous Reporters' conclusions.

Turning next to the Learmonth objection, I have included reference to this in my report against the possibility that the outcome might have found in favour of allocating the Beechwood Place site. In that case, I would have needed to consider the Learmonth opposition in detail. However, because I have concluded that the Beechwood Place site should remain deleted from the local plan review, I find, as the council has done, that the objection is satisfied. Based on that, consideration of the issues raised via this second inquiry is no longer applicable.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the site south of Beechwood Place should not be allocated for development as a response to the current shortfall in the relevant housing market area.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Council position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and confirm Local Plan Review position as follows:

- Delete site K4: Housing – South of Beechwood Place
 - Amend the Kirriemuir Inset Proposals Map to remove land South of Beechwood Place and redraw the development boundary.
 - Renumber K5: Working – East Muirhead of Logie, Forfar Road as **K4**.
-

K4: Housing – South of Beechwood Place, Kirriemuir

Objector(s)	Objector Reference(s)
W D & I F Cameron	683/1/1 & 684/1/1
Mr & Mrs Robertson	685/1/1 & 686/1/1
Miss Celia Topping	708/1/1
Mr & Mrs Kirkman	711/2/1 & 712/1/1
Mr & Mrs Johnston	751/1/1 & 752/1/1
Mr H G McCrum	753/1/1
A S & R L Murray	861/1/1 & 1091/1/1
Wilma Falconer	878/1/1
Sheena Gallacher	1086/1/1
Alyssa Bell	1088/1/1
Harry Mowbray	1092/1/1
Mr & Mrs Dobson	1090/1/1
F M & S W Clark	703/1/1 & 704/1/1
A & N Ferguson	1085/1/1 & 760/1/1
James Hill	855/1/1
Eric Y Hill	843/1/1

Procedure	Reporter
Written Submissions	Jill Moody

BACKGROUND

Land south of Beechwood Place was not in the consultative draft version of the local plan review, but it was in the finalised version for around 50 homes as a phase 1 up to 2011, with a requirement to prepare a development brief incorporating access to the adjacent employment land referred to as K4: Working – East Muirhead of Logie. The housing site was included as an alternative greenfield site to Sunnyside, which had been deleted in response to objection. However, following objections to the inclusion of the Beechwood site, the emergence of a brownfield site beside K2 Hillhead, and taking account of an uncertain drainage position, the Beechwood Place site was deleted in the September 2005 pre-inquiry modifications.

After considering objections, the Reporters at the first local plan review inquiry, recommended in 2006 that the site should not be allocated, for landscape and visual impact reasons. They also recommended a knock-on adjustment to K4: Working.

In assessing the Reporters recommendations, the council identified a shortfall of 85 houses in the Forfar, Kirriemuir & the Glens Housing Market Area up to 2011. Officials then recommended that part of this shortfall should be addressed in Kirriemuir by amending the phasing of site K2 Hillhead from 40 to 80 houses in the period to 2011. Councillors rejected this, instructing instead that a site at Beechwood Place should be included for 40 houses. Post-inquiry modifications to that effect were published in February 2007 but because objections were received, the council reverted to the originally recommended re-phasing of K2 Hillhead to allow 80 houses in the period to 2011. Accordingly, a second round of post-inquiry modifications was published in September 2007. Objections were again received, but this time the council resolved to make no further change to the local plan review, preferring instead that the objections are considered at this second inquiry.

REPORTER'S CONSIDERATION

I have included reference to these written submissions objections in my report against the possibility that the outcome might have found in favour of allocating the Beechwood Place site. In that case, I would have needed to consider the issues raised in opposition in detail. However, because I have concluded that the Beechwood Place site should remain deleted from the local plan review, I find, as the council has done, that the objection is satisfied. I also note that the majority of the concerns were covered at the last inquiry and in the previous Reporters' recommendation that Beechwood Place should not be allocated for housing development. Based on that, the objections are satisfied and detailed consideration of the issues raised via this second inquiry is no longer applicable.

REPORTER'S RECOMMENDATION

As before, I recommend that the site south of Beechwood Place should not be allocated for development as a response to the current shortfall in the relevant housing market area.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and confirm Local Plan Review position as follows:

- Delete site K4: Housing – South of Beechwood Place
 - Amend the Kirriemuir Inset Proposals Map to remove land South of Beechwood Place and redraw the development boundary.
 - Renumber K5: Working – East Muirhead of Logie, Forfar Road as **K4**.
-

Land South of Sunnyside, Kirriemuir

Objector(s)

J & J Learmonth
James F Hill
Eric Y Hill

Objector Reference(s)

71/1/2
855/2/2
843/2/2

Procedure

Hearing & Written Submissions

Reporter

Jill Moody

BACKGROUND

Learmonth's original objection to the finalised version of the local plan review raised the potential of a further phase of development at Sunnyside in a future plan period. At the first inquiry in 2006, Learmonth proposed that 2 hectare K3 Sunnyside site should be allocated for 40 houses or, alternatively, 60 to 80 houses could be allocated to a bigger, 4 hectare site at Sunnyside, and 20 houses could be allocated to Herdhill/Martin Park. The Reporters at that inquiry noted the suggestion, but they did not consider it to be a fundamental part of the objection, they reached no conclusion, and they made no recommendations on the matter.

After publishing the post-inquiry modifications in February 2007, where the council allocated additional land at Beechwood Place to meet part of the identified shortfall of 85 houses for the period to 2011, Learmonth objected to the omission of land for a third phase of development at Sunnyside, and lodged linked objections to the Beechwood Place and Hillhead allocations. The council decided not to alter the local plan review in response, although the proposed allocation of the Beechwood Place site was subsequently deleted from the modifications. Instead, the council preferred to refer the matter of the Sunnyside omission to this second inquiry for consideration.

REPORTER'S CONSIDERATION

I find that the simple fact that the site may have been allocated for development in the past does not act as a favourable precedent, nor does it automatically justify reallocation now. Clearly those circumstances have been superseded and my current task is to consider the omission of 2 hectares of land at Sunnyside against the up to date circumstances of the housing land shortfall, the current finalised local plan review, the current approved structure plan, and the most recent national planning policies.

That said, the proposals map from the consultative draft version of the local plan review (core production CP 3) designated the site now referred to as K3, for housing K4. When the finalised version of the current local plan review was under consideration, objection was made to the omission of that specific housing site at Sunnyside. The council's published responses summarises that objection as relating specifically to the omission of the consultative draft allocated site, i.e. what is now K3, and it make no mention of the extension site, including in the council's reply (core production CP 9, pages 150 and 151). Further, the only evidence from Learmonth now on the matter is the following extremely brief and unsubstantiated statement in the previous inquiry closing submissions: *Alternatively, 60 to 80 houses should be allocated on 4 hectares at Sunnyside ...* (LEAR/PLAN/2). No more confirmation or justification than that has been provided, so on the information available to me, it would seem that the extension site was not part of that original objection.

However, I am uncertain about the exact extent of the previous Reporters consideration of more than the site referred to in that objection because in describing the site, they state that

it is bounded to the south by a line of young trees (core production CP 14, paragraph 2.1089). From my site visit and from Learmonth's current landscape assessment (LEAR/Land/01, Fig LV10), that line of trees seems to define the edge of the omission site, with the division between K3 and the extra land being unmarked. But the whole of the combined area still calculates as 4 hectares (LEAR/PLAN/9). Similar references are contained elsewhere (paragraphs 2.1089 and 2.1099), so overall, the Reporters seem to have considered the prospect of 2 and 4 hectares of land at least to some extent. For example, they considered visual impact arguably for the whole site given the reference to the south boundary position (paragraph 2.1210). But that contradicts with their statement that they did not consider the impact of the larger area linking to North Mains Road (paragraph 1.1222) and, either way, they found the impact to be acceptable (paragraphs 2.1210 to 2.1212). Equally, I have no reason to suppose that they did not consider accessibility for the whole site and, again, found that to be acceptable (paragraphs 2.1214 to 2.1216). However, their consideration of traffic impact makes specific reference to a 2 hectare site, which must exclude the extension site (paragraph 2.1217). Notwithstanding all this, I have no evidence to show that these impacts would be significantly worse for the larger site, so I have no reason to disagree with the previous Reporters general acceptance of them.

Despite these uncertainties, I am clear that neither K3 nor the extension site was included for housing in the finalised local plan review. At that stage, only K(c) was proposed, which became K(b) for which the council has now resolved to grant planning permission. Further, I am also clear that the previous Reporters only allocated 2 hectares of land for housing, which they described as abutting and stretching south from the boundary of K(b) (core production CP 14, page 306). In other words, the amount of space that they allocated matched the original finalised local plan review objection and must, by implication, have excluded the extension site, no matter how much extra land they may or may not have considered in the process. I note that parties do not dispute the fact of this allocation, and that the eventual divisions largely reflect those shown on LEAR/PLAN/9.

Next, I find that the previous Reporters did not link consideration of the balance of the Sunnyside area beyond K3 to any question of housing land need. They state quite specifically that an additional 2 hectares to the south of what became K3 was not a *fundamental part of the objection and therefore reach no conclusion and make no recommendations on this matter* (paragraph 1.1222). Given that, I find it wrong to suggest that the current shortfall of housing land justifies reconsidering their recommendations because of the current numerical shortfall.

I have dealt with the policy background to the council's proposal to resolve the current shortfall of land for 40 houses in Kirriemuir by accelerating development at K2 Hillhead, against the linked Learmonth objection to that site. I do not propose to repeat the argument here, other than to stress that I find no justification in national planning policy or in the approved structure plan for disregarding the potential contribution that a site like K2 might make, in favour of canvassing views on a new range of sites, or for supporting another site that was not allocated at the last inquiry. Policy does not support the contention that other sites, including the extra land at Sunnyside, can simply be slotted in instead of, or in advance of, an allocated site like K2, especially when that new site was clearly not fully considered before and it is not even brownfield land. I find also that the future housing land position for the relevant housing market area has been taken into account, and that the approved structure plan specified review would be the proper way to consider any subsequent shortfall in supply. Therefore, based on all of the above, the council's response to the current situation of allocating the extra housing to K2 Hillhead is appropriate and the Sunnyside extension site is not in now in contention.

