

**ANGUS COUNCIL****ROADS COMMITTEE - 24 JANUARY 2002****A92 PROJECT - WRITTEN SUBMISSION IN PLANNING APPEAL; LINLATHEN, BY CLAYPOTTS, DUNDEE****JOINT REPORT BY THE DIRECTOR OF LAW AND ADMINISTRATION  
AND THE ACTING DIRECTOR OF ROADS****ABSTRACT**

This Report seeks homologation of the decision to make a written submission on behalf of the Council to a planning appeal against (deemed) refusal of a proposed roadside services development at Linlathen, by Claypotts, Dundee.

**1. RECOMMENDATION**

It is recommended that the Committee agree to homologate the decision to make a written submission on behalf of Angus Council in its capacity as lead authority for the A92 Dundee - Arbroath Upgrading Project to a planning appeal against deemed refusal by non-determination by Dundee City Council of a proposed roadside services development at Linlathen, by Claypotts, Dundee, a copy of which submission is attached as an Appendix to this Report.

**2. BACKGROUND**

- 2.1 An appeal to the Scottish Ministers was lodged by Linlathen Developments Limited against the failure by Dundee City Council to determine within two months an outline planning application for a roadside service development at Linlathen, by Claypotts, Dundee (DCC application ref 01/25176/D).
- 2.2 The appeal site lies immediately to the north of the A92 and Angus Council has an interest in the disposal of the application by virtue of its role as lead authority for the A92 Dundee - Arbroath Upgrading Project. The Council would wish to ensure that the proposed development, if it proceeds, is compatible with the upgrading scheme and that any increased cost to the project reasonably attributable to the development is met by the developer.
- 2.3 The appeal is to be dealt with by way of a public local inquiry and Dundee City Council as planning authority are resisting the appeal on the principal grounds that the proposed development is contrary to the Development Plan and transportation policy for the Dundee planning area and is premature in the absence of a fully justified case for the proposal including demonstrable lack of prejudice to the A92 Dualling Scheme.
- 2.4 In accordance with the relevant planning appeal rules, Dundee City Council have also provided a list of conditions which they would wish to see imposed in the event that the Reporter appointed to determine the appeal decides to grant outline planning permission. These include provision for approval by Dundee City Council as planning authority of access arrangements to/from the A92 and implementation of these arrangements at the developer's expense. They also recognise that the A92 provisions may require to be the subject of a Section 75 Agreement.
- 2.5 As such, Angus and Dundee City Councils' interests are entirely concurrent in the matter and Angus Council, in respect of its A92 interest, supports Dundee City Council's stance in the appeal. However, to seek to ensure protection of Angus Council's interest as far as possible in the event that the Reporter grants outline planning permission, officers wished to present a written submission to the appeal proposing specific terms for a Section 75 Agreement in respect of the development and its relationship to the A92 Dualling Scheme.

### **3. TERMS OF PROPOSED SUBMISSION**

- 3.1 In terms of the procedural time limits set down by the Reporter, the written submission required to be lodged by 14 January 2002. As such, the terms of the written submission were agreed between officers in consultation with the Leader of the Administration and the Convener and Vice Convener of the Roads Committee to allow the written submission to be lodged timeously.
- 3.2 The written submission itself forms an appendix to this Report. In summary, the submission sets out the basis for Angus Council's interest in the proposed development, confirms the Council's support of Dundee City Council's stance and sets out the status of the A92 specimen design as a material planning consideration (particularly following the recent confirmation by the Scottish Ministers of Statutory Orders for the Scheme). The submission concludes by setting out proposed Section 75 Agreement terms (dealing with design compatibility and developer contribution) including justification of why these should be included in an Agreement as opposed to planning conditions, if planning permission were to be granted.

### **4. FINANCIAL IMPLICATIONS**

There are no financial implications arising as a result of this Report.

### **5. HUMAN RIGHTS IMPLICATIONS**

The Human Rights implications arising as a consequence of the planning process in terms of Protocol 1, Article 1 (Right to freely enjoy possessions) and Article 6 (Right to a fair hearing) are dealt with in terms of compliance with the relevant statutory planning procedures and, in any event, are issues for Dundee City Council as a planning authority, not Angus Council.

