AGENDA ITEM NO 5
REPORT NO 378/11

ANGUS COUNCIL
INFRASTRUCTURE SERVICES COMMITTEE – 31 MAY 2011
BRECHIN TOWN CENTRE REGENERATION FUND

JOINT REPORT BY THE DIRECTOR OF INFRASTRUCTURE SERVICES AND THE DIRECTOR
OF CORPORATE SERVICES

ABSTRACT: This is a final report on the delivery and outputs of the Brechin Town Centre
Regeneration Fund (TCRF) project.

1. RECOMMENDATIONS

It is recommended that the Committee

(i) Note this summary of the delivery of the Brechin Town Centre Regeneration Fund
(TCRF) project and the resultant outputs and outcomes delivered by the project for
the benefit of Brechin town centre;

(ii) Note that it was not possible to draw down all of the TCRF available to Brechin in
accordance with the terms and conditions of the TCRF offer from the Scottish
Government; and

(iii) Acknowledge the extensive work undertaken by officers across departments to
successfully deliver this ambitious project and in particular the abortive efforts
undertaken to purchase 75-77 High Street (Flicks) for redevelopment.

2. BACKGROUND

2.1 The Committee is referred to Article 10 of the minute of the Angus Council meeting on 16
December 2010 (Report 919/10 refers) which agreed in respect of the Brechin TCRF:-

(i) to note the complexity of purchasing property and taking forward redevelopment
proposals, particularly where there was clear market failure;

(ii) to note the extensive work undertaken by officers across departments to deliver
the projects detailed in Appendix 1 to the Report;

(iii) to remit the Director of Infrastructure Services to submit Appendix 1 to the Report,
together with any correspondence that could be secured from current property
owners to the Scottish Government before noon on Friday 17 December to seek
either a further extension of the Brechin TCRF or to seek the Scottish
government to accept a formal commitment on the part of the Council to achieve
a legal conclusion of some for all of the identified development options within
2010/2011;

(iv) to note that a further Report would be submitted to the next Committee cycle;

(v) to remit the Directors of Infrastructure Services and Corporate Services to seek to
maximise the spend on the TCRF by vigorously pursuing all avenues to secure
commitments timeously, if no extension or agreement could be reached with the
Government; and

(vi) to note that there was substantial risk that all of the funds would not be utilised
and that this was largely outwith the control of the council.

3 DEVELOPMENT OF OPTIONS

3.1 On 2 April 2009, the Scottish Government published preliminary information about the Town
Centre Regeneration Fund. While this gave an outline of the scheme it was not until 30 April
that more detailed information and application packs were made available.
3.2 On 5 May 2009 the Economic Development and ECP Division wrote to a wide range of groups and organisations within Angus making them aware of the TCRF opportunity, the bid requirements and an invitation to make contact with officers to discuss potential bids. Amongst those who received this letter were all Community Councils, Community Planning Partnerships and Business Associations. The letters generated very little communication, however, it is known that three bids from local groups were submitted either in the first or second round of the invitation to bid. These were all unsuccessful.

3.3 Within the limited time available, Council officers considered and explored a number of possible options and this led to the Infrastructure Services Committee agreeing on 2 June 2009 (Report 463/09 refers) to:

(i) the submission no later than 5 June 2009 of a first round bid of up to £250,000 for the improvement of Monifieth town centre by Angus Council;
(ii) authorise the Director of infrastructure Services to progress other options for future consideration by appropriate Committees; and
(iii) note that advice is available from the Council’s Economic Development and ECP Division to properly constituted Angus groups looking to submit TCRF bids.

3.4 On 6 August 2009 officers were advised by the Scottish Government that the Monifieth bid was unsuccessful. The main reason given for rejecting the bid was the lack of economic impact delivered by the project. An amended bid for Monifieth was submitted in the second round but this was also unsuccessful.

3.5 During June and July officers considered options and this led to the construction of a Brechin bid. The bid focussed on bringing vacant and dilapidated town centre properties back into use for housing and commercial purposes. Furthermore, there was the opportunity to work in collaboration with the Brechin Townscape Heritage Initiative (THI) and at the same time use some of its resources as match funding. It also allowed a project the Brechin & District Business Association was looking at to be incorporated within the Council bid.

3.6 Although the time available to properly construct and submit a bid was constrained, Council officers discussed the proposed bid with the major groups and organisations in Brechin. This generated letters of support from:

- City of Brechin and Area Partnership
- City and Royal Burgh of Brechin and District Community Council
- Brechin & District Business Association
- Inveresk Community Council
- Brechin THI

3.7 Council officers received approval from an Infrastructure Services Executive Sub Committee on 10 August 2009 to submit the Brechin TCRF bid to the Scottish Government.

4. **Bid and Grant Offer**

4.1 The proposals within the Brechin bid, submitted on 27 August 2009 in the second round of TCRF applications to the Scottish Government, required the Council to purchase vacant and/or dilapidated properties from third parties at no more than ‘market value’. The risk that owners would not sell their properties was identified by officers at the inception of the project. However, the early communication with property owners indicated that a number were willing to consider a sale and therefore valuations of their properties were obtained. Once individual values were discussed with owners there was still a sufficient number willing to sell to warrant the submission of the bid which if successful would make a significant positive impact to Brechin town centre.