The only new issue raised in the context of this inquiry that might justify a different view is the question of the deliverability of so many new houses in a relatively short timescale at

Sunnyside. PAN 38 confirms that programming is an important aspect of the effectiveness of a potential housing site, and refers to the need to take account of lead-in times, the capacity of the builder to develop the site, and the capacity of the local housing market (core production CP 40, paragraph 30). In this case, phase 1 at K(b) would involve 39 houses, phase 2 at K3 is allocated for 40 houses, and phase 3 at the proposed extension site would add a further 40, bringing the total to 119, all to be delivered before 2011. Setting aside the question of market demand for the housing product, which must be assumed to exist based on the approved structure plan housing land projection figures, the evidence supporting the objection does not confirm any of the PAN 38 considerations. For example, phase 1 may have planning permission, but Learmonth has given no estimate of how long they might need to release the site to a housebuilder for work to begin, and only the most general of statements was given as to an unspecified builder having confirmed that the extra phase of houses could physically be built within the timescale. There was also an unresolved issue in discussion about when vehicular access might be achievable to the extension site to enable work to begin on that phase, with conflicting evidence about whether:

- the current agreement for phases 1 and 2 across Mortarholes would allow it;
- the access to phases 1 and 2 must be adopted first by the council; and
- when that adoption might take place, with the council arguing that building in phases 1 and 2 must be complete first.

Either way, the lack of a factual or quantifiable case regarding these PAN 38 effectiveness requirements leaves me unable to find that deliverability is a material consideration that weighs more favourably for the Sunnyside extension site than for K2 Hillhead. In contrast to Sunnyside, the evidence for the K2 objections confirms that Hillhead already has 2 developers working towards implementation, with decisions on planning applications well advanced, and with vehicular access being formed as a site start towards beginning house building as soon as possible. This progress must make it more than likely that a significant proportion of the allocated houses at K2 will be built and occupied within the required development plan period.

Consequently, I find no new evidence or fundamental justification in the objection to the council's proposed modifications that would warrant allocating 4 hectares instead of the 2 already recommended by the previous Reporters. The simple fact that that the impact of the bigger site would be no worse than that already accepted does not of itself justify a bigger housing land allocation beyond that which is currently needed to satisfy the approved structure plan housing land requirement, especially when that can be satisfied elsewhere in Kirriemuir on a site that the council and the previous Reporters have favoured throughout.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the land south of Sunnyside should not be allocated for development as a response to the current shortfall in the relevant housing market area.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and do not allocate the site for housing.

F8: Housing – Slatefield, Forfar

Objector(s)

Ms B Eleanor Gledhill

Objector Reference(s)

1108/1/1

Procedure

Written Submissions

Reporter

Jill Moody

BACKGROUND

At the finalised local plan inquiry in 2006, the Reporters considered an objection into the omission of this site. They recommended that the site should be allocated for a high quality development of around 5 homes (core production CP 14). The council's published post-inquiry modifications allocated the site as F8 for housing, and applied a maximum of 5 homes (core production CP 22). However, the council's subsequent objection response in 2007 proposes to change this reference to accord with the Reporters' recommendation. The issue is referred to this second inquiry in response to an objection to that second proposed post-inquiry modification.

REPORTER'S CONSIDERATION

Arguably, this objection raises issues that were considered before, which should not be revisited at this extremely late stage. However, in the interests of thoroughness and complete transparency of process, I have preferred to comment as follows.

Reference is made in the objection to the loss of views and to the reduction of house values. Because it is not the function of the planning system to preserve private benefits and individual property values, neither of these issues can be relevant planning considerations.

Before the last inquiry, the objections, the various inquiry sessions and timetable were advertised and all the documents, objections, responses, statements, and precognitions were placed on public deposit for reference around a variety of local venues. As a result, the consideration of an objection into the omission of Slatefield as a housing site was widely and obviously publicised. Following the first inquiry, the site was mentioned explicitly in the list of significant changes detailed in the November 2006 committee report, as follows *Forfar – at Gowanbank and Slatefield – Reporter recommends allocation of additional housing sites* (core production CP 15, paragraph 3.4). In addition, Table 2 in the report specifies Slatefield and recommends acceptance of the Reporters' recommendations (page 7). Section 5 of that same report then details the intended subsequent publicity measures for the post-inquiry modifications, which were to:

- advertise the proposed modifications and to allow 6 weeks for comment, as per the regulations;
- to place information in local libraries and on the council's web site;
- to notify previous objectors;
- to make copies of the council's responses available on request; and
- to report back to committee once the objection period had closed.

The council's statement of response to the objections received as a result of that process was reported to committee in August 2007 and the only objection for Slatefield was from Select Homes (Tayside) Ltd regarding the maximum applied to the number of houses allocated to the site. The council then adjusted its position and re-advertised, with a further

6 week objection period. It was only then that an objection emerged from Mrs Gledhill. No other community response had been forthcoming throughout. Therefore, the evidence shows beyond doubt that the council has complied with, and indeed has exceeded, its statutory obligations under the applicable regulations in terms of handling and publicising objections to the local plan review, along with the responses and subsequent modifications arising. It is also beyond doubt that the consideration of local plan objections is not subject to the same neighbour notification requirements as apply to planning applications. Equally, the lack of an objection to the local plan review does not preclude an objection to any planning application, so that the basic right to object has not been removed.

At the last inquiry, it was for the council to present its case as it saw fit. The Reporters then balanced all of the written documents and arguments, as well as the oral evidence, before reaching their conclusions, so that the council's precognitions only form part of that overall picture. Further, when the previous Reporters looked at the principle of including Slatefield as a housing site, they stated beyond doubt that no site layout had been considered (core production CP 14, paragraph 2.844, page 211). Therefore, if the subsequent planning application plans are not accurate, that issue should be raised with the development management staff instead. It is not the function of this process or report to consider those details.

The previous Reporters assessed the proposed site allocation in the context of other applicable structure and local plan policies, and explicitly against SPP 3 (core production CP 14, paragraph 2.836, page 210). In addition, they considered visual and landscape impact, based not just on the submitted evidence, but also on their own site inspections and experienced perceptions, with the conclusion that low density development would cause no significant harm. The issue of choice and any need for the site was also considered, along with the balance of allocations on brownfield and greenfield land. The conclusion in each instance was that the site was acceptable for development as described (pages 210 and 211).

The existence of the section 75 agreement was not regarded as an impediment to the proposed allocation by the last Reporters and, in my view, it could not be the intention of the Planning Act to create a situation whereby a planning authority could disable itself from carrying out its proper planning functions. In addition, section 75 agreements generally contain provision for a termination, specifically to allow for the prospect that circumstances may change and the agreement may no longer be relevant. Therefore, any misinterpretation of the long term effect of the agreement is unfortunate, but it should not prevent the recommended allocation from being incorporated into the local plan review.

No quantifiable evidence has been submitted to show that the site is so constrained as to be undevelopable, or that the agricultural unit of which it may or may not form part would be rendered unviable by development. For example, I note no objection to that effect from the relevant farmer. The evidence about a lack of market interest and demand for housing is contradicted by the assessment of land supply and demand until 2011 in the context of Housing Policy 1 from the approved Dundee and Angus Structure Plan (core production CP 1).

For all of these reasons, I am satisfied that the objection raises nothing that was not considered before, or that otherwise justifies overturning the previous Reporters' conclusion that the Slatefield site is, in planning terms, suitable for the form of housing development they described.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the council proceeds to allocate the site described as F8: Slatefield, for a high quality development of around 5 homes, with the final number being left to the development management process to determine.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and confirm Local Plan Review modification as follows:

"F8 : Housing - Slatefield

Approximately 2ha of land at Slatefield is allocated for a high quality residential development of around 5 houses."

F8: Housing – Slatefield, Forfar

Objector(s)

Select Homes (Tayside) Ltd

Objector Reference(s)

871/1/1

Procedure

Written Submissions

Reporter

Jill Moody

BACKGROUND

At the finalised local plan inquiry in 2006, the Reporters considered an objection into the omission of this site. They recommended that the site should be allocated for a high quality development of around 5 homes (core production CP 14). The council's published post inquiry modifications allocated the site as F8 for housing, and applied a maximum of 5 homes (core production CP 22). However, the council's subsequent objection response in 2007 proposes to change this reference to accord with the Reporters' recommendation. Nevertheless, the issue is referred to this second inquiry for completeness.

REPORTER'S CONSIDERATION

The previous Reporters' conclusions did not refer to the issue of vehicular access, but they did note the specific lack of any indicative layout for the site (core production CP 14, paragraph 2.844). The recommendation to allocate the site for 5 houses appears to stem from evidence that the site could contain a range of 5 to 10 homes, which was not disputed.

I note that the principle of the allocation is acceptable to the council and, that based on the particular circumstances of the site, the access constraint previously applied by roads officials, which limited development to a maximum of 5 houses, has now been lifted. I see no reason to disagree with that view, or to depart from the views expressed by the previous Reporters.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the site should be allocated for a high quality development of around 5 homes, with the final number being left to the development management process to determine.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and confirm Local Plan Review modification as follows:

"F8 : Housing - Slatefield

Approximately 2ha of land at Slatefield is allocated for a high quality residential development of around 5 houses."