### **6. CONSULTATION**

The Chief Executive, the Director of Finance and the Director of Planning and Transport have been consulted in the preparation of this Report. As referred to above, the Leader of the Administration, the Convener and the Vice Convener of the Roads Committee have also been consulted on the terms of the written submission.

### **7. CONCLUSION**

The written submission presented to the planning appeal over the roadside services development at Linlathen, by Claypotts, Dundee seeks to further protect Angus Council's interest in respect of the A92 Upgrading Project and is reasonable and necessary in the circumstances.

Catherine A Coull  
DIRECTOR OF LAW AND  
ADMINISTRATION

R W McNeill  
ACTING DIRECTOR OF ROADS

P/PPA/180/74  
12/37/6(2) MA/MK/SH

11 January 2002

FIRST CLASS POST  
Rosemary Holmes  
SEIRU  
2 Greenside Lane  
EDINBURGH  
EH1 3AG

Dear Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
PLANNING APPEAL: LINLATHEN, BY CLAYPOTTS, DUNDEE  
APPELLANTS: LINLATHEN DEVELOPMENTS LIMITED  
RESPONDENTS: DUNDEE CITY COUNCIL  
WRITTEN SUBMISSION FOR ANGUS COUNCIL RE A92 DUNDEE-ARBROATH  
UPGRADING PROJECT**

**1 Introduction**

- 1.1 I refer to the above appeal set down for public local inquiry commencing on 28 January 2002.
- 1.2 As you are aware, my Council has expressed an interest in this appeal in its capacity as lead authority (with Dundee City Council acting as partner authority) in the project for the upgrading of the A92 between Claypotts, Dundee and Elliot, Arbroath to a dual carriageway with certain associated road improvements. I accordingly write on behalf of my Council to offer the following written submissions in respect of the above planning appeal strictly confined to my Council's said interest as lead authority and, as such, as a local roads authority in terms of Section 151(1) of the Roads (Scotland) Act 1984, as amended.
- 1.3 For the avoidance of any doubt, I would confirm that Dundee City Council legally remains local roads authority for that part of the A92 within its boundaries. A formal enduring agreement between the two Councils is presently in discussion whereby Angus will formally carry out that function on behalf of Dundee in terms of Sections 56 and 69 of the Local Government (Scotland) Act 1973, as amended.
- 1.4 Angus Council would wish to state at the outset that it concurs with the broad scope of the assertions made by Dundee City Council at 3.15 and 3.16 of the City Council's Statement of Case insofar as relating to the proposed dualling of the A92. The present written submission therefore seeks only to amplify and expand upon Angus Council's concerns with reference to the proposed development and its compatibility with the A92 dualling scheme. In particular, Angus Council proposes certain specific requirements for a Section 75 Agreement should the Reporter be minded to grant outline planning permission for the proposed development.

## **2 Status of A92 Specimen Design**

- 2.1 It should also be noted that the Scottish Ministers decided to confirm with modifications the Dundee City Council (A92 Dundee-Arbroath Dualling) Compulsory Purchase Order 1999 (the Dundee CPO) on 29 November 2001. The landtake for this Order is based upon the specimen design for the scheme in respect of which planning permission was deemed to be granted by the Scottish Ministers under the "Notice of Intention to Develop" (NID) procedure on 23 December 1999 (as subsequently modified by 2 supplementary unopposed NIDs deemed granted in the Dundee area granted on 10 June 2000).
- 2.2 The counterpart Dundee City Council (A92 Dundee-Arbroath Dualling) New Side Roads, Side Road Improvements, Stopping-Up of Side Roads and Private Accesses and Provision of New Means of Private Access) Order 1999 (the Dundee SRO) was remitted to Dundee City Council for confirmation as an unopposed Order in accordance with the relevant legislation because the last remaining objection to it was withdrawn subsequent to the close of the public local inquiry into objections to the Orders. The result was that the Scottish Ministers had no further locus in the Dundee SRO. As such, the Dundee SRO falls to be confirmed by Dundee City Council in its unmodified form (the relevant legislation only permits promoting authorities to confirm unopposed SROs - it does not permit them to confirm with modifications) but it is intended to promote an amending SRO shortly to make the necessary changes for consistency with the confirmed Dundee CPO and the approved specimen design.
- 2.3 For the sake of completeness, I would also confirm that the counterpart Angus Council Compulsory Purchase and Side Roads etc Orders were confirmed/approved by the Scottish Ministers on 29 November 2001.
- 2.4 This means that, whilst the detailed design of the road ultimately constructed may differ from the specimen design during the course of development subject to any further statutory orders that may be required, the specimen design for the A92 dualling scheme now essentially has or is expected shortly to have full statutory approval and is now to be exposed to procurement for design, construction and, in due course, operation and maintenance. The specimen design is therefore in the public domain and is a material consideration in determining planning applications such as the one which is the subject of the present appeal.

