

**ANGUS COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**17 JULY 1997**

**SUBJECT: REVIEW OF NEIGHBOUR NOTIFICATION  
A CONSULTATION PAPER ISSUED BY THE SCOTTISH OFFICE**

**REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT**

**Abstract: This report discusses a number of options put forward by way of the Scottish Office in respect of possible changes to neighbour notification procedures. This report concludes that the current neighbour notification system is not perfect, however, no matter which system is introduced problems will still exist. It notes that in percentage terms there are comparatively few complaints in respect of neighbour notification and that the majority of the problems and complaints occur when people have been notified considerably in advance of the application being lodged.**

**1 RECOMMENDATION**

- 1.1 It is recommended that the Committee approves the content of this report and that it be forwarded to the Scottish Office for their information.

**2 INTRODUCTION**

- 2.1 The Scottish Office has engaged consultants to examine neighbour notification procedures. The research undertaken by the consultants concluded that:-

1. the principles for neighbour notification are widely supported. There was no discernible support for abandoning or significantly reducing requirements for neighbour notification;
2. neighbours want more involvement, information and guidance on notification procedures. They also want more opportunities to make representation, especially if changes are made to application;
3. planning officers and applicants agreed that the neighbour notification system would benefit from simplification and greater flexibility with notification arrangements better related to the nature of the proposed development;
4. there were wide variation in the way planning authorities interpret and operate the procedures and advice they give to applicants.

- 2.2 The search puts forward a number of options and recommendations together with alternative proposals where appropriate to improve neighbour notification procedures. Views have been sought on these together with any other suggestions that respondents may wish to make. It is suggested that many of the proposals are linked and should be considered as a package which aims to achieve increased effectiveness and efficiency in neighbour notification procedures while maintaining an appropriate balance between interests.

### 3 PROPOSALS

- 3.1 The following proposals have been put forward by the consultants with a suggested response given on behalf of the Council.

#### **RESPONSIBILITY FOR NEIGHBOUR NOTIFICATION**

##### 3.2 **Option One**

**That responsibility for serving neighbour notification should rest with planning authorities, but the responsibility for identifying neighbouring land and notifiable interests would remain with the applicants.**

The option may have some advantages. However if applicants are responsible for identifying neighbouring land and notifiable interests, even more so than at present, the public would expect some check to be undertaken by the planning authority. In addition, the planning authority would be required to ensure that the applicant had prepared all the documentation required for the service of the notices and this would be extremely time consuming. If this option is adopted then a substantial increase in planning fees would be necessary to provide for an administrative charge for the checking of neighbour notification material and also a charge in respect of the service of the notice on each individual neighbour. I would suggest perhaps that a flat rate administrative fee of £50 per application be charged and the rate of £5 for service on each neighbour. The fee would have to be recouped from the applicant prior to the submission of the application. It is my view that the problems associated with this procedure would not justify such a significant shift of responsibility. It is difficult to envisage the actual benefits of this change over the current arrangement when the drawbacks are so significant. The benefits of the change do not sufficiently outweigh the disadvantages to make it worthwhile.

##### 3.3 **Option Two**

**Neighbour notification to remain the responsibility of the applicant in conjunction with a new requirement that a completed copy of the notice served on neighbours be lodged as part of the planning application.**

It would be comparatively easy for the planning authority to check that neighbours had been given an accurate description of development. However problems may arise if the planning authority disagree with the description of development and require it to be changed after the applicant has served the notice. This is not really a genuine alternative to Option 1 but represents a small and readily achieved improvement on current.

##### 3.4 **Option Three**

**Retain the status quo.**

Retention of a status quo would not improve the situation. The most significant and worthwhile improvement would be to insist on registered post as proof of service.

#### **ADVERTISEMENT OF PLANNING APPLICATIONS**

##### 3.5 **All planning applications to be advertised by the planning authority**

At present the local press in the Angus area undertake weekly publication of all planning applications. This is done at no cost to the Council and is considered by

the press to be a matter of general public interest. If a requirement was to be made on Councils to formally advertise all applications then this could certainly be done without a great deal of difficulty. A fee would have to be charged which should be included as part of the planning application fee. At present, to advertise applications, this Council charges £75 per application. In the case of Angus, no additional benefit would accrue as a consequence of this because, as stated previously, the local press publish the applications in any event. However if the local press did not advertise all applications I would not suggest that it be done by the local authority. To advertise all applications by statute would dilute the effect of advertising those applications that currently require advertisement. Furthermore, Community Councils are sent a weekly list of applications and are consulted on specific applications and can comment on applications of local interest.

### **FLEXIBILITY OF WIDENING NOTIFICATION**

#### **3.6 Planning authorities should have discretion to notify additional persons**

I am not in favour of this proposal. The purpose of Section 23 of the planning acts (now Section 34 of the 1997 Act) is to enable planning applications to be advertised where the effect of the proposal warrants it. To provide the planning authority with the discretion to notify additional persons would introduce confusion and possible inconsistency. Likewise the same would be the case if the discretion could be given to applicants.