F9: Safeguard Site – North of Turfbeg, Forfar

Objector(s)

Elite Homes (Tayside) Ltd

Objector Reference(s)

69/1/1

Procedure

Written Submissions

Reporter

Jill Moody

BACKGROUND

At the finalised local plan inquiry in 2006, the Reporters considered an objection into the omission of this site north of Turfbeg. They recommended that *the local plan review is modified whereby 17.6 hectares of land at Turfbeg is identified as being safeguarded for around 300 houses in the period beyond 2011. The text should further indicate that the development proposals are subject to review and will require to be confirmed by a future local plan* (core production CP 14, paragraph 2.881). In the preamble to that recommendation, the Reporters stated that:

the safeguarding stems from the fact that the required amount of housing land up to 2011 can be provided on other sites;

Development proposals will require to be confirmed by a future local plan; and

if appropriate, a community need could also be included in a future local plan (core production CP 14, paragraph 2.879).

The council's post-inquiry modifications accepted this recommendation and safeguarded the site for that amount of housing, plus related community facilities, adding that *The possible future allocation of the site will require to be confirmed by a future local plan. No development will be permitted in the period to 2011.* The supporting text states that the site was not allocated formally by the Reporters, and that the safeguarding is to prevent development proposals in the short term that might prejudice the future use of the land for those specified purposes (core production CP 22, page 129).

Following publication of the proposed post-inquiry modifications, Elite Homes (Tayside) Ltd objected. The council's subsequent response proposes no change, preferring instead that the objection should be considered at this second inquiry.

REPORTER'S CONSIDERATION

Housing Policy 1 from the approved Dundee and Angus Structure Plan (core production CP 1, pages 21 and 22) expects that local plans will:

- allocate sites to meet Schedule 1 up to 2011; and
- take account of the indicative scale and distribution of the land identified in Schedule 1 for development beyond 2011.

In other words, the approved structure plan differentiates between immediate allocations and longer term identifications. SPP 3 matches the approved structure plan in the wording used, i.e. that future sites should be identified (paragraph 65).

The previous Reporters' recommendation is explicit, i.e. that the site at north of Turfbeg is to be safeguarded for housing. The Reporters did not allocate Turfbeg because the amount of housing required by approved structure plan Housing Policy 1 and Schedule 1 for the relevant housing market area up to 2011 was met on the other allocated sites, so the extra

contribution from Turfbeg was not needed in the short-term (core production CP 14, paragraph 2.879). Accordingly, I am satisfied that the Reporters made a clear and intentional distinction between an allocated and a longer term safeguarded site, which distinction takes full account of the approved structure plan and SPP 3.

I also find little doubt that the Reporters' intention in making their recommendation, was to link the possible eventual allocation of the site to a future local plan review. Their recommendation stipulates this, as does the supporting text from the report, which includes community need if appropriate in that same expectation (core production CP 14, paragraphs 2.881 and 2.879 respectively). The council's proposed modification accords generally with that recommendation, apart from the fact that the council seems to have incorporated the need for confirmation by a local plan into the wording of the proposal, as opposed to the supporting text, which the Reporters specified. Subject to this minor change of emphasis, i.e. moving the reference, the council's modification would accord entirely with that aspect of the Reporters' recommendation.

Whether or not the Reporters' intention has been applied consistently across other safeguarded sites in the housing market area does not, as a matter of principle, justify changing Turfbeg because each site falls to be considered on its own individual merits. The treatment of one should not act as an automatic precedent to justify treating others in an identical fashion.

The approved structure plan and SPP 3 undoubtedly expect flexibility in ensuring an adequate supply of effective housing land. However, the approved structure plan states that:

- the longer term allowances in Schedule 1 will be subject to review (core production CP 1, paragraph 4.17 and Schedule 1);
- the annual monitoring process is the trigger to confirm a shortfall (Housing Policy 1); and
- if the annual monitor shows *that any of the current effective sites are no longer effective*, others should be found to cover the shortfall, considering *sites in the established supply in the first instance*, followed by any brownfield opportunities (Housing Policy 1).

In other words, local plan allocations will be the preferred source of sites to offset any emerging shortfall. SPP 3 confirms that monitoring should occur via the annual audit process (paragraph 65), and that development plan alterations can be used to address any housing land shortfall, unless longer term allocations and releases can be brought forward (paragraph 66). Planning Advice Note 38: *Housing Land* (PAN 38, core production CP 40) is expressed similarly, but it states that additions should either be brought forward through revisions to the local plan or by granting planning permission if the local plan route would otherwise be too late (paragraph 41). PAN 38 also confirms that where a shortfall emerges, the planning authority should ensure that extra land is brought forward by means of an alteration to the development plan (paragraph 42).

Therefore, the approved structure plan and SPP 3 impose a clear hierarchy, with the development plan process remaining the proper central forum for considering sites beyond the initial period. If that process is lagging behind an emerging shortfall, the next recourse is to use allocated sites. After that, sites in the established land supply or brownfield options should be considered, all before promoting an alteration to the development plan or granting advance planning permission. Hence, if a shortfall in the effective land supply emerges, response mechanisms are in place that include granting permission. However, because

Turfbeg is safeguarded and not allocated, or part of the established supply, or brownfield, it cannot benefit from this flexibility in advance of other allocated sites.

Based on this, paragraph 66 of SPP 3, which states that *an alteration is not required if longer term allocations and releases are simply brought forward earlier*, does not apply to Turfbeg and I find no support for the contention that the allocated and the identified sites can be viewed as interchangeable without recourse to due process. Further, the approved structure plan and national planning policy make clear that development plan alterations and planning permissions are the only options available in addressing an emerging housing land shortfall. In other words, to accord with the approved structure plan and national planning policy, the only way that Turfbeg could be released for development to offset any future shortfall is via a further local plan review or if planning permission were to be granted. The previous Reporters' recommendation accords entirely with this approach.

That said, the council is currently seeking to address a small land supply shortfall for Forfar's housing market area for the period up to 2011. The Finalised Dundee and Angus Housing Land Audit 2007 (core production CP 70) and the land proposed for release through the local plan review as modified, up to and including the current proposed modifications show that there is enough effective land currently available either allocated or with planning permission to meet the full approved structure plan requirement for that period. Furthermore, with the proposed modifications, there would be more than the required 5 year land supply available. Given that position, and the response hierarchy described above, I find no current need to amend the terms of the proposed F9 modification wording, whereby any part of Turfbeg would become allocated for use now, as opposed to remaining safeguarded for the future. If future annual monitoring produces another shortfall in the effective housing land supply, the council would then address that deficiency by looking first to the established supply, which process accords with SPP 3, PAN 38, and approved structure plan Housing Policy 1. For this particular local housing market area, that would affect the allocated sites where the local plan review has phased development beyond 2011, but it would still not include Turfbeg.

Nevertheless, I note that the council's proposed modification includes a statement to the effect that development will not be permitted in the period until 2011, which amounts to an embargo on development that was not part of the previous Reporters' recommendation. The objection seeks to have that development embargo augmented, in circumstances where that release is needed to maintain an effective land supply. I have discussed the available responses to a shortfall in the effective land supply above, but I find that the council's changed modification does not allow for that full range of options to address any future shortfall. In particular, it excludes the flexibility of granting permission because it explicitly prevents development from being permitted before 2011, i.e. presumably under any circumstances. Consequently, this aspect of the proposed modification does not accord with the Reporters' recommendation and should be changed.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the council's proposed modification should be changed to reflect the Reporters' recommendation accurately, i.e.:

- to place the reference to the local plan review in the supporting text; and
- to delete the development embargo.

The council might consider replacing the embargo with a statement to the effect that no development will be permitted in the period to 2011, unless the annual monitoring process shows an emerging land supply shortfall, which cannot be accommodated on existing

allocated sites, or on sites that form part of the established land supply, or on brownfield sites, all in accordance with established planning policy.

HEAD OF PLANNING AND TRANSPORT COMMENT

The Reporter has endorsed the general approach promoted by the Council, following the first public inquiry, in safeguarding the Turfbeg site for possible future development subject to a future Local Plan Review, but raises issues with respect of the compatibility of the detailed wording with the recommendations from the original reporter. Rewording of the text is now suggested by the second Reporter.

The Reporter has confirmed that the site should not be allocated for development and that the site should be considered as part of a future local plan review.

Monitoring of the allocated housing sites will continue through the annual housing land audit process, which will provide early warning of issues relating to housing site performance. If the overall housing position deteriorates such that additional housing land release earlier than 2011 was required, the matter can be dealt with through the hierarchy approach advocated by Dundee & Angus Structure Plan Policy H1: Housing Land Provision which indicates that:

To ensure the continuous provision of a minimum five year effective housing land supply in each housing market area, Local Plans should allocate land to meet the additional allowances in Schedule 1 up to 2011, in accordance with the development strategy, and take account of the indicative scale and distribution of land identified in Schedule 1 for development beyond 2011. If the annual monitor of housing land demonstrates that any of the current effective sites are no longer effective, alternative land should be identified to make up the shortfall, considering the potential contribution from sites in the established.

In the circumstances the Reporter's main recommendation to delete the sentence 'No development will be permitted in the period to 2011' can be accepted. However given the position already set out in the Structure Plan Policy H1, there is no need to make further modification to the Local Plan Review position.

RECOMMENDATION TO COMMITTEE

Accept the Reporter's recommendation and amend F9 Safeguarded Site - North of Turfbeg as follows:

New F9 : Safeguarded Site – North of Turfbeg

17.6 ha of land north of Turfbeg is safeguarded for possible development of around 300 houses and related community facilities in the period beyond 2011.

The possible future allocation of the site will require to be confirmed by a future local plan.

