

ANGUS COUNCIL**PLANNING AND TRANSPORT POLICY COMMITTEE****25 April 1996****SUBJECT: DRAFT CODE OF PRACTICE FOR LOCAL PLAN INQUIRIES IN SCOTLAND****REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT**

Abstract: This report outlines the advice contained in the recently published draft Code of Practice for Local Plan Inquiries in Scotland and which is part of a programme intended to improve both the efficiency and the effectiveness of the Local Plan process. In particular the draft code gives greater detail on public participation in the process and sets out good practice guidance on the arrangements for a Public Inquiry.

1 RECOMMENDATION

It is recommended that the Committee:-

- 1 Notes the terms of the draft Code of Practice for Local Plan Inquiries and informs the Scottish Office that Angus Council:-
 - a Welcomes publication of updated advice based on past experience and best practice on processing objections to Local Plans, making arrangements for and conducting Public Local Inquiries, outlining the form of the Inquiry Report.
 - b Recognises that recent experience in many parts of Scotland indicates that Local Plan Inquiries have become increasingly complex lengthy and costly exercises conducted in a more formal manner and requiring significant financial and staff resources from local authorities and other participants.
 - c Suggests that further consideration should be given to measures aimed at shortening the procedures required and considers that revisions to the Code of Practice as proposed will have a useful but limited effect in improving the efficiency and effectiveness of the Local Plan process in the absence of a more fundamental review of the scope and purpose of Local Plan Inquiries including the legal basis of the procedures.
- 2 Takes account of the advice in the Code of Practice in progressing local planning work in Angus including -
 - a Possible amendments to existing Local Plans.
 - b Future consideration of the Reporter's conclusions and recommendations when available on that part of the Dundee District Local Plan now falling within Angus.
 - c Preparation of the Angus Local Plan

2 INTRODUCTION

- 2.1 The Scottish Office has recently published for consultation purposes a draft Code of Practice for Local Plan Inquiries. A copy of the draft Code is available for reference in the member's lounge.
- 2.2 This report sets out the broad framework of the draft Code of Practice and highlights the important elements or stages in arranging a Local Plan Inquiry. When finalised the draft Code of Practice will replace the previous guidelines which have been in place since December 1985 (STD Circular 7/1985 refers).
- 2.3 This draft Code of Practice should be seen in the context of the package of proposals on Local Plans announced in the Review of the Planning System (Report No AC3/96 refers) and the draft planning advice note on local planning which was recently issued by the Scottish Office (Report No AC78/96 refers).

3 MAIN PRINCIPLES OF THE DRAFT CODE

- 3.1 The preparation of local plans gives the community the opportunity to participate in setting the detailed policies and proposals affecting their area. Recent government guidance has significantly increased the primacy of development plans in making development control decisions. Consequently local plan preparation and adoption has become a more important part of the planning system.
- 3.2 Responsibility for local plan preparation lies with Angus Council as local planning authority, including considering any objections to the plan by local plan inquiry if necessary. Subsequent responsibility for considering the 'reporters' recommendations, making any modifications it considers appropriate, and ultimately adopting the local plan also lie with Angus Council.
- 3.3 Given the increased weight placed on local plans in the planning process, the Scottish Office through the Scottish Office Inquiries Reporters Unit have reviewed, revised and updated the code of practice for local plan inquiries in the light of past experience. The new draft code provides guidance on:-
- good practice in the processing of objections to local plans;
 - making arrangements for any Public Local Inquiry that may be required;
 - the conduct of the Inquiry;
 - the form of the report that is produced
- 3.4 Specific issues discussed in the draft Code of Practice include:-
- Public participation
 - Making objections and representations
 - Pre-Inquiry negotiations - this may result in objections being withdrawn. However any modifications resulting from this should be advertised eight weeks in advance of the inquiry to allow any counter representations to be lodged.
 - Considerations of objections

- Inquiry programming and procedure meeting - should take place ten to twelve weeks before the inquiry starts.
 - Exchange of documents between various participants.
 - Site and inspections
 - The Local Plan Inquiry
 - Alternative Sites - where objectors propose alternative sites, consideration must be given to landowner consultation. It should be noted that there is very limited scope for consideration of such sites as the Inquiry is concerned with the published plan and objections to it.
 - Objector's Expenses - all parties are responsible for their own expenses and those of their advisers. There is no provision for the award of costs.
 - Procedure After the Inquiry - following the Inquiry the reporter will prepare a report for the planning authority which may include recommended modifications. The planning authority are not obliged to accept any recommendations but if it is proposed to modify the plan they must be advertised and may be subject to objection and a further inquiry.
 - Adoption
 - Involvement of the Secretary of State - will only be prompted by matters of national security or failure of the local authority to act in accordance with the regulations.
- 3.5 While the above guidelines refer specifically to the processing of objections arising from the initial preparation of a local plan, significantly the same or similar procedures apply to proposals to alter or replace an already adopted local plan.

4 DISCUSSION

- 4.1 The Code of Practice will need to be taken into account in progressing various aspects of local planning within Angus including, most significantly, preparation of the Angus Local Plan. It is also of relevance to work currently underway on augmenting the industrial land supply for Brechin.
- 4.2 In addition, part of the Angus Council area is covered by the Dundee District Local Plan which has recently been the subject of a lengthy public inquiry extending over a 5 month period. As reported to committee (Report No AC/95/95) the policies and proposals contained in the Dundee District Local Plan raise issues of interest for Angus Council and some of the proposals discussed at the public inquiry directly affect the Angus Council area.
- 4.3 Angus Council will be responsible for considering the relevant parts of the Dundee Local Plan Inquiry reporter's findings when they are published probably in late

1996/early 1997. Although the reporter's findings are not binding on the local authority any subsequent alteration or amendment to Dundee District local plan may result in a further public inquiry.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no immediate financial implications arising from this report. However the Code of Practice confirms that the procedures for preparing and adopting local plans will incur significant financial costs to Angus Council.
- 5.2 In particular preparation of the Angus Local Plan will require substantial financial and staff resources including major costs associated with plan publication, public participation and any Local Inquiry into objections which may arise during 1997/98 following publication of a formal draft local plan. Based on recent experience elsewhere in Scotland the costs to the Local Authority associated with a Local Plan Inquiry can in some cases exceed £100,000.

6 CONSULTATION

- 6.1 The Chief Executive, the Director of Law and Administration and the Director of Finance have been consulted in the preparation of this report.

7 CONCLUSION

- 7.1 The Code of Practice draws on recent experience in preparing for and holding Local Plan Inquiries in Scotland. No Local Plan Inquiries have been held in Angus for some considerable time but current work will result in procedures being undertaken for local plan preparation, alteration and adoption as covered by the Code.
- 7.2 The draft Code brings together best practice with the aim of making the necessary procedure more efficient and effective. It therefore contributes to a wider programme of guidance on the whole local plan process.
- 7.3 In practice many Local Plan Inquiries have lost some of the degree of informality intended to create an atmosphere for constructive dialogue and discussion. This has, in some cases, given way to a more adversarial approach including the frequent use of legal representation by both objectors to Local Plans and Local Authorities.
- 7.4 To some extent this more formalised approach may be an inevitable consequence of the increased importance of the role of local plans within the planning system. Any administrative improvements and clarification arising from the guidance in the code is therefore to be welcomed albeit that their overall effect may be limited in the absence of a more fundamental review of the scope and purpose of Local Plan Inquiries.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/KMcG/SP

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