4.2 A list of the identified properties, their proposed purchase prices and estimates for the cost of remedial works were included in the bid submission to the Scottish Government. It was always considered that there would need to be some flexibility as to which properties were acquired and redeveloped.
Officers were notified of the £1.8 million TCRF grant offer from the Scottish Government on 13 November 2009. Included within the grant offer were the associated terms and conditions some of which created some issues and uncertainties amongst officers. Clarification on a number of matters was sought from the Scottish Government in the acceptance letter dated 26 November 2009. In particular, there were concerns over the requirement to spend the £1.8 million of capital grant before the end of March 2010 (only c80 working days available). Not all queries were answered to the satisfaction of officers. Accordingly there was a need to proceed with caution to ensure no significant liabilities were incurred for which TCRF grant was not available e.g. the purchase of a property but an inability to put in place a redevelopment contract before 31 March 2010. As expected, it was confirmed by the Scottish Government at an early stage that it would need to approve the purchase of any properties not on the original list submitted or any significant cost differentials with regard to the remedial works proposed. Furthermore, it was confirmed by the Scottish Government at an early stage, and subsequently on a number of occasions during the delivery of the project, that the project should remain true to its original proposed outputs and outcomes i.e. officers did not have the freedom to significantly alter the scope and focus of the project.

5. ACQUISITION OF PROPERTIES (PRIOR TO 31 MARCH 2010)

5.1 On receipt of the offer a highly experienced team was quickly assembled to take responsibility for the delivery of the Brechin TCRF project. The team comprised officers from Economic Development & ECP, Planning - Brechin THI, Property, Finance, Law & Administration and Housing. Once again owners were contacted about purchasing their properties but not all were agreeable to selling to the Council. In some cases individual circumstances had changed. Other owners queried valuations and/or tried to negotiate a better price. However sufficient owners were willing to sell to take the project forward.

5.2 Following further dialogue with owners, new valuations of properties were undertaken; further survey work was undertaken to determine the remedial works required and the estimated costs of the works; there was ongoing dialogue with the Brechin THI; and further dialogue with and support from the Scottish Government. As a result, a small selection of properties was identified for potential inclusion in the Brechin TCRF project and two priority properties were identified:

2 Market Street (Priority)

5.3 This property was acquired on 9 March 2010 for £347,264 (total cost, inclusive of fees and other charges). A works contract was then issued via the ‘schedule of rates’ at an estimated cost of £415,450 (inclusive of fees and other charges). This was sufficient evidence to demonstrate legally committed expenditure and enabled officers to submit a claim of £762,714 to the Scottish Government before the deadline of 31 March 2010. Note: the Brechin THI agreed to contribute £75,000 to the project to cover additional identified costs.

5.4 After work had commenced on the building unforeseen costs were identified and in addition ‘Historic Scotland’ requested that certain requirements be met. The total of this additional expenditure was estimated at £100,000 and the Scottish Government subsequently agreed that this amount could be claimed from the TCRF.

5.5 The works are scheduled to be completed by the end of June 2011. This will deliver six modern residential flats within a sympathetically restored, historic and strategically placed building. It will also improve the general townscape and ensure the long term sustainability of this building.

5.6 Arrangements are being finalised to lease the six flats to a Registered Social Landlord through a ‘lead tenancy scheme’.
11-19 St David Street - formerly Woolworths (Priority)

5.7 The price for the purchase of this property was agreed with the owner at a relatively early stage. However, a great deal of work had to be undertaken before the purchase could be concluded. There was a need to determine the remedial and redevelopment works required and the associated costs; there were a number of legal issues to resolve e.g. the owner could not immediately offer vacant possession due to an ongoing lease; and officers had to look at options and determine the future use of the building.

5.8 An occupier for the redeveloped premises was identified and an outline lease was agreed, although the occupier was insisting on an option to buy the property at a future date. This was deemed an exciting project as the businesses proposed to be housed in the property had the potential to create employment opportunities and the owner advised that he expected to attract over 27,000 visitors a year to Brechin town centre. This clearly had the potential for significant spin-off benefits to other businesses in the town.

5.9 After the outstanding matters were resolved it was agreed on the 2 March 2010 that the Council would complete the purchase of the property on 5 March 2010. It was therefore a great shock to officers to learn from the owner’s solicitor late in the day on 4 March that the property had been sold to a third party on that very day.

5.10 It later emerged that the owner had received a higher offer and that the new owner had plans to redevelop the property. After all of the work undertaken by officers, it was disappointing that this property had been lost to the Brechin TCRF project. Perhaps more significantly there was very little time left to bring forward and commit to alternative properties and still meet the Scottish Government’s deadline of the end of March for legal commitment of expenditure and the drawing down of the TCRF grant. Nevertheless, it was encouraging that the private sector had come forward with speculative investment in Brechin.

45-49 High Street

5.11 This was always regarded as a strategic property with its redevelopment being regarded as important to the future of the town centre and to the overall delivery of the Brechin THI. However, it was not listed within the original TCRF bid as the owner was unwilling to sell. With the approval of the Scottish Government, a further approach was made to the owner and the purchase of this property was eventually agreed.

5.12 The Council acquired this property on 15 March 2010 for £37,860 (total cost, inclusive of fees and other charges). Some immediate works were also commissioned and future development fees agreed. These costs amounted to £86,806 enabling a TCRF claim of £124,666 to be submitted to the Scottish Government before the deadline of 31 March 2010.

5.13 It was agreed that the Brechin THI would fund the balance of the redevelopment costs which were estimated at a further £313,000. The revised date for the completion of this project is the end of November 2011. On completion, the building will provide two small retail units on the ground floor and a first floor residential flat. It is proposed that the two retail units will be offered for lease and added to the existing commercial property portfolio which is managed by the Economic Development & ECP division. It is anticipated an agreement will be negotiated with a Registered Social Landlord to let the residential property.

5.14 Once the redevelopment work is complete the townscape in the High Street will see a dramatic improvement. In addition, the works will ensure the long term future of the building, including the second floor flat which is in separate ownership.