F9: Safeguard Site – North of Turfbeg, Forfar

Objector(s)

Webster Contracts Ltd

Objector Reference(s)

202/1/6

Procedure

Written Submissions

Reporter

Jill Moody

BACKGROUND

At the finalised local plan inquiry in 2006, the Reporters considered an objection into the omission of this site. They recommended that *the local plan review is modified whereby 17.6 hectares of land at Turfbeg is identified as being safeguarded for around 300 houses in the period beyond 2011. The text should further indicate that the development proposals are subject to review and will require to be confirmed by a future local plan (core production CP 14, paragraph 2.881).* In the preamble to that recommendation, the Reporters stated that:

- the safeguarding stems from the fact that the required amount of housing land up to 2011 can be provided on other sites;
- *Development proposals will require to be confirmed by a future local plan;*
- the site relates acceptably to the existing settlement boundary;
- the landscape and visual impact is acceptable;
- if a community need is identified, the site is big enough to accommodate that; and
- if appropriate, a community need could also *be included in a future local plan (core production CP 14, paragraphs 2.782 to 2.879).*

The council's published post-inquiry modifications accepted this and safeguarded the site for that amount of housing, plus related community facilities, in the period beyond 2011, adding that *The possible future allocation of the site will require to be confirmed by a future local plan. No development will be permitted in the period to 2011.* (core production CP 22, page 129). Following publication of the post-inquiry modifications in February 2007, Webster Contracts Ltd objected to the proposed modification on the basis that the process of safeguarding is wrong, and that Turfbeg is unsuitable in terms of landscape fit and primary education provision.

REPORTER'S CONSIDERATION

Arguably, this objection raises issues that were considered before, which should not be revisited at this extremely late stage. However, in the interests of thoroughness and complete transparency of process, I have preferred to comment as follows.

The approved structure plan expects that sites will be allocated up to 2011 and that beyond that, sites should be identified to provide for any shortfall that might subsequently emerge (core production CP 1, Housing Policy 1). The approved structure plan and Scottish Planning Policy 3: *Planning for Housing* (SPP 3, core production CP 32) matches the approved structure plan in the wording used, i.e. in that future sites should be identified and that monitoring should occur via the annual audit process (paragraph 65). In addition, SPP 3 confirms that development plan alterations can be used to address any housing land shortfall, unless longer term allocations and releases can be brought forward (paragraph 66). Planning Advice Note 38: *Housing Land* (PAN 38, core production CP 40) is expressed similarly, but it states that additions should either be brought forward through revisions to the local plan or by granting planning permission if the local plan route would otherwise be too

late (paragraph 41). PAN 38 also confirms that where a shortfall emerges, the planning authority should ensure that extra land is brought forward by means of an alteration to the development plan (paragraph 42). As a result, I find a clear basis in planning policy of all levels for the Reporters' endorsement of the council's wish to safeguard sites for possible future housing development.

In accordance with the approved structure plan, the finalised local plan identifies specific longer term housing opportunities for Forfar, i.e. including part of Westfield. However, there can be no doubt that in preparing their report, the previous Reporters compared a range of sites, including Turfbeg and Westfield and, for the reasons clearly set out in their report, they favoured Turfbeg. These reasons included landscape and visual impact, which they found to be especially damaging at Westfield (core production CP 14, paragraphs 2.758 to 2.792) and acceptable at Turfbeg (paragraphs 2.872 to 2.875). Further, their recommendation is explicit, i.e. that Turfbeg is to be safeguarded for housing instead of Westfield, but with an additional text caveat that the safeguarding is to be subject to review and confirmation by a future local plan (paragraph 2.881). Consequently, the Reporters' clear intention in making their recommendation was to link the possible eventual allocation of the site and the potential need for a community facility like a primary school, to a future local plan review. The council accepts that general recommendation and has included it in the proposed post-inquiry modifications.

The approved structure plan estimates a need for some 525 houses for the period 2011 to 2016 (core production CP 1, Schedule 1) and, as a result of this post-inquiry modification process, the contribution of 300 houses to that estimate has simply been redirected from Westfield to Turfbeg. Nothing in the current situation suggests that a much greater number of houses will be needed at that later stage, whereby Westfield might be justified in addition to Turfbeg. However, should that arise, the way in which the recommendation is expressed shows clearly that it is for a future local plan review to repeat the comparison process. Given that, a further opportunity will exist to promote competing options in open, public forum.

The previous Reporters also considered the potential need for a new primary school to serve the site. While they seem to have been in some doubt about the definite need for this kind of community facility, they have covered that uncertainty because the preamble to the recommendation refers to development proposals, including community need if appropriate, being confirmed by a future local plan (core production CP 14, paragraph 2.879). The council accepts that general recommendation and has included it in the proposed post-inquiry modifications. The objection is not supported by evidence to show exactly how or why a new school at Turfbeg would be contrary to education policy and advice. But in any event, the council's response shows that the site is in the catchment of the new Whitehills Primary School, which is currently under construction (core production CP 23, page 48). Therefore, I find that this aspect of the objection has been overtaken by events.

Overall therefore, I am satisfied that the objection issues were considered explicitly by the previous Reporters, with the conclusion that the effect would be acceptable. No new evidence has been raised in the current objection that justifies a different view.

REPORTER'S RECOMMENDATION

Accordingly, I recommend that the council adheres to the proposed post-inquiry modification to safeguard Turfbeg for some 300 houses, plus related community facilities, for the period beyond 2011.

HEAD OF PLANNING AND TRANSPORT COMMENT

This is a different objection to that dealt with earlier. The Reporter identifies that there is no justification for safeguarding land at Westfield in the FALPR in addition to the land safeguarded at Turfbeg. The Reporter restates 'that it is for a future local plan review' to provide the opportunity to consider 'competing options in an open public forum.'

RECOMMENDATION TO COMMITTEE

No change.

Note that a modification relating to wording of F9 Safeguard Site – North of Turfbeg is being recommended in response to the Reporter's recommendation for objection 69/1/1

New Neighbourhood, Westfield, Forfar

Objector(s)

Webster Contracts Ltd

Objector Reference(s)

202/1/5

Procedure

Written Submissions

Reporter

Jill Moody

BACKGROUND

Some 107 hectares of land was identified in the finalised Angus Local Plan Review as site F7 at Westfield, for the development of a new neighbourhood that was to include up to 300 houses, a distributor road linking Dundee Road/Westfield Loan and Glamis Road, major open space/park facilities, and an area for possible community facilities, all in the period up to 2011. After that, more land was safeguarded for further housing development, a new primary school, and business/employment development. However, the previous Reporters recommended that the site should be deleted from the local plan review mainly because the need for a new neighbourhood was not justified, and development west of Westfield Loan would have an unacceptable visual impact on the landscape setting of Forfar. Angus Council agreed in November 2006 to accept the Reporters' recommendation and published a post-inquiry modification deleting the site from the local plan review. Subsequently, an objection was received to that post-inquiry modification on the basis that the other sites proposed for allocation are incapable of being effective because they cannot be delivered in the relevant plan period.

REPORTER'S CONSIDERATION

The Reporters allocated other sites in Forfar that are effective. These allocations included Wester Restenneth, where the removal of a sewage constraint enabled the site capacity to increase to 250 overall, and to 100 in the period to 2011. A small subsequent housing land shortfall has emerged, and Housing Policy 1 from the approved structure plan plus SPP 3 confirm that the council should respond by accelerating longer term allocations and using the established land supply as the first recourse to address that shortfall (core production CP 32, paragraph 66). Consequently, I find that the council's approach is appropriate against national planning policy, and more especially so because the previous Reporters recommended against development at Westfield for such comprehensive and fundamental reasons, i.e.:

- the allocated sites are enough to satisfy the approved structure plan requirement up to 2011 and, while a margin of flexibility is appropriate, 300 units at Westfield is too much;
- constraints have been removed from the allocated sites to offset the gap caused by the loss of Westfield;
- the new neighbourhood has not been shown to be sufficiently integrated or substantiated to support the allocation;
- there is more chance of the whole neighbourhood being achieved if it is delayed until after 2011;
- the school may not be needed and there is no evidence to support the need for more employment land;
- the visual impact would disturb the landscape setting of Forfar to a significant and adverse degree, which outweighs any gain in strengthening the town's edge;
- other sites are less visually harmful;

- the site is not ideally situated in terms of accessibility; and
- the traffic implications for the A90/A932 have not been fully assessed (core production CP 14, paragraphs 2.758 to 2.792).

On that basis, it would be inappropriate to disregard the potential contribution from an allocated site, i.e. Wester Restenneth, in favour of releasing an alternative, which was so soundly rejected at the last inquiry. Further, I note that no evidence has been submitted via the objection to show that the allocated sites are not effective.

The shortfall in housing land supply that has emerged for Forfar's housing market area since the last inquiry into the finalised local plan review, amounts to some 85 houses. The council proposes to address this by apportioning 40 homes to Kirriemuir and 45 to Forfar respectively. I am satisfied that such a small shortfall in Forfar could still not reasonably justify allocating a site for development with capacity for some 300 houses. The balance between these figures is clearly disproportionate and it would result in an over supply of housing land. The ability of the market to absorb such a significant extra amount of new housing over and above that identified as necessary by the approved structure plan for the short to medium term, must be questionable. Allowing this kind of substantial over supply of housing land, or even allowing some now and safeguarding the balance for later, which goes beyond the remit of this inquiry, increases the prospect of a piecemeal, staggered delivery of development at Westfield. Clearly that is the direct opposite of the council's finalised local plan vision of an integrated new neighbourhood. As I have stated above, the previous Reporters considered this issue, and concluded that the proposal did not show enough integration to justify supporting the allocation and exceeding the housing land requirement by such a significant margin (core production CP 14, paragraphs 2.761 to 2.766). The objection contains no evidence to show a need for so many more houses, market capacity for those houses, or a greater degree of integration, all of which might have justified an alternative view.

That said, Westfield was part of the council's earlier vision for Forfar, and it may yet re-emerge in the future. But in the meantime, for its own reasons and weighing the Reporters' recommendations, the council has chosen to depart from the finalised local plan position. This decision is entirely for the council.

After the first inquiry, Westfield was mentioned explicitly in the list of significant changes detailed in the November 2006 committee report (core production CP 15, paragraph 3.4). In addition, Table 2 later in the report specifies Westfield and recommends acceptance of the Reporters' recommendations (page 7), so that the process was publicised. Section 5 of that same report then details the intended subsequent publicity measures for the post-inquiry modifications, which were to:

- advertise the proposed modifications and to allow 6 weeks for comment, as per the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983;
- to place information in local libraries and on the council's web site;
- to notify previous objectors;
- to make copies of the council's responses available on request; and
- to report back to committee once the objection period had closed.