### **SIMPLIFYING THE DEFINITION OF NEIGHBOURING LAND**

#### **3.7 Option One: That "neighbouring land" means land which is either (a) adjoining, or (b) within four metres of the land occupied by the applicant within which development is proposed, provided that the boundary of such neighbouring land is within 90 metres of any part of the development to which the application relates.**

This definition would certainly simplify matters and it is the option that I favour. However the approach to sub-divided buildings MUST be addressed.

#### **3.8 Option Two: "Neighbouring land" should only comprise land conterminous with the application site. Intervening roads, footpaths, waterways, other land in the control of the application site, of less than 20 metres in width, should be discounted for the purposes of identifying neighbouring land.**

This option does not appear drastically different to the existing situation. However, neighbours across a road can be more affected than conterminous to the rear - cannot support their deletion.

### **SIMPLIFICATION OF A DEFINITION OF NOTIFIABLE INTEREST**

#### **3.9 That notifiable interest should only comprise the occupier of the neighbouring land or of premises on neighbouring land**

I accept that where neighbours are not owner occupiers, often the notice is not forwarded to owners or lessees. However, it is difficult to suggest a system which could guarantee this and I would suggest that it is not unreasonable to rely upon the neighbour in this respect. To change the system would mean that owners and lessees would not be notified if they were not the occupier. I would therefore

suggest that the system is not perfect but in this respect it should remain as it is. It would be helpful if the Valuation Roll was re-introduced.

**3.10 That there should be no distinction between the requirements for notifying neighbours of domestic or non-domestic properties**

The problem with notification in respect of domestic properties is that the valuation role no longer provides a reliable means of identification of those with an interest. This is not the case in respect of non-domestic properties and I would not recommend that the system be changed simply to bring non-domestic and domestic properties in line with each other except that simply notifying "owner" "occupier" etc is much easier for applicants than having to make a specific effort to check out the valuation role at a locale that might be inconvenient.

**3.11 That the requirement to serve notice by advertisement on neighbouring land where there are no premises should be dispensed with where the occupier of the land is known**

I would agree with this proposal. It would be preferable to send the notification directly to the address of the occupier.

**3.12 Assuring best proof of neighbour notification**

If Recorded Delivery is required then what happens where the person refuses to accept the recorded mail? If Registered Post is used then at least there is proof that the neighbour notification has been sent and I would see this as an advantage and would support this. If planning authorities are to be made responsible for serving notices then I would suggest that the costs should be covered from the applicants and that the application would not be registered until this fee had been paid.

**3.13 Making the location plan more informative**

I would agree that the plan accompanying the neighbour notification notice should be to scale, should clearly show the area of land proposed for the development and clearly identify any other adjoining land under the control of the applicant. In my opinion, the purpose of neighbour notification is to inform interested parties that an application has been made and to provide some details as to the nature of the application. If it is to go much beyond this then much more information would be required and this may complicate matters and leads to problems. It is likely that planning authorities would have to spend valuable time dealing with these problems which would be better spent in dealing with the applications themselves. It is better to keep the requirements simple. Neighbour notification works reasonably well and most people who wish to enquire further about a proposal will contact the Planning Department. However, in the past neighbours have complained that they have come into the Planning Department to view plans only to find that an extension or building is not located in a position that concerns them. Perhaps applicants should be encouraged to provide additional information but it should not be mandatory.

**3.14 Providing sufficient time to make written representations**

I do not consider that there is a strong case to extend the period for making representations beyond the current 14 days. In practice, most applications take longer than 14 days to determine and therefore the time period for objections is usually greater than simply the statutory period. If this period was to be extended to 21 days there would be a knock-on effect on performance standards, with a delay in the determination of applications. Applications that require to go to Planning Committee must meet a Committee deadline for preparation of reports etc. An

extension of a statutory period for objections would undoubtedly mean that fewer applications would be determined within the two month period. I therefore cannot support this proposal unless the Government makes allowances within their expected performance standards.

### 3.15 **Re-notifying neighbours**

The researcher's view suggests that, if the substance of an application has been altered to such an extent that re-neighbour notification is necessary, then perhaps the planning authority should consider taking a fresh planning application. I would agree with that view although the decision on whether or not a material alteration demanding re-notification has been made must be left to the planning authority.

### 3.16 **Extending Neighbour Notification to include display of advertisements and granting of planning permission by Secretary of State in determining an appeal against an Enforcement Notice**

I agree that neighbour notification should be extended to cover these categories. Application forms should contain guidance to neighbours in respect of planning procedures.

### 3.17 **Improving Public Understanding**

Agree - our forms already include this information.

## 4 **CONCLUSION**

4.1 The current neighbour notification system is not perfect. However, no matter which system is introduced, or if the current system is altered, problems will still exist. I would suggest that, in percentage terms, there are comparatively few complaints in respect of neighbour notification. The majority of problems and complaints occur where people have been notified considerably in advance of the application being lodged. This causes inconvenience and confusion when plans cannot be viewed at the planning office.

## 5 **FINANCIAL IMPLICATIONS**

5.1 There are no financial implications arising from this report.

## 6 **CONSULTATION**

6.1 The Director of Law and Administration and the Director of Housing have been consulted in the preparation of this report.

### **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/IM/SP  
3 July 1997

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