Alternatives

5.15 Once it was known that 11-19 St David Street was lost, officers advised the Scottish Government of the situation and immediately began looking at alternative properties. Despite further requests, the Scottish Government was not willing to confirm an extension beyond the
end of March 2010. On the 12 March the Council’s then Chief Executive received a letter from Alex Neil MSP, Minister for Housing and Communities (the Minister) stating:

5.16 ‘We are currently considering the situation for cases such as yours where unforeseeable developments might prevent claims from being lodged within the required timescales. We will let you know the outcome of that as soon as possible. In the meantime, I would urge you to continue to work with my officials in progressing the project.’

5.17 While this was encouraging there was still doubt as to whether the TCRF grant could be drawn down after the end of March.

5.18 One of the properties considered at this time was 75-77 High Street – the former Flicks nightclub. It had not been included in the original list of properties submitted to the Scottish Government as it was known the owner had plans to redevelop the site for housing and there was uncertainty as to what would be the best future use for the building or a cleared site.

5.19 It was decided to pursue this option further after the owner expressed a willingness to sell and there was the possibility that it could be redeveloped, in line with the Brechin TCRF objectives, to house the businesses that were to have occupied 11-19 St David Street. Following a valuation by the District Valuer the owner of 75-77 High Street agreed to sell the property to Angus Council. This would be subject to the owner removing any asbestos found in the building.

5.20 By the end of March 2010 Angus Council had committed to expenditure totalling £887,380 and submitted a TCRF claim to the Scottish Government for the same amount.

6. ACTIVITIES UNDERTAKEN FROM 1 APRIL 2010

6.1 Work commenced to determine what would be required to return 75-77 High Street back to commercial use and the likely costs. Understandably, it was considered important to know if there would be sufficient TCRF grant remaining to both purchase and fully cover the cost of the redevelopment of the property.

6.2 On 15 April 2010 Council officers met with officers from the Scottish Government to discuss the project. The Scottish Government would not confirm support for the purchase and redevelopment of 75-77 High Street, nor that an extension beyond the end of March had been granted, however, they did encourage Council officers to pursue the purchase of the property. As would be expected, the Scottish Government wanted to know the costs involved, the date all expenditure would be legally committed and the completion date for the project before a decision would be taken. However, there was still doubt that the Scottish Government would allow an extension for this or any other TCRF project. Proceeding with some caution, officers continued correspondence with the owner, sought financial support from Brechin THI, explored likely planning and building warrant issues; worked up designs; and began drafting the legal paperwork.

6.3 In an attempt to progress matters more quickly, officers commissioned a survey of the building to determine the volume of asbestos present (although this was the owner’s responsibility). The subsequent report, which identified more asbestos in the building than had been anticipated, was provided to the owner. The owner then sought prices for the removal of the asbestos.

6.4 Dialogue continued with the owner and he was chased to confirm a sale date. This culminated with the owner trying to negotiate a higher price for the property. At this point the project was put on hold.

6.5 On 30 June 2010 the Minister wrote to the Leader of the Council saying:

‘Given the large number of properties within Brechin town centre which Angus Council have stated are in a poor state of repair, have been vacant for a long period and which are currently not fit for occupation, I believe that it ought to be possible for the Council to bring forward alternative options.”
I am prepared to offer Angus Council more time to work up options. I would urge you to continue to work with my officials to find a suitable alternative and progress this to a quick solution.'

6.6 This was obviously very encouraging to officers and they continued the work that had already begun to investigate suitable properties that could be acquired and/or redeveloped using the TCRF. However, officers were still constrained by the fact that not all owners of potentially eligible properties were willing to sell.

6.7 Also on 30 June officers received a request to consider resurrecting the purchase of 75-77 High Street as the owner was now willing to sell the property, with the asbestos removed, at the previously agreed price. Given the potential economic boost to Brechin the previously proposed redevelopment could deliver, discussions with the owner recommenced while officers continued to look at other options.

6.8 A series of discussions with the owner of 75-77 High Street continued and the detailed delivery of the complex project was further explored in the weeks that followed. This culminated in an outline agreement being reached on 11 August 2010. It was agreed that the owner of the property would strip the asbestos from the building and at the same time demolish the rear of the building to allow for a new development to adjoin the frontage that was to remain. The price agreed for the sale of the remaining building and cleared site, established by the District Valuer, was £275,000. It was further agreed that the owner would have the building/site ready for handover in early December 2010. It was felt that with the owner demolishing the building this would move the project forward more quickly and that there could be cost benefits in removing the asbestos and completing the demolition as a single contract.

6.9 Council officers agreed that the best way to deliver the ‘new’ building would be through a design and build contract and work began preparing outline specifications and tender documentation. At the same time officers submitted applications for the required building warrants and planning consents, commissioned ground tests and appointed the required archaeological adviser to oversee any ground related works. Although these matters were the responsibility of the owner, officers undertook these tasks in order to try and deliver the project as early as possible in the hope that this would help in the request to the Scottish Government to approve and fund the project. Furthermore, it had become apparent the owner was not a property professional nor from a development background and that he was not receiving professional property advice.

6.10 Although THI Brechin agreed to contribute up to £150,000 to the redevelopment costs there was still some doubt as to whether there would be sufficient funds available to deliver the project as the tender prices were not known at this stage. Therefore a fall back position was developed to put affordable housing on the site. This would ensure that the Council was not left with a cleared site with insufficient funding available to deliver the proposed commercial redevelopment.