The council's statement of response to the objections received as a result of that process was reported to committee in August 2007 and the only remaining unresolved objection referring to Westfield was from Webster Contracts Ltd. The council then adjusted its position and re-advertised, with a further 6 week objection period, and no other community response was forthcoming throughout that whole process. Therefore, the evidence shows

beyond doubt that the council has complied with, and indeed has exceeded, the letter of its statutory obligations under the applicable regulations in terms of handling and publicising objections to the local plan review, along with the council's responses and subsequent modifications arising. Changes are in train to these regulations, but as yet they have no statutory force and, given that the local plan process began a number of years ago, I find the council's actions are appropriate in the context of the extant regulations.

The issue of proximity and convenience for Orchardbank business park was considered by the last Reporters and was judged insufficient justification for allowing development of Westfield, especially given all of the other shortcomings that I have summarised above. Further, the council has since stated clearly that it never made any direct link with Orchardbank in proposing Westfield, and seeking to justify it as a new neighbourhood.

Accordingly, I find no new evidence or other reason in the objection that would justify departing from the previous Reporters' basic recommendation against allocating Westfield for housing development before 2011.

REPORTER'S RECOMMENDATION

I recommend that the Westfield site should not be allocated for development as a response to the current shortfall in the relevant housing market area.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Council's position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Accept the Reporter's recommendation and make no Local Plan Review housing allocation at Westfield.

Policy SC6: Countryside Housing – New Houses

Objector(s)

Fox Planning Consultancy

Objector Reference(s)

862/2/1

Procedure

Hearing

Reporter

Jill Moody

BACKGROUND

In response to objections at the earlier stages of the local plan review, the council proposed wide ranging changes to the suite of countryside housing policies. These changes were presented to the Reporters undertaking the last inquiry in 2006 and, from them, proposed modifications 6 and 8 in particular intended to insert text and policy SC6, each to allow opportunities for new house building in the countryside. They also proposed Schedule 2. The previous Reporters agreed broadly with these pre-inquiry modifications, and recommended accordingly (core production CP 14, pages 37 to 38, 63 to 64, and 67). The only specific changes that are relevant to this objection were:

- a requirement for a proposal to include a supporting statement of site history;
- an acceptance that marginally more than 4 houses could be accommodated where it can be proven that there are *social, economic or environmental reasons of overriding public interest requiring such a scale of development in a countryside location*; and
- changes to Schedule 2 to avoid the creation of a precedent or the opening of further areas for similar applications.

The council's published proposed post-inquiry modifications incorporate all of these changes (core production CP 14, paragraphs 1.178 and 1.179 and 1.181 to 1.184, plus core production CP 22, pages 31 to 35).

REPORTER'S CONSIDERATION

Because this objection relates to the final amalgam of the specific provisions of the proposed pre and post-inquiry modifications, it could not all have been covered at the last inquiry, whereby it should now be considered at this second inquiry.

The council has not covered every possible development type in the proposed policy SC6, believing that related supplementary guidance can add more descriptive detail than the basic policy could bear. I find in the context of current national planning policy and advice, that because this basic suite of local plan policies is clear, this approach is correct (Scottish Planning Policy 1: *The Planning System* (SPP 1, core production CP 30), Planning Advice Note 49: *Local Planning* (PAN 49, core production CP 43, annex 1 paragraph 11 and annex 3), and PAN 72: *Housing in the Countryside*, (core production CP 52)). For example, SPP 1 recognises that supplementary guidance can be useful where the level of detail is inappropriate for a development plan policy. That guidance would then become a material consideration in determining planning applications (paragraphs 41 and 42). PAN 72 adds that policies should be complemented by more detailed supplementary guidance as an effective way of handling detailed information (page 20).

Next, I remind that sections 25 and 37(2) of the Planning Act require that planning decisions shall accord with the development plan unless material considerations indicate otherwise. Clearly this introduces judgement in all cases and it avoids slavish adherence to policy for an

otherwise acceptable development. It is a basic planning principle that each proposal is considered on its individual merits, so that precedent is not determinative. In addition, it is always for the decision maker to balance a variety of considerations above and beyond the strict terms of the development plan, and to assess the weight to be given to each, all as part of the planning judgement process. PAN 49 reflects this because although it expects that policies should be expressed clearly and simply, giving certainty over what the council might permit or refuse, it then adds that *There are procedures for dealing with development contrary to a local plan and policies should not be framed to accommodate every possibility ... there will always be development control decisions to be made where policy is uncertain or considerations conflict* (core production CP 43, paragraphs 50 and 52). In addition, an established appeal mechanism is in place to offer recourse to aggrieved applicants.

Therefore, as a matter of principle, I consider that there is no particular need for SC6 to be further modified to take account of the potential for development inside a walled garden in the countryside. I also note that no factual, quantifiable evidence has been provided to show significant pressure for this kind of development, or to show that the council's existing policy approach is failing to accommodate the development type. But perhaps the most persuasive factor is the broad agreement that in Angus, such developments are generally granted planning permission. Nevertheless, turning to look at the terms of SC6 and the interrelated Schedule 2 in more detail, my interpretation of the situation is as follows.

New housing inside a walled garden might entail the reuse of existing buildings, in which case policy SC4 or SC5 would apply, depending on the preceding use, and a conversion could be supported under either if the criteria are satisfied. New build housing either alone or with some conversion falls to be considered against SC6. The supporting text for SC6 recognises the potential environmental benefit that can result, and it allows up to 4 new houses, depending on the size of the site. I am not clear how this limit has been derived, and I note that it differs from the margin text definition of a building group, which consists of at least 3 closely related buildings, but in any event, either limit is diluted by the overriding paragraph 3 of SC6(c), which allows for more, albeit in confined circumstances. Nevertheless, a walled garden with buildings suitable for conversion could constitute a building group, whereby SC6(a) would apply, and one new house could be permitted. If the walled garden is brownfield land as defined, new housing in isolation would fall to be considered under SC6(c), which encourages the removal of dereliction or significant environmental improvement. The 4 house maximum would then apply, unless more can be justified. In this regard, the previous Reporters noted the council's acceptance that site circumstances could justify more (core production CP 14, paragraph 1.178), and they recommended accordingly. The council's proposed modifications incorporate that qualification. In all cases, development is subject to the criteria in Schedule 2, with part (a) specifying a self contained site. The margin text defines that as being fully occupied by a single plot of the required size but without breaching field boundaries, and with existing physical boundaries or long established means of enclosure and again, excluding artificially created new boundaries (core production CP 22, page 35). I consider that a walled garden would more than likely, by its very nature, be just that. Part (b) relates to plot size, which could also be satisfied, depending on site circumstances. Therefore overall, I construe this framework as offering a generally positive attitude to development inside a brownfield walled garden.

If the site is greenfield, again as defined, or if it raises the prospect of even partial encroachment onto greenfield land, different criteria apply. Further, in proper accordance with national and approved structure plan policy, the attitude towards development is necessarily less favourable. For example, I note that only SC6(c) and Schedule 2(a) and (f) refer to any prospect of this being acceptable. I also note the margin text that says sites must not breach field or other boundaries, and that plots must not be created artificially. To me, all of this should, when read together, prevent the prospect of encroaching urban sprawl

and unwanted or unforeseen development pressure on greenfield land. I note also that the previous Reporters considered the issue at the last inquiry but apparently, they saw no need to make any corresponding additional change to those already proposed by the council in the complete set of pre-inquiry modifications (core production CP 14, pages 62 and 63).

Based on the above, I am satisfied that walled gardens are provided for and, as far as is practicable, they are viewed favourably given the broad range of potential site circumstances and combinations that such a proposal might embody. As I have said, the council must in all cases retain the right and the flexibility to determine the full range of applications on their individual merits, against all of the site and other material circumstances. In addition, the council must not be constrained in exercising that full degree of planning judgment. Consequently, I am concerned that a specific policy in favour of all walled garden redevelopments risks introducing a simplistic response to a complex situation, whereby it might fetter the council and prevent each possible circumstance from being taken into account, in preparation for a properly balanced and fully justified decision.

REPORTER'S RECOMMENDATION

Therefore, I recommend no change to the proposed wording of policy SC6 in response to this objection.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

Accept the Reporter's recommendation.

No change.

**Schedule 2(c): Ribbon Development
Policy SC6(c): Rural Brownfield Sites**

Objector(s)
Fox Planning Consultancy

Objector Reference(s)
862/1/3 & 862/1/1

Procedure
Hearing

Reporter
Jill Moody

BACKGROUND

Schedule 1 from the current Angus Local Plan, which was adopted in November 2000, sets development criteria for countryside housing, which include:

3(a) In category 1 RSUs development must not constitute ribbon development (see below). Gap sites with a maximum road frontage of 50 metres and a minimum of 15 metres may be filled by a single house if all other application criteria can be met.*

(b) In Category 2 RSUs gap sites with a maximum road frontage of 75 metres may be filled by up to two houses provided all other criteria can be met.

Angus Council considers ribbon development to be a string of three or more houses along a road. A development proposal to add a single house to two existing houses will constitute ribbon development (unless it forms a gap site as defined above). A gap site is considered to be the distance between the curtilages of two domestic scale buildings/or between the curtilage of one such building and a metalled road.*

The council will resist applications which, if approved, would constitute ribbon development.