## **3 Planning Considerations**

- 3.1 Angus Council accordingly wishes to ensure that the present development proposal is compatible with the specimen design for the dualled A92. Angus Council has now had sight of The Transportation Assessment prepared on behalf of the Appellants by Dougall Baillie Associates in connection with the present appeal dated 18/19 December 2001 and received by Angus Council on 7 January 2002. Diagram 5 of that document illustrates a possible link from the round proposed to be constructed as part of the A92 upgrading scheme to connect with the proposed Balgillo Road East roundabout and to serve the proposed development. Accordingly, it is evident that the design of the proposed development can, in principle, be made compatible with the specimen design for the upgrading scheme. However, the following issues should be noted:
- The design of the proposed A92 Scheme connecting road is not designed for the proposed development and is sub-standard. It is only 5.5 metres in width and is likely to require to be upgraded for the purposes of the proposed development;
  - If the proposed development were to take place prior to completion of the A92 Scheme (now programmed for Spring 2005, not 2003 as stated at 4.12 of the Transportation Assessment), appropriate binding provision would require to be made

upon the developer to secure the provision of the proposed new link compatible with the A92 Scheme.

These issues, it is submitted, support the making of Section 75 Agreement requirements upon the developer if outline planning permission is granted as referred to in detail in Section 4 of this submission.

3.2 The strategic importance of the proposals for the dualling of the A92 road between Dundee and Angus is recognised in terms of the emerging Dundee and Angus Structure Plan 2001-2006, Consultative Draft Written Statement, February 2001 [Core 11] (para 6.7 and Transport Policy 2). Dundee City Council has also already agreed a policy for the protection of the A92 upgrading scheme. The Planning and Transportation Committee at its meeting on 30 August 1999 (Report No 554/1999) agreed that a Section 75 Agreement would be required for all future proposed development within or adjacent to the landtake for the A92 before the issue of consent to the following effect:

- Any land in the developer's control forming part of the landtake for the scheme would be transferred to the Council for no consideration.
- The cost of any roadworks or other improvement required by the proposed development beyond that specified in the scheme will be met by the developer.
- Residential developers will require to formally advise all potential future house purchasers of the proposed implementation of the upgrading scheme.

The protection of this strategic proposal and the contribution by the developer to the cost of any infrastructure consequences of the proposed development is therefore justified in planning terms.

3.3 It is essential that the proposed access arrangements for this development insofar as connecting with the A92 are safe and suitable, particularly given that one of the principal objectives of the scheme is to improve the safety of road by, inter alia, reducing the proliferation of junctions and avoiding right-turn manoeuvres. Further, if the access arrangements result in a departure from the specimen design this will have a financial consequence for the scheme and the public purse in terms of both increased construction costs and increased full life maintenance costs. The proposed method of procurement of the scheme by way of a Design, Build, Finance and Operate Contract under the government's Private Finance Initiative (which is considered to offer best value for money for the public authorities concerned) is irrelevant for the present purposes to this issue since the public purse may suffer increased cost by virtue of the development whatever the method of procurement (both in construction and whole life cost terms) and, in that event, the developer should meet that increased cost. It does, however, focus attention on the need to address ongoing maintenance issues as well as construction issues. It is reasonable and necessary that the developer should accept the burden of the increased cost of such infrastructure provision to the public purse as a consequence of its proposed development.