6.11 As there was still no formal confirmation from the Scottish Government that they would support the project, the then Chief Executive of the Council wrote to the Minister on 26 August 2010 asking for approval to proceed and seeking confirmation that the balance of the TCRF grant offer was available for draw down. On 3 September a Scottish Government officer confirmed via email that they:
- were supportive of the purchase of 75-77 High Street for redevelopment for commercial use i.e. for economic benefit; and
- would allow for full draw down of the remaining funding before 25 December 2010.
- would consider supporting the housing option, should the need arise.

6.12 This gave Council officers the comfort they were seeking before proceeding and it was also the first time an extension to claim the remaining TCRF grant beyond the end of March 2010 had been confirmed.
6.13 The legal contract to complete the purchase of the property, subject to the owner fulfilling his obligations to remove the asbestos and demolish the rear of the building, was agreed in late October. On Friday 29 October it was agreed by officers, the owner and the solicitors representing both parties that the contracts would be signed and exchanged on Monday 1 November.

6.14 The contract was not concluded as agreed. The owner’s solicitors said that she was waiting to receive final instruction from her client. Over the next two or three weeks the owner did not respond to telephone messages or emails. However, on 24 November the owner confirmed in a telephone conversation that he wanted to proceed and would immediately give instructions to his solicitor. On 26 November officers sent an email to the owner advising that unless the contract was in place by Monday 6 December the Council would be unable to proceed with the purchase.

6.15 As the contract was not concluded on the 6 December the Council confirmed to the Scottish Government that the purchase of 75-77 High Street would not be proceeding. In the meantime, officers were in communication with some other property owners in an attempt to develop alternative proposals in line with the original Brechin TCRF bid. However, while efforts continued it was recognised at this late stage it would be difficult to legally commit capital expenditure prior to the deadline of 25 December.

6.16 Unexpectedly, on 14 December the solicitor representing the owner of 75-77 High Street advised officers her client still wanted to conclude a sale. On the same day, the owner phoned officers and confirmed that he wanted to conclude on the agreed terms. On 15 December the owner advised officers by email that he would be contacting his solicitor the same day with the intention of concluding the contract. The contract was not concluded.

Efforts to put in place alternative proposals continued and an update with potential options to put to the Scottish Government was reported to and approved by Angus Council on 16 December 2010 (Report 919/10 refers).

7. SCOTTISH GOVERNMENT COMMUNICATION

7.1 In accordance with the Council’s instructions on 17 December 2010, the Director of Infrastructure Services submitted proposals for the utilisation of the TCRF underspend in Brechin seeking either a further extension to the Council’s delivery of the TCRF or seeking Scottish Government acceptance of a formal commitment on the part of the Council to achieve a legal conclusion of some or all of the identified development options within the financial year 2010/11.

7.2 The Government responded to this approach through a letter from the Deputy Director of Regeneration to the Chief Executive dated 22 December 2010. The letter stated:

“In summary, by our final deadline, Angus Council did not put forward a viable project but submitted a formal request asking Ministers to either grant a further extension in support of potential projects or to release the remaining £912,620 funds to the local authority, on the proviso that the council would give a formal commitment, prior to 25 December, to achieve legal conclusion of some or all of the development options it had identified or to return the money.

This letter confirms that Ministers are unable to support these options. The Scottish Government is not in a position to release the remaining award without evidence of legal commitment. Ministers are of the view that granting a further extension to the Council is not feasible this close to the end of the financial year, based on progress to date and the fact that monies were already accrued into 2010/11.

“It is with regret that I have to inform you that the Scottish Ministers are therefore withdrawing the offer of remaining grant”.

7.3 In an immediate response to this letter, Council officers contacted the Scottish Government to seek clarification on the Minister's stance in relation to (i) the additional financial commitment associated with unanticipated works at 2 Market Street, Brechin, and (ii) the opportunity to substitute the TCRF for Lottery funding in respect of the redevelopment of 45 – 47 High Street which would potentially enable the lottery underspend to be allocated to other property developments associated with the Townscape Heritage Initiative. This approach was accompanied by a formal application associated with these works which confirmed that, as works were already proceeding on both properties, the adjusted spend profile could be achieved and could be legally committed by work being instructed under the Council’s Schedule of Rates contract. Both of these proposals formed part of the Councils approved bid to Scottish Government.

7.4 A subsequent e-mail response was received from Scottish Government on 24 December 2010 confirming that the Minister had approved an additional £100,000 allocation to cover the works required at 2 Market Street but was not prepared to approve the payment for 45 – 47 High Street, as TCRF was not intended to substitute for other funding streams. This left an underspend of £812,620.

7.5 Following the Scottish Government's refusal of the Council’s request for either an extension or the acceptance of a formal Council commitment to achieve legal conclusion of some or all of the identified development options within 2010/11, Councillor Myles, as Leader of Angus Council, discussed the matter with Alex Neil MSP Minister for Housing and Communities and followed this up with a letter (dated 18 January 2011) requesting reallocation of the unspent TCRF funds in favour of the potential redevelopment of Brechin City Hall. Councillor Myles received a response dated 28 January 2011 which stated:-

"As you are aware my officials wrote to the Chief Executive on the 22 December to confirm that we had taken the decision not to release the remainder of the councils TCRF award and we set out our reasons for doing so.

As a consequence, the monies which were not drawn down last month have now been fully committed within our wider regeneration programme budget for the year. I can therefore confirm that we are unable to offer you any further support in taking forward this new project”

7.6 A request was then received from Scottish Government on 25 February for a ‘Schedule 6’ project progress report. This was a circular request being made for every approved TCRF project across Scotland. It was confirmed in this correspondence that the return should confirm expenditure to date and identify any anticipated underspends. It then proceeded to state:

‘We have been approached by projects predicting identified savings and potential under spends in their final accounts, with requests to redirect these monies. We are considering such requests on a case by case basis.