In response to objections at the earlier stages of the local plan review, the council proposed wide ranging changes to the suite of countryside housing policies in the finalised version of the plan. These altered policies were presented to the Reporters undertaking the last inquiry in 2006. The previous Reporters agreed broadly with these pre-inquiry modifications, and recommended accordingly (core production CP 14, pages 37 to 67). The council has since published an amalgam of all the changes as proposed post-inquiry modifications (core production CP 22, pages 31 to 35), so that now, the countryside housing policies comprise SC4, which relates to the retention and renovation of existing houses, SC5 to the conversion of non-residential buildings, and SC7 to the construction of essential worker housing. Policy SC6, which relates to new build housing, states that:

b) Gap Sites – In Category 1 RSU's a single new house will be permitted on a gap site with a maximum road frontage of 50 metres; and in Category 2 RSU's up to two new houses will be permitted on a gap site with a maximum road frontage of 75 metres. Proposals must meet Schedule 2 : Countryside Housing Criteria as appropriate.

c) Rural Brownfield Sites – Redevelopment of redundant rural brownfield sites will be encouraged where they would remove dereliction or result in a significant environmental improvement. Proposals should be small scale, up to a maximum of four new houses and must meet Schedule 2 : Countryside Housing Criteria as appropriate.

A gap site is defined in the plan's margin text as *The space between the curtilages of two dwellings or between the curtilage of one dwelling and a metalled road ie a road with a hard, crushed rock or stone surface as a minimum. The site should have established boundaries on three sides.* A rural brownfield site is defined in the margin text as *having previously been developed. In rural areas, this usually means sites that are occupied by redundant or*

unused buildings or where the land has been significantly degraded by a former activity (page 33).

All of the above countryside policies generally expect compliance with the criteria in Schedule 2, but only as appropriate. In addition, the introductory text to SC6 states that *Proposals will be considered against the appropriate policy depending upon the nature of the site and type of development* (paragraph 2.16, page 33) and Schedule 2 states that it applies *except where specific exclusions are set out*. The criteria from Schedule 2 include:

- *be on self-contained sites and should not set a precedent or open up further areas for similar applications; (does not apply to proposals for conversion under Policy SC5, rural brownfield sites under Policy SC6(c) or essential worker houses under policy SC7); and*
- *not extend ribbon development;*

The exclusion in (a) comes directly from the previous Reporters' recommendations (core production CP 14, paragraphs 1.181 to 1.184). In summary, the margin text defines self-contained sites as being fully occupied by a single plot of the required size, but without breaching field boundaries, with existing physical boundaries or long established means of enclosure, and excluding artificially created new boundaries. Ribbon development is defined as *A string of three or more houses along a road* (core production CP 22, page 35).

REPORTER'S CONSIDERATION

Elsewhere in this report, I have considered a separate objection about the definition of ribbon development and about the general propriety of including it as a constraint in the local plan review. These objections relate more specifically to the applicability of that constraint to the various countryside housing policies, and the conflicts that seem to arise from that. I note nothing in the previous Reporters' recommendations or report that addresses these concerns and, because they relate to the final amalgam of the specific provisions of the proposed pre and post-inquiry modifications, I find that the objections cover an appropriate matter for consideration at this second inquiry.

The council has not covered every possible development type in the proposed suite of countryside housing policies, believing that related supplementary guidance can add more descriptive detail than the basic policy could bear. I find in the context of current national planning policy and advice, that because this basic suite of local plan policies is clear, this approach is correct (Scottish Planning Policy 1: *The Planning System* (SPP 1, core production CP 30), Planning Advice Note 49: *Local Planning* (PAN 49, core production CP 43, annex 1 paragraph 11 and annex 3), and PAN 72: *Housing in the Countryside*, (core production CP 52)). For example, SPP 1 expects that local plan policies will cover key issues (paragraph 25), and recognises that supplementary guidance can be useful where the level of detail is inappropriate for a development plan policy. That guidance would then become a material consideration in determining planning applications (paragraphs 41 and 42). PAN 72 adds that policies should be complemented by more detailed supplementary guidance as an effective way of handling detailed information (page 20).

Next, I remind that sections 25 and 37(2) of the Planning Act require that planning decisions shall accord with the development plan unless material considerations indicate otherwise. Clearly this introduces judgement in all cases and it avoids slavish adherence to policy for an otherwise acceptable development. It is a basic planning principle that each proposal is considered on its individual merits, so that precedent is not determinative. In addition, it is a widely accepted planning principle that to accord generally with the development plan, it may not be necessary for a proposal to conform explicitly with all of its terms. Decision makers must always balance a variety of considerations above and beyond the strict terms of the

development plan, and assess the weight to be given to each, all as part of the process of applying planning judgement. PAN 49 reflects this because although it expects that policies should be expressed clearly and simply, giving certainty over what the council might permit or refuse, it then adds that *There are procedures for dealing with development contrary to a local plan and policies should not be framed to accommodate every possibility there will always be development control decisions to be made where policy is uncertain or considerations conflict* (core production CP 43, paragraphs 50 and 52). In addition, an established appeal mechanism is in place that offers recourse to aggrieved applicants.

Therefore, as a matter of principle, I consider that there is no particular need for the countryside housing policies recommended for the local plan review to be further modified to take account of these objections. Nevertheless, turning to look at the terms of these policies and the interrelated Schedule 2 in more detail, my interpretation of the situation is as follows.

SC4 relates to the renovation or replacement of existing houses in the countryside. For renovation, there is no suggestion in the policy that Schedule 2 applies. For replacement, the policy is worded to state that a proposal should meet Schedule 2 as appropriate, so by my interpretation, the policy link is an expectation not an imperative, and the council quite properly retains the ability to apply no more than those criteria that it considers appropriate, based on the circumstances of the site and the proposal at issue. That said, I find it unlikely that such a proposal would extend a ribbon of development and the definition of a self-contained site is enough to prevent any undesirable encroachment that might set a precedent and create any artificial new house plots, i.e. urban sprawl onto greenfield land.

SC5 and SC7 are more definitive. They support proposals for conversions and for essential workers' houses where they meet Schedule 2, again as appropriate. However, both kinds of housing development were specifically excluded from the self-containment requirement of Schedule 2(a) by virtue of the previous Reporters' recommendations. Arguably therefore, such a site could include some greenfield land on that basis. I note that the exclusion was inserted by the Reporters in response to an objection to the last inquiry by Fox Planning Consultancy (core production CP 14, paragraph 1.182), and no evidence has been submitted to this inquiry to justify overturning that earlier recommendation. Both development types would be covered by Schedule 2(c), but I find it improbable that the conversion of an existing building could extend a ribbon of development and thereby conflict and, if the council judged a proposal for an essential worker's house to be in all other respects acceptable and desirable, the policy support makes it unlikely that permission would be refused on the point of principle that the proposal would extend a ribbon of development. That said, clearly there may be circumstances where an extension of ribbon development might be an appropriate overriding consideration.

For SC6, neither infill nor brownfield development can be regarded as automatically acceptable. For example, SPP 3: *Planning for Housing* states that infill sites can be a useful resource for housing development, provided development respects the scale, form and density of the surroundings and enhances rather than detracts from local character and amenity. Care should be taken to make sure that the cumulative effects of infill can be sustained by the social and economic infrastructure (core production CP 32, paragraph 34). However, the redevelopment of gap and rural brownfield sites is encouraged by SC6, but only on land that falls within the respective definitions and where the other criteria are also satisfied.

The concept of a gap site is clearly defined in the local plan review, and a housing development proposal would need to meet the specified frontage widths from SC6(b) as well as the definition of a gap site from the margin text. If the site comprised a corner plot bounded by a metalled road, then it could still be acceptable against SC6(b). However, in both cases, a proposal will only be supported where it also satisfies Schedule 2, albeit as

appropriate, so that again, the council retains proper discretion. The margin text definition of a gap site expects 3 established boundaries, whereas the self-contained definition associated with Schedule 2(a) seems to expect a higher threshold. But without doubt, the latter could be used to prevent any inappropriate encroachment onto greenfield land.

Rural brownfield sites are also defined in the margin text and development that would remove dereliction, or result in significant environmental improvement, is encouraged. Therefore, if the site incorporated greenfield land, then it would more than likely not satisfy these checks and balances, so it could not generally expect to gain support. As with the other policies, development must yet again accord with Schedule 2, but in this case, the self-contained requirement from Schedule 2(a) would not apply by virtue of the same previous Reporters' exclusion that I have mentioned above in the context of SC5 and SC7.

As regards Schedule 2(c), if a gap or a brownfield site fell amidst other houses, and only houses are specified, any ribbon would not be extended by the development, so that the exclusion would not be an issue. However, if the proposal were to add to a row of 3 or more houses along a road, then Schedule 2(b) could exclude the development. Clearly the council wants to reserve that ability for infrastructure, sustainability, and rural amenity reasons, which accords entirely with the above discretion given by SPP 3.

Therefore, based on all of the above, I am satisfied that there is no need to complicate the countryside housing policy framework with an exception for each circumstance where the council may wish to grant permission for a proposal that might comprise ribbon development. In addition, I am satisfied that the ribbon development criterion (c) from Schedule 2 is not likely to be used unreasonably as an overriding determining factor in deciding planning applications and, other than as specified, I find no encouragement in the policies for any encroachment of development onto rural greenfield land.

REPORTER'S RECOMMENDATION

As a result, I find no reason to modify the suite of policies further, to take account of these objections and I recommend no change to the proposed wording of either policy SC6(c) or Schedule 2(c).

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

No change.

New Policy SC* - New Country Houses

Objector(s)

Fox Planning Consultancy

Objector Reference(s)

862/1/6

Procedure

Hearing

Reporter

Jill Moody

BACKGROUND

After taking account of objections to the finalised local plan review, the council proposed substantial amendments to the suite of countryside housing policies, none of which included a large country house policy. The Reporters at the last inquiry in 2006 recommended that such a policy should be included, because they perceived a gap in the new framework, so that the issues arising for this particular kind of development would be left unaddressed (core production CP 14, pages 31 to 33). Although the Reporters did not specify an exact wording for the new policy, essentially they indicated that the council should reinstate H9 from the current Angus Local Plan, which was adopted in November 2000, possibly with some minor amendments (paragraph 1.131).

Policy H9 sets criteria whereby the council will support proposals for new large country houses, which include *(a) the dwelling should be set in a substantial area of established landscaped ground*. In addition, the policy expects compliance with Schedule 1, which includes the following of relevance:

Development requiring the felling of environmentally important trees will be resisted.