3.4 If consideration is being given to granting planning permission for the proposed development, it is submitted that the following proposed Section 75 Planning Agreement requirements are reasonable and necessary to make the proposal acceptable in land use planning terms and therefore accord with National Planning Policy in terms of SODD Circular 12/1996 [Core 22]. In particular, these proposed requirements seek to make provision whereby the likely negative impact on infrastructure by virtue of the proposed development can be reduced, limited and compensated for.

3.5 With particular reference to seeking contributions from developers in the respect of the transport infrastructure consequences arising from their proposed development,

the use of Planning Agreements is supported under National Planning Policy in terms of NPPG17 "Transport and Planning" [Core 6] (para 23). PAN 57 "Transport and Planning" [Core 8] refers to the requirement for developers to contribute in respect of altered trunk road infrastructure to mitigate development effects (para 12). Notwithstanding that the A92 is no longer a trunk road (having been de-trunked in 1978), its strategic importance remains and the same principle applies.

- 3.6 The proposed Agreement terms are therefore for a planning purpose in that they are: related to the use and development of the land in question; they are related to the proposed development with particular reference to the public roads infrastructure consequences of the development; they are related in scale and kind to the proposed development being limited to ensuring safe and suitable access to/from the development, only requiring compensation attributable to the consequences of the development and not seeking unrelated gain; and they are otherwise reasonable in all the circumstances.
- 3.7 It is further considered that use of a Planning Agreement as opposed to planning conditions is necessary here by virtue of the proposed developer contribution. This would not be competent by way of planning condition but is necessary for the reasons outlined above. This accords with government policy in terms of SODD Circular 4/1998 [Core 23].

#### **4 Proposed Section 75 Agreement Requirements**

- 4.1 The Developer shall produce at its sole cost the Roads Design and Specification which shall require to be compatible with both the existing alignment of the A92 public road and the proposed new alignment of the said A92 in terms of the Specimen Design to the entire satisfaction of Dundee City Council, said Roads Design and Specification to be approved of in writing by Dundee City Council prior to the commencement of any operations on the Development Site. Thereafter, the Developer, again at its sole cost, shall construct the Roads strictly in accordance with the Roads Design and Specification to the entire satisfaction of Dundee City Council and that prior to occupation or use of the Development Site in accordance with the Planning Permission.
- 4.2 Where the Roads Design and Specification requires any change, alteration or addition to the extent of the works proposed for the A92 Dualling Scheme in terms of the Specimen Design including (without limitation) the carriageways, footpath or cycle track alignment or levels, drainage or lighting requirements, structures, earthworks, landscaping or bunding requirements or any works ancillary thereto, any reasonable costs incurred or to be incurred in respect of the design, building, operation and maintenance of the A92 Dualling Scheme insofar as additional to the costs which would otherwise have been incurred by virtue of the execution of the Specimen Design (that is to say, but for the change, alteration or addition thereto attributable to the Roads Design and Specification), shall be paid in full by the Developer to Dundee City Council on the following basis:
- (a) Dundee City Council shall account to the Developer by notice in writing for the sum of the whole reasonable costs, claimed by Dundee City Council to be paid by the Developer in terms of this clause;
  - (b) the sum claimed in terms of such accounting shall be a single unitary figure representing the additional design and construction costs along with additional operation and maintenance costs commuted over the period of twenty years from the date of said accounting payable by the Developer in terms of this clause;
  - (c) The Developer shall have the period of one calendar month from the date of service upon it of such accounting being submitted to the Developer to challenge the sum claimed therein by notice in writing stipulating fully the grounds and facts supporting such challenge, said notice of challenge to be

served on Dundee City Council within that period of one calendar month, failing which challenge the Developer shall be deemed to have accepted the said sum;

- (d) Any challenge by the Developer to the said sum shall be determined by arbitration as provided for in this Agreement;
- (e) The Developer shall pay the said sum falling due in terms of this clause to Dundee City Council within three calendar months of the date of agreement (whether deemed or express) or determination of the same or within such other period or by such instalments as may be mutually agreed in writing between the Developer and Dundee City Council, both parties being bound to act reasonably for this purpose; and
- (f) Dundee City Council undertake and declare, both for the benefit and interest of the Developer and of Angus Council, the local authority for local government area of Angus, constituted in terms of Section 2 of the Local Government etc (Scotland) Act 1994 