If you predict a similar situation may arise with your project, could you also make this known to us. You should make it clear where the saving/under spend has been made within your original budget and provide an explanation for this. You should highlight where you would propose to redirect the monies.

We will base our decisions on whether i) the monies will be spent within the town centre boundary ii) whether the alternative constitutes capital spend and iii) whether this proposal augments the original TCRF project.’

After officers sought clarification, the Scottish Government asked that the full £1.8m grant award be notated in the progress report. The content of the communication with Scottish Government obviously alerted Council officials to the fact that it appeared underspend on TCRF projects elsewhere were perhaps being dealt with differently to the underspend associated with the Brechin project.

This led to the drafting of Report No 235/11 which alerted the Strategic Policy Committee to the situation and sought approval for a further submission to the Scottish Government. This was presented to the Committee on 15 March 2011. However between the time of drafting and presentation the Scottish Government clarified that they did not consider the Council’s
inability to draw down the balance of the funding to be an “underspend” and there was no opportunity to submit any further proposals. The report was therefore withdrawn prior to consideration by the Committee.

8. BRECHIN CITY HALL

Significant comment has been made since the loss of the funding that the City Hall should have been part of the funding bid and that it met the eligibility criteria. However, there was a range of criteria which the Scottish Government used to rank bids for funding. They were not exclusive, meaning meeting one of the criteria did not guarantee funding.

The comments received from the Scottish Government in relation to failed Angus bids submitted in the first round, and from further guidance notes, made it clear that there needed to be a strong linkage between the criteria with outputs relating to the economy and jobs being important. It was for this reason the submission for Brechin linked the return to use of currently unused buildings with improved housing availability, improved physical environment, the creation of jobs and a stimulus to the local economy.

At no stage of the consultation, in seeking ideas, or in consulting on the proposals did anyone propose the inclusion of the City Hall. At no point (until after funding had been lost) in the reporting of the project to committee was there any debate amongst Members or discussion between officers and Members that the City Hall should be included. The City Hall did not fit with the reasoning of the bid. It is not possible even in-hindsight to know if it would have been accepted as part of the bid or as a separate bid because no business case was developed or submitted to the Scottish Government.

9. REPORTING TO COMMITTEE

Questions have been asked about Member involvement and the level of reporting to Committee. The following is a list of the Committees to which reports were submitted:

- Report 463/09 Infrastructure Services Committee 2 June 2009
- Report 524/09 Infrastructure Services Executive Sub Committee 10 August 2009
- Report 865/09 Infrastructure Services/Corporate Services committees 24 Nov/3 Dec 2009
- Report 77/10 Corporate Services Committee 28 January 2010
- Report 228/10 Corporate Services Committee 11 March 2010
- Report 343/10 Corporate Services Committee 29 April 2010
- Report 449/10 Corporate Services Committee 10 June 2010
- Report 690/10 Angus Council 16 September 2010
- Report 919/10 Angus Council 16 December 2010
- Report 65/11 Corporate Services Committee 27 January 2011
- Report 99/11 Angus Council Special Infrastructure Services Committee 10 February 2011

Generally, the project was reported to the Infrastructure Services Committee or Angus Council where decisions were necessary. In addition to this the progress and ongoing issues were reported to Corporate Services Committee as part of the Capital Monitoring Report.

It is not normal practice to bring project reports to service committees simply for noting, the updates to Corporate Services Committee provided the same information which would have gone to a service committee.

10. PUBLIC MEETING

10.1 Following the withdrawal of the remainder of the Brechin TCRF offer by the Scottish Government, there was much public comment on the perceived failure of the Council to spend the money it had been given. Much of the comment by third parties and the subsequent reporting of the public debate in the media was considered by Council officers,
and some Members, to be ill-informed. This led to a public meeting being organised in Brechin on 17 March 2011 to discuss the project.

10.2 The meeting was well attended with around 70 people listening to officers presenting on the terms and conditions of the grant offer, giving an overview of the project and reporting on how the project unfolded. There was also the opportunity for the audience to ask questions and everyone attending received the attached document giving a short synopsis of the delivery of the project (Appendix 1).

10.3 Overall, officers considered that the presentation was well received and that those in attendance gained a better understanding of the aims of the bid and the offer received from the Scottish Government and the reason certain decisions were taken. Nevertheless, there was still concern that funding which could have been used to improve Brechin had been lost.

11. PROJECT OUTPUTS AND OUTCOMES

11.1 While it was disappointing that the Brechin TCRF did not deliver to its full potential there were positive outputs and outcomes that can be reported:

- Brechin has done very well to receive TCRF grant totalling just under £1m. Of the 89 towns in Scotland that received TCRF grant only 16 received more support than Brechin. Furthermore, the towns receiving more money were generally much larger and frequently part of a larger city or conurbation.
- Brechin was the only town in Angus to succeed with a TCRF bid.
- The total investment in Brechin as a result of the TCRF bid will be £1,376,000 (funded by TCRF and Brechin THI).
- At the end of the project two strategic buildings will be fully redeveloped dramatically improving the townscape of the town centre, ensuring their long term future and hopefully leading to further investment in the town by others.
- Seven town centre flats will be fully modernised and upgraded. This will mean additional people living in the town centre and generally more activity. The redevelopment of 45-49 High Street will also ensure the long term future of the 2nd floor flat that has remained in private ownership.
- Two small, modern retail units will be brought back into use which should extend the retail offering in Brechin.
- Although the TCRF cannot prove any direct link, there are signs that private sector investment is beginning to come forward, perhaps encouraged by what they already see happening. Developers have plans to redevelop the former Woolworths building and the Merchants House and there are signs of progress with a number of other projects that Brechin THI is looking to support. There should be clear evidence of long term improvements to the town centre in 2 or 3 years.