Housing sites in exposed or conspicuous locations where development would lead to unacceptable visual intrusion or impact will not be acceptable.

All new houses must respect the character and location of their rural setting through an appropriate scale and form of building design and must show compliance with the Planning Advice Note 36 and the council's locational guidance.

To achieve better long-term integration of new houses into the landscape, where appropriate, effective landscaping measures will be required.

The council accepted the Reporters' recommendation, and the basis of the policy proposed in the post-inquiry modifications reflects H9. The new policy will support a proposal for a new country house where criteria that include the following are met:

the house should be sited within a substantial area of established landscaped ground. Exceptionally, opportunity for a new country house could exist on a site which has an existing landscaped setting which can be strengthened through the implementation of a scheme of planting, approved as part of the overall design concept for the new country house.

Proposals must also meet Policy S6: Development Principles, the associated Schedule 1 and Schedule 2: Countryside Housing Criteria.

Criterion (b) from Schedule 1 states that proposals should not result in unacceptable visual impact and criteria (e) and (h) from Schedule 2 state respectively that proposals should have regard to the rural character of the surrounding area and should not harm or be affected by rural business activities.

REPORTER'S CONSIDERATION

In response to objections, the previous Reporters concluded that a policy of this kind was justified, and they recommended an updated version of H9 from the current adopted local plan. The council's proposed modifications accord generally with that recommendation. Because this objection relates to the specific provisions of that proposed modification, it could not have been considered at the last inquiry, whereby it should now be considered at this second inquiry.

That said, I note no essential difference between parts (a) of the current and the proposed country house policy wordings. All that policy SC* adds is the ability to develop a site where landscape setting could be strengthened, so that it creates an entirely appropriate opportunity to justify development by improvement. However, that chance clearly applies exceptionally.

The council has not defined all of the terminology used in the proposed policy, believing that related supplementary guidance can add more descriptive detail than the basic policy could bear. I find as a matter of principle, and in the context of current national planning policy and advice, that as long as the basic local plan policy is clear, this approach is correct (Scottish Planning Policy 1: *The Planning System* (SPP 1, core production CP 30), Planning Advice Note 49: *Local Planning* (PAN 49, core production CP 43, annex 1 paragraph 11 and annex 3), and PAN 72: *Housing in the Countryside*, (core production CP 52)). For example, SPP 1 recognises that supplementary guidance can be useful where the level of detail is inappropriate for a development plan policy. That guidance would then become a material consideration in determining planning applications (paragraphs 41 and 42). PAN 72 adds that policies should be complemented by more detailed supplementary guidance as an effective way of handling detailed information (page 20).

In the meantime, I find that the majority of the words used in the proposed policy, like substantial, are capable of a common interpretation. Further, until the intended extra guidance is in place, national planning advice offers an obvious source of guidance on the other words mentioned in the objection. For example, I find the following advice regarding the concept of landscape and landscape setting.

Landscape includes landform, character, condition, physical features, and vegetation. Landscape character is the way in which the environment works and is perceived, which includes its uses, colours and textures. Commercial forestry is part of that overall picture, but because it is clearly subject to harvesting, it must be regarded as a transient feature. Landscape capacity is the interplay of these elements and their ability to absorb development and change, along with any modifications might be needed to ease that impact. Achieving a good landscape fit, and hence a high quality development, demands an integrated approach to all of these considerations (PAN 44: *Fitting New Housing Development Into the Landscape*, core production CP 42, pages 22, 24, 28, and 34).

In addition, based generally on my experience and on the advice in PAN 72 (core production CP 52), I find that Angus benefits from a wide range of landscape types, which have varying abilities to absorb development. Given this, it is not appropriate to impose a standard, uniform, area-wide interpretation of SC*. Siting considerations entail respect for local landform and patterns of vegetation and even the best designed house can be poorly and conspicuously sited. Setting against trees can be successful in enabling development to blend with the landscape, but those trees are not the only consideration. Further, where they exist, the trees must be capable of retention. Therefore, the aim of SC* cannot be simply to hide development with trees. It must instead entail helping development to integrate with the landscape as a whole. In other words, to fit into or to nestle within the landscape.

Based on all of the above, I am satisfied that the reference in the proposed policy to landscaped ground and setting is undoubtedly intended to cover all of the above and thereby to mean more than just tree screening. I am also satisfied that the proposed policy is soundly based, and is capable of a clear interpretation, albeit that it might benefit from a margin text reference to these information sources, for use at least until the supplementary guidance has been prepared.

Next, I remind that sections 25 and 37(2) of the Planning Act require that planning decisions shall accord with the development plan unless material considerations indicate otherwise. Clearly this introduces judgement in all cases and it avoids slavish adherence to policy for an otherwise acceptable development. It is a basic planning principle that each proposal is considered on its individual merits, so that precedent is not determinative. In addition, it is always for the decision maker to balance a variety of considerations above and beyond the strict terms of the development plan, and to assess the weight to be given to each, all as part of the process of making a planning judgement. PAN 49 reflects this because although it expects that policies should be expressed clearly and simply, giving certainty over what the council might permit or refuse, it then adds that *There are procedures for dealing with development contrary to a local plan and policies should not be framed to accommodate every possibility there will always be development control decisions to be made where policy is uncertain or considerations conflict* (core production CP 43, paragraphs 50 and 52). In addition, an established appeal mechanism is in place to offer recourse to aggrieved applicants.

Therefore, taking all of the above into account, I am satisfied that there is no need to complicate the proposed SC* policy with a checklist covering every kind of circumstance where the council will or will not grant planning permission, including the example of commercial forestry. I am also satisfied that the issue of woodland and forest clearings need not be referred to in the letter of the policy.

However, I note that the council's evidence in discussion at the hearing that it is for applicants to appraise the landscape themselves for compliance with the basic policy principles explained above, and then to apply for permission. While:

this general approach accords with national planning policy and advice;
the council must remain free to consider the information arising, to make its planning judgement, and then to decide accordingly;
landscape assessment is referred to generally in part (q) of Schedule 1 to the finalised local plan review; and
it is not part of the objection under consideration,

I find that if the new policy has any shortcoming, it is the lack of reference to this appraisal expectation. Policy SC* could be made more useful by a specific and obvious mention of this process, given the exceptional circumstances in which it would apply.

REPORTER'S RECOMMENDATION

As a result of the above, I recommend no alteration to the wording of proposed policy SC* in response to this specific objection. However, the council might wish to consider adding:

a margin text reference to the various planning advice notes as a source of information and further guidance, until its own supplementary guidance is available; and

- reference to the submission of a landscape appraisal to support related planning applications.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils general position is noted.

In relation to the matter of reference to a landscape appraisal, it should be noted that Policy S6 Development Guidelines, Schedule 1(q) makes reference to the need for landscape assessment and this is considered sufficient to require/request an appraisal as part of any planning submission.

In the case of additional margin text referencing planning advice notes as a source of information Such a change is not material to the policy wording and could therefore be considered as a technical matter not requiring publication of further modifications.

RECOMMENDATION TO COMMITTEE

No change.

New Policy SC* - New Country Houses

Objector(s)

Select Homes (Tayside) Ltd
R G Skea

Objector Reference(s)

315/1/1
1096/1/1

Procedure

Written Submissions

Reporter

Jill Moody

BACKGROUND

After taking account of objections to the finalised local plan review, the council proposed substantial amendments to the suite of countryside housing policies, none of which included a large country house policy. The Reporters at the last inquiry in 2006 recommended that such a policy should be included, because they perceived a gap in the new framework, whereby the issues arising for this particular kind of development would be left unaddressed (core production CP 14, pages 31 to 33). Although the Reporters did not specify an exact wording for the new policy, essentially they indicated that the council should reinstate H9 from the extant Angus Local Plan, possibly with some minor amendments (paragraph 1.131).

Policy H9 sets criteria whereby the council will support proposals for new large country houses, which include *(a) the dwelling should be set in a substantial area of established landscaped ground*. In addition, the policy expects compliance with Schedule 1, which includes the following of relevance:

Housing sites in exposed or conspicuous locations where development would lead to unacceptable visual intrusion or impact will not be acceptable.

All new houses must respect the character and location of their rural setting through an appropriate scale and form of building design and must show compliance with the Planning Advice Note 36 and the council's locational guidance.

To achieve better long-term integration of new houses into the landscape, where appropriate, effective landscaping measures will be required.

The council accepted the Reporters' recommendation, and the basis of the policy proposed in the post-inquiry modifications reflects H9. The new policy will support a proposal for a new country house where criteria that include the following are met:

the house should be sited within a substantial area of established landscaped ground. Exceptionally, opportunity for a new country house could exist on a site which has an existing landscaped setting which can be strengthened through the implementation of a scheme of planting, approved as part of the overall design concept for the new country house.

Proposals must also meet Policy S6: Development Principles, the associated Schedule 1 and Schedule 2: Countryside Housing Criteria.

Criterion (b) from Schedule 1 states that proposals should not result in unacceptable visual impact and criterion (e) from Schedule 2 states that proposals should have regard to the rural character of the surrounding area.

REPORTER'S CONSIDERATION

In response to objections, the previous Reporters concluded that a policy of this kind was justified, and they recommended an updated version of H9 from the current adopted local plan. The council's proposed modifications accord generally with that recommendation. Because these objections relate to the specific provisions of that proposed modification, they could not have been considered at the last inquiry, whereby they should now be considered at this second inquiry.

National planning policy in Scottish Planning Policy 3: *Planning for Housing* (SPP 3, core production 32, paragraphs 48 to 56) allows for new houses in the countryside, but only:

- as part of a plan led response to particular local circumstances;
- in places where it would fit into the environment; and
- where it is carefully sited to respect and enhance the local landscape character.

The approved structure plan takes this attitude forward by expecting generally that development will occur in settlements, but with some new house building permissible in the countryside, in certain specified circumstances. These include *must have regard to landscape capacity* (core production CP 1, Housing Policy 5). Therefore, there is no suggestion in either source that the intention is to encourage sporadic house building, and especially on prominent sites in the countryside. Clearly, these policies want housing to fit into its existing landscape setting, as opposed to using a site with no setting and then creating one around a new house.

These policy sources also refer to other national planning advice for guidance on what factors might be taken into account, and I find that they contain the following advice on the concept of landscape and landscape setting.

Landscape includes landform, character, condition, physical features, and vegetation. Landscape character is the way in which the environment works and is perceived, which includes its uses, colours and textures. Landscape capacity is the interplay of these elements and their ability to absorb development and change, along with any modifications might be needed to ease that impact. Achieving a good landscape fit, and hence a high quality development, demands an integrated approach to all of these considerations (PAN 44: *Fitting New Housing Development Into the Landscape*, core production CP 42, pages 22, 24, 28, and 34). Angus benefits from a wide range of landscape types, which have varying abilities to absorb development. Given this, siting considerations must entail respect for local landform and patterns of vegetation, and even the best designed house can be poorly and conspicuously sited. Setting against trees can be successful in enabling development to blend with the landscape, but trees are not the only consideration (PAN 72 *Housing in the Countryside*, core production CP 52).

Section 17(3) of the Town and Country Planning (Scotland) Act 1997 prohibits the adoption of a local plan that does not conform to the appropriate approved structure plan. Therefore, I am satisfied that to accord with the above, SC* must identify the exceptional circumstances in which it would apply, with the aim of helping development to integrate with the landscape as a whole. In other words, to fit into or to nestle within the landscape. Given this, I am satisfied that the proposed policy is soundly based, and is capable of a clear interpretation, albeit that it might benefit from the additions and supplementary guidance referred to elsewhere in this report in the context of a parallel objection to SC* from Fox Planning Consultancy.

More specifically, and for all of the above reasons, I find that it would be wholly inappropriate and out of accord with national and approved structure plan policy for SC* to allow development in the countryside with no established or existing landscape setting to enable it

to integrate, and most especially on an exposed or elevated site, no matter how good the house design.

I also note that the proposed policy SC* repeats the same requirement for a substantial area of landscaped ground as is contained in policy H9 in the current adopted local plan. The objections do not justify any need to change or depart from this previous criterion. For example, they do not demonstrate any particular pressure or problem caused by continuing with that same requirement.

Further, without factual evidence to support the contention, I find that it is speculation to suggest that existing historic country houses were sited effectively on an exposed and blank canvas site. Many of these historic country estate houses may just as easily have been fitted into an established landscape setting, and that setting might have provoked the initial choice of site. The evidence before me is simply inconclusive. There is no doubt that the landscape around the houses has been managed since then, but that is a different issue from these objections.

Lastly, I note that the relevant council committee endorsed proposed policy SC* in November 2006, and published its objection responses and the proposed modifications in February 2007. Therefore, the wording of SC* must be taken as reflective of their clear intentions (core productions CP 15, 21, and 22).

REPORTER'S RECOMMENDATION

Taking the above into account, I recommend no change to the proposed wording of policy SC* on new country houses in response to these objections. However, I would draw attention to and remind about my comments in respect of the parallel objection from Fox Planning Consultancy to the same new policy.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Margin Text: Omission Ribbon Development

Objector(s)

Fox Planning Consultancy

Objector Reference(s)

862/1/2

Procedure

Hearing

Reporter

Jill Moody

BACKGROUND

Schedule 1 from the current Angus Local Plan, which was adopted in November 2000, sets development criteria for countryside housing generally. Compliance with Schedule 1 is expected in policies H7, H8, and H9, which are all for new housing, as well as H10, which covers restoration and repair, H12 and H13, which apply to conversions, and H15 for essential worker housing. Schedule 1 includes criterion 3(a) that development in particular areas *must not constitute ribbon development**. The adopted local plan then defines ribbon development as *a string of three or more houses along a road* before adding that *A development proposal to add a single house to two existing houses will constitute ribbon development (unless it forms a gap site as defined ...)*, which is based on the measured distance between either 2 curtilages, or one curtilage and *a metalled road*. The adopted local plan then states that *the council will resist applications which, if approved, would constitute ribbon development*.

In response to objections at the earlier stages of the local plan review, the council proposed wide ranging changes to the suite of countryside housing policies that were presented to the Reporters undertaking the last inquiry in 2006. The previous Reporters agreed broadly with these pre-inquiry modifications, and recommended accordingly (core production CP 14, pages 37 to 67). The council has since published an amalgam of all the changes as proposed post-inquiry modifications (core production CP 22, pages 31 to 35). From this, the modified suite of countryside housing policies, which cover all forms of new build housing and conversions, uniformly include reliance on compliance with the criteria in Schedule 2 as appropriate and *except where specific exclusions are set out*. The criteria include (c) *not extend ribbon development*; and the margin text defines ribbon development as *A string of three or more houses along a road*, with no specified exclusions (page 35). Gap site is also defined as before, but with the clarification that a metalled road is *a road with a hard, crushed rock or stone surface as a minimum* (page 33)

REPORTER'S CONSIDERATION

I note nothing in the previous Reporters' recommendations or report that addresses this issue and, because the objection relates to the final amalgam of the specific provisions of the proposed pre and post-inquiry modifications, I find that this objection covers an appropriate matter for consideration at this second inquiry.

Nothing from either national planning policy and advice or the approved structure plan has been drawn to my attention as support or otherwise for accepting the basic concept of ribbon development in the countryside. Equally, each policy source instructs local plans to set criteria to cover the kinds of rural development that suit local circumstances. In this case, the council has decided, for its own reasons and based on local circumstances, that the local plan should still generally not include ribbon development. Therefore, the exclusion has been carried forward from the adopted local plan.

I have set out above the definitions provided in the extant and the emerging local plans, and I agree with the objector that the connection with what might constitute a road has been lost in transition. The adopted local plan definition connects firmly with the definition of gap sites, so that it stipulates a metalled road. The finalised local plan does not maintain that link, although the definition of gap site still refers to a metalled road, albeit that it adds more detail to describe what that kind of road would be.

To resolve the omission, the original objection suggests using the definition of road from the Roads Act, which is also used to interpret the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. The council resists this as being too broad. In discussion, the objector accepted that position, and various other options were explored. Ultimately, the council agreed that some improvement would be justified, and that the reference to a metalled road could be reinstated, preferably in future supplementary guidance.

I consider that the issue would benefit from clarification. However, I am satisfied that using the Roads Act would be unhelpful because it would increase the range of possibilities beyond that which the council would normally be willing to accept. In other words, prospective applicants might find it misleading. That said, the accepted purpose of the local plan review margin text is to interpret and stand beside the various policies, so that it should be an obvious, clear, and immediate resource to support the relevant policies and to provide a glossary of understanding. Given that, I am also satisfied that, leaving the definition of a road in the context of the ribbon development margin text aside for supplementary guidance to address, is too disconnected from the local plan review and it risks delaying the desired function. Therefore, I find that repeating the reference to a metalled road from the proposed post-inquiry modifications gap site definition, with the consequent description, in the ribbon development margin text would be a small but beneficial addition to the finalised local plan review.

REPORTER'S RECOMMENDATION

The definition of ribbon development in margin text of page 35 of the council's proposed post-inquiry modifications (core production CP 22) should be amended to have the last word *road* replaced by the phrase *a metalled road i.e. a road with a hard, crushed rock or stone surface as a minimum*, which is also used on page 33 of the proposed modifications in the context of a gap site.

HEAD OF PLANNING AND TRANSPORT COMMENT

It is recognised that a single definition between the respective policy elements would be beneficial and would enable greater consistency of implementation. Although set out as margin text, the suggested change is material to the policy would therefore need to be advertised as a formal modification.

RECOMMENDATION TO COMMITTEE

Accept the Reporter's recommendation.

Modify the definition of ribbon development in the margin text to read as follows:

Ribbon development:

A string of three or more houses along a metalled road - ie. a road with a hard, crushed rock or stone surface as a minimum.

Margin Text: Omission Greenfield Sites

Objector(s)

Mr D Armstrong
Fox Planning Consultancy

Objector Reference(s)

34/2/1
862/1/5

Procedure

Conditionally Withdrawn Written Submissions

Reporter

Jill Moody

BACKGROUND

In response to objections at the earlier stages of the local plan review, the council proposed wide ranging changes to the suite of countryside housing policies that were presented to the Reporters undertaking the last inquiry in 2006. From these, proposed modification 3 intended to replace the definitions of greenfield and brownfield land in the finalised local plan review with those from Scottish Planning Policy 3: *Planning for Housing* (SPP 3, core production CP 32). The previous Reporters agreed and recommended accordingly (core production CP 14, pages 37 to 38, 63 to 64, and 67).

REPORTER'S CONSIDERATION

I note no dispute over the value of including the SPP 3 definition of greenfield, and agree for all the reasons discussed before, that it should be included when the local plan review is adopted. In this way, both objections will be satisfied.

REPORTERS RECOMMENDATION

The definition of greenfield land in the glossary of SPP 3 (core production CP 32, page 19), should be incorporated into the local plan review as margin text, beside the equivalent definition of brownfield land.

HEAD OF PLANNING AND TRANSPORT COMMENT

Support for the Councils position is noted.

RECOMMENDATION TO COMMITTEE

No change.

Confirm that the margin text for greenfield definition taken from SPP3 Planning for Housing (February 2003) will be included in the Local Plan Review as per the previously approved third round pre-inquiry modification of December 2005. This will be dealt with as a technical change during the final editing of the Local Plan Review.

Margin text

Greenfield land : Land which has never previously been developed, or fully-restored formerly derelict land which has been brought back into active or beneficial use for agriculture, forestry, environmental purposes or outdoor recreation. (SPP3 Planning for Housing, February 2003)