REPORT BY DIRECTOR OF LAW AND ADMINISTRATION.

ABSTRACT
This report deals with the proposal to prohibit the driving of motor vehicles on a section of East Blairs Road, Letham.

1 RECOMMENDATIONS
1.1 It is recommended that the Committee agree:-

(i) that the proposal to prohibit the driving of motor vehicles over a length of East Blairs Road, Letham be abandoned;

(ii) not to proceed with the proposed Traffic Regulation Order.

2 INTRODUCTION
2.1 The section of East Blairs Road, Letham in question is an unadopted road between Watson Street and The Den. The Council was asked to consider prohibiting access on this section of road.

2.2 The original complaint was from a single local resident and was based largely on concerns relating to damage to her property by vehicles using this road.

2.3 It was also argued that the restriction of traffic in East Blairs Road was necessary due to the use of the road by short cutting vehicular traffic in conflict with pedestrians on this relatively narrow road.

2.4 The road had been resurfaced by Angus Council under the ‘unadopted roads’ policy some years ago and this work has possibly contributed to the increased usage of this road by vehicular traffic.

3 DETAILS
3.1 Reference is made to Article 14 of the meeting of the Roads Committee held on 23 August 2001 when the Committee authorised the preparation of a Traffic Regulation Order to prohibit the driving of motor vehicles on a section of East Blairs Road, Letham.

4 CONSULTATION AND PUBLICATION
4.1 An appropriate Order was drafted and issued for consultation. During the statutory Consultation period two letters raising comments were received and their concerns were resolved.

4.2 The draft Order was duly advertised and a significant number of objections were received.

4.3 The main objections were:-

- that the route had been used for many years by both pedestrians and motorists without incident.

- that a very small minority of thoughtless drivers were spoiling it for the majority of careful drivers.

- the closure of the affected length of road would inconvenience many people who use the road regularly.
• that local farmers in the area travel along this road to obtain access to fields and whilst an alternative route is available through the village it is significantly longer and affects residential areas.

4.4 It was subsequently pointed out by local residents that whilst objections were sought the Council was not aware of the strength of local support for the prohibition of traffic. At the request of local residents therefore it was agreed that the matter be referred back to the local Community Council to hold an open meeting where it could be debated and the strength of local feeling clearly established.

4.5 The outcome of this meeting was a clear support for the road to remain open and the proposed closure not to proceed.

4.6 Whilst it can be argued that there may be some merit in the closure of this road to vehicle traffic the speed and volume of traffic is low and the conflict with other users (ie pedestrians and equestrians etc) is fairly infrequent.

4.7 The Director of Roads therefore considers that there are no strong reasons in terms of road safety or traffic management to proceed with the Order.

4.8 Tayside Police have indicated that whilst they remain generally supportive of the proposed prohibition of driving they accept that traffic and pedestrian volumes are low and maintaining the status quo does not unduly concern them.

4.9 Taking all of the above matters into account and in particular the strong local opposition to the proposed Traffic Regulation Order the Director of Roads recommends that the proposal to prohibit the driving of motor vehicles on East Blairs Road, Letham be abandoned and the Order does not proceed.

5 FINANCIAL IMPLICATIONS

5.1 There are no financial implications arising from this Report.

6 HUMAN RIGHTS IMPLICATIONS

6.1 There may be human rights implications for the property owner who originally requested the prohibition of traffic to prevent further damage from passing vehicles.

Article 1 of the First Protocol (Protection of Property) states:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”.

In the case of East Blairs Road the Council is not depriving the property owner of her possessions. Any damage to property from passing vehicles is a matter between the owner of the property and the driver of the vehicle.

In any event, given the strong local support for the road to remain open, the Council can be deemed to be acting in the public interest by keeping the road open to vehicular traffic.

It is therefore considered that any interference with the proprietor’s right to peaceful enjoyment of her possessions by refusal of the request is in compliance with the Council’s legal duties to consider making the order and such refusal constitutes a justified and proportionate control of the use of its powers under the Roads (Scotland) Act 1984 in accordance with the general interest.
7 CONSULTATION

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

Catherine Coull
DIRECTOR OF LAW AND ADMINISTRATION

NOTE:

The following background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above report:-


DAM/JSG
8 December 2003
REPORTS/east.blairs.letham