12. PROJECT REVIEW

12.1 The following are some observations and opinions about the TCRF and the Brechin project in particular:

- The Scottish Government gave applicants very little time to develop and prepare the TCRF bids. The concept was announced in February 2009 but it was not until 30 April 2009 that application packs were published detailing eligible activities and the proposed conditions. First round bids had to be submitted by 5 June 2009. This clearly favoured projects that had been worked up, and costed, by applicants previously.
- Competition for the £60 million on offer from the Scottish Government’s Town Centre Regeneration Fund was intense. Shortly after the cut-off date the Scottish Government announced that the first round allocation of £40 million attracted 133 applications totalling £125 million. Only 36 of the 133 bids submitted in the first round were successful.
- Following the first round announcements, the Scottish Government published information on how the applications were assessed and the scoring criteria and weightings used and to be used in the second round. It was revealed that the highest weighting at 25% was for
leverage rates, the creation of job opportunities, the potential to attract future investment, additionality and support for local businesses’. This influenced the formation and content of the Brechin TCRF bid to ensure it stood the best chance of success.

- A carefully constructed and presented strategic TCRF bid, to purchase and redevelop properties in Brechin town centre, bringing them back into commercial and residential use, led to the Scottish Government offering Angus Council £1.8 million. There was little scope to operate outside the declared parameters of the project.
- It was always recognised that the project was ambitious and not without risk. Potential risks that could frustrate the intended positive outputs and outcomes were listed in the business plan that accompanied the application submitted to the Scottish Government. The Scottish Government accepted these risks and proceeded to make the funding offer. The risks were highlighted in Report 865/09 submitted to the Infrastructure Services Committee 24 November 2009 and the Corporate Services Committee 3 December 2009. Both committees unanimously approved the report.
- Throughout the project officers maintained an awareness of the need to find in advance, where possible, a use and occupants for any properties acquired and redeveloped. This was particularly the case for the larger properties. It was considered that there would be little point in creating commercial properties for which there was no demand or for which no demand could be created.
- It has to be recognised that the purchase and redevelopment of older property is invariably complex and frequently unforeseeable issues and costs arise. Overall, and by its very nature, regeneration is costly and it is rare that the final value of a redeveloped property will reach the value of the redevelopment costs. This is particularly so in Brechin where there is market failure in the property sector with values historically very low.
- Some property owners in Brechin had an inflated expectation of their property values and others considered they could negotiate a better price knowing that the Council had funding available from the Scottish Government. They were invariably disappointed as the Council officers were not permitted to offer more than ‘market value’ which in most cases was established by the District Valuer.
- In hindsight, the fact the Council did not have ownership of key properties from the beginning made the project more difficult to deliver than anticipated. However, that is not to say the potential positive benefits for Brechin did not warrant an attempt.

13. FINANCIAL IMPLICATIONS

13.1 As previously reported there were fees amounting to £16,162 incurred in obtaining property valuations while constructing the TCRF bid. These fees were non-recoverable and met from the Economic Development & ECP capital budget for regeneration in 2009/10.

13.2 All costs incurred in the acquisition and redevelopment of 2 Market Street and 45-49 High Street have been or will be met from grant funding drawn down from the Scottish Government (TCRF of £987,380) or from Brechin THI (£388,000). The Council will retain ownership of these assets and, all being well, will generate rental income going forward.

13.3 Significant additional abortive fees have been incurred in the last financial year particularly in relation to submission of planning applications, survey and design work associated with 79-81 High Street. The estimated abortive costs associated with all of the fees incurred to date amount to around £100,000. These costs were met from the Economic Development and E&CP revenue budget for 2010/11.

13.4 The TCRF offer was to draw down grant to cover legally committed capital expenditure of up to £1.8 million. Thus there was a balance of £812,620 which it was not possible to draw down prior to the Scottish Government withdrawing the facility.

14. HUMAN RIGHTS IMPLICATIONS

14.1 There are no human rights implications arising from this Report.
15. **EQUALITIES IMPLICATIONS**

15.1 The issues dealt with in this report have been the subject of consideration from an equalities perspective. An *equalities impact assessment* is not required.

16. **SINGLE OUTCOME AGREEMENT**

16.1 This Report contributes to the following local outcome contained within the Single Outcome Agreement for Angus.

- Angus’ built environment is protected and enhanced

17. **CONSULTATION**

17.1 The Chief Executive, the Director of Neighbourhood Services, the Head of Finance, the Head of Property and the Head of Law and Administration, have been consulted in the preparation of this report.

18. **CONCLUSION**

18.1 It is obviously very disappointing that it was not possible to draw down all of the TCRF grant made available to Brechin. This was largely due to the fact that the owners of two strategic properties did not conclude the sale of their properties to the Council despite contracts apparently having been agreed in both cases.

18.2 Nevertheless the TCRF money brought into Brechin totalling almost £1 million has benefited the town and will hopefully help to stimulate further regeneration projects going forward.

**ERIC S LOWSON**  
DIRECTOR OF INFRASTRUCTURE SERVICES

**COLIN McMAHON**  
DIRECTOR OF CORPORATE SERVICES

**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 a material extent in preparing the above report.

ECDEV/DV/SW/FM  
26 April 2011
## APPENDIX 1
### BRECHIN TOWN CENTRE REGENERATION FUND - project submission and management

<table>
<thead>
<tr>
<th>THE SUBMISSION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>February 2009</strong></td>
</tr>
<tr>
<td>Scottish Government’s budget announcement - creation of a new £60m Town Centre Regeneration Fund. Details to follow.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>April 2009</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Scottish Government (SGov) issued preliminary information about the fund, namely it would support projects within designated town centres:</td>
</tr>
<tr>
<td>- that provided economic, social and environmental benefits</td>
</tr>
<tr>
<td>- supported capital investment</td>
</tr>
<tr>
<td>- were additional to current spending plans</td>
</tr>
<tr>
<td>Funding to be spent by 31 March 2010.</td>
</tr>
<tr>
<td>SGov issued application packs (30 April), detailing eligible activity:</td>
</tr>
<tr>
<td>- improving pedestrian/vehicle access or parking</td>
</tr>
<tr>
<td>- attracting increased footfall</td>
</tr>
<tr>
<td>- diversification of the mix of services and amenities</td>
</tr>
<tr>
<td>- gap sites/vacant property acquisition for redevelopment</td>
</tr>
<tr>
<td>- streetscape improvements</td>
</tr>
<tr>
<td>- remediation of vacant or derelict sites</td>
</tr>
<tr>
<td>- remodelling of existing premises to provide retail/business/residential or recreational use, or to comply with Disability Discrimination Act</td>
</tr>
<tr>
<td>Conditions:</td>
</tr>
<tr>
<td>- cannot purchase land/property above market value</td>
</tr>
<tr>
<td>- projects must conform to State Aid rules</td>
</tr>
<tr>
<td>- bids must have been developed/agreed with local partnerships/businesses</td>
</tr>
<tr>
<td>- projects must clearly support existing strategic plans</td>
</tr>
<tr>
<td>Deadlines</td>
</tr>
<tr>
<td>- 1st round bids – deadline 5 June 2009 (5 weeks to submit)</td>
</tr>
<tr>
<td>- 2nd round bids – deadline 28 August 2009 (17 weeks to submit)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>May 2009</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Angus Council (AC) advised community councils, business groups, and associations etc of opportunity to bid.</td>
</tr>
<tr>
<td>Angus Council started identification of possible council submissions.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>June 2009</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure Services Committee (2 June) <a href="#">report 463/09</a> – recommendation to:</td>
</tr>
<tr>
<td>- submit first round bid for Monifieth town centre improvements (a project already part prepared)</td>
</tr>
<tr>
<td>- investigate second round bids for (a)Brechin, an entirely new project and (b)town centre CCTV improvements* and report back.</td>
</tr>
<tr>
<td>Recommendations unanimously approved by the committee.</td>
</tr>
<tr>
<td>*(b) did not progress</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>June 2009</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Monifieth bid submitted (133 bids across Scotland – value £125million)</td>
</tr>
</tbody>
</table>

| June – August ‘09 |
AC worked on the Brechin bid, informed by the Townscape Heritage Initiative’s 2007 socio-economic appraisal of the town (population /economic activity /average pay /deprivation /retail & service decline).

The objective of the regeneration bid was therefore to address the identified sustained market failure in the Brechin property sector. Vision: ‘To revitalise the town centre of Brechin by identifying and stimulating a number of regeneration projects that will upgrade a series of vacant commercial and residential properties. In the process they will be brought back into use for the benefit of individuals and local businesses in the community and will generate sustainable economic growth’

Properties: council invited owners to express interest in sale of properties (advert). 22 potential properties identified. Owners approached for sale at ‘market value’. Inspection and valuation of 13 properties.

Consultation with and presentation of the proposed bid to local groups in Brechin. Letters of support were received from Brechin Business Association, City of Brechin & Area Partnership, Brechin & District Community Council, Inveresk Community Council, Brechin Horticultural Society and Brechin THI.

Angus Council’s Infrastructure Services Executive sub-committee (10 August) approved report 524/09, authorising the Director of Infrastructure Services to submit an application to the TCRF for property acquisition and renovation in Brechin town centre.

SGov announced first round awards (8 Aug) - 36 successful projects, value £40m. Monifieth bid unsuccessful – SGov advised rejection was due in part to lack of economic impact.

Brechin bid (and revised Monifieth bid) submitted (28 Aug).

The ambitious Brechin bid was considered worthy of pursuit given the potential positive impact it could have. The risks identified were highlighted in the bid submission, most specifically the anticipated difficulty of committing the expenditure by the SGov’s 31 March deadline.

<table>
<thead>
<tr>
<th>November ’09</th>
</tr>
</thead>
<tbody>
<tr>
<td>SGov announced (13 Nov) the award of £20m to 30 projects representing 41 towns. Four month delivery deadline.</td>
</tr>
<tr>
<td>Brechin awarded £1.8m (of £2.1m requested). Monifieth project rejected again.</td>
</tr>
</tbody>
</table>
November ‘09

Infrastructure Services (IS) Committee (report 865/09)- 24 November committee agreed to accept TCRF award offer of up to £1.8m, conditional on receiving an assurance of an extended deadline, as highlighted in bid submission. Authority for the utilisation of allocation delegated to relevant directors in consultation with IS convener. Approved recruitment of a p/t officer.

The following risks set out in the bid submission, were highlighted to committee:
- owners refuse to sell
- property purchase takes longer than expected
- procurement delays
- planning consent
- SGov refuse consent for substitute projects
- lack of dedicated officer resource for project

Chief executive wrote to SGov (26 Nov) accepting award offer subject to clarification on deadline and flexibility.

December ‘09

Project team established

Two priority properties confirmed (i) 11-19 St David Street (Woolworth) and (ii) 2 Market Street (six residential flats) – sellers interest confirmed. Other property owners now less interested in selling at market value.

Possible occupant for St David Street premises emerged - potential to attract around 27,000 visitors a year, delivering economic boost, spin-off benefits to other businesses and job creation.

January 2010

SGov approval sought for increased spend (c£460k) on 11-19 St David Street.

As no SGov response to the queries raised in acceptance letter the council still potentially exposed to financial risk.

February 2010

AC chief executive wrote to Minister (2 Feb) formally requesting extension beyond 31 March. Request repeated 18 Feb.

Part time regeneration project officer starts.

AC advertised for expressions of interest in lease for redeveloped St David Street premises (Woolworth). AC in discussion with owner of 2 Market Street regarding assessed market value. Other buildings under consideration for purchase: 45-47 High Street (new/third priority)/ 1A Church Street / 75-77 High Street (former Flicks nightclub). Latter identified as difficult to purchase/redevelop within SGov deadlines.

SGov confirm some flexibility in project management/ property acquisition, providing no major impact on outcomes. SGov approved revised outline project plan.

March 2010

AC agreed (2 March) purchase of 11-19 St David Street with seller; completion date 5 March. Property sold to 3rd party (4 March). Alternative property purchases reconsidered; 45-47 High Street scrutinised. Verbal agreement (9 March) from SGov for reallocation of St David Street funds to...
other project(s).

Six flats at 2 Market Street acquired – total £347,264.

Corporate Services Committee report 228/10 (11 March) – reported 3rd party purchase of 11-19 St David Street / investigation of alternative property acquisitions. Reiterated further purchases/procurement before 31 March, challenging.

SGov Minister letter (12 March) - no formal extension granted but AC urged to continue to work with SGov officers to progress project.

Purchase of 75-77 High Street (Flicks) as a cleared site now serious option for purchase/redevelopment. Intended occupier for St David Street premises confirmed interest in High Street alternative. Owner of Flicks site expresses interest in selling at District Valuers valuation of £235k.

SGov updated on progress of project.

**April 2010**

Corporate Services Committee (29 April) report 343/10 – acquisition/renovation of 2 Market Street and 45-49 High Street confirmed. Reported no formal approval from SGov for extension to deadline.

Asbestos discovered in Flicks building.

**June 2010**

Cost of dealing with asbestos appears prohibitive – property owner indicates unable to proceed without increase in purchase price. AC restricted to market value (TCRF condition). Project considered undeliverable. AC starts investigating other alternative projects.

Corporate Services Committee (10 June) report 449/10 - confirmed submission of claim for £887,371 (2 Market Street, purchase /45-49 High Street, renovation contribution).

Minister formally advises funding is still available (14 June) – AC urged to continue with project.

Minister writes to council leader (30 June) asking AC to consider alternative projects, particularly vacant properties.

AC approached by Flicks owner and prospective occupier (30 June) asking that deal be resurrected.

**July 2010**

Discussions continue with Flicks owner re asbestos removal and demolition.

**August 2010**

Legal work on purchase of Flicks gets underway.

AC seeks SGov approval to proceed with Flicks project. Verbal encouragement given.

**September ‘10**

Met with SGov – confirm support for Flicks project in writing (3 Sep). AC given until 25 Dec to draw down funding. First time extended project deadline formally confirmed.

Angus Council (16 Sept) report 690/10 – progress noted and proposed
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 2010</td>
<td>Planning application submitted /building warrant for demolition granted. Legal team advise missives for Flicks property to be concluded 1 November. Full project update to SGov (29 Oct) response confirms economic project is priority.</td>
</tr>
<tr>
<td>November ’10</td>
<td>Owner does not sign on 1 Nov. Owner’s solicitor seeks instruction from client. Owner chased and continues to confirm his wish to sell.</td>
</tr>
<tr>
<td>December ’10</td>
<td>Email/press article from property owner 15 Dec confirms he still wishes to proceed with sale. However he does not conclude sale. Angus Council (16 Dec) report 919/10 - complexity of purchasing property/redevelopment noted. Director of IS remitted to seek further project extension or request SGov accept formal commitment from AC to legally conclude some/all of options within 2010/2011. Submission made to SGov as above (17 Dec). Letter from SGov (22 Dec) confirming Ministers unable to support AC request. AC chief executive wrote (23 Dec) asking SGov to reconsider expenditure approvals for 2 Market Street and 75-77 High Street. SGov confirms (24 Dec) £100k expenditure for 2 Market Street</td>
</tr>
<tr>
<td>January 2011</td>
<td>Council leader met with Housing and Communities Minister to request reallocation of TCRF funds to Brechin.</td>
</tr>
<tr>
<td>February 2011</td>
<td>SGov decline council leader’s request.</td>
</tr>
</tbody>
</table>

**Council Committee Reports**
- Report 463/09 Infrastructure Services Committee 2 June 2009
- Report 524/09 Infrastructure Services Executive Sub Committee 10 August 2009
- Report 865/09 Infrastructure Services/Corporate Services committees 24 Nov/3 Dec 2009
- Report 77/10 Corporate Services Committee 28 January 2010
- Report 228/10 Corporate Services Committee 11 March 2010
- Report 343/10 Corporate Services Committee 29 April 2010
- Report 449/10 Corporate Services Committee 10 June 2010
- Report 690/10 Angus Council 16 September 2010
- Report 919/10 Angus Council 16 December 2010
- Report 65/11 Corporate Services Committee 27 January 2011
- Report 99/11 Angus Council Special Infrastructure Services Committee 10 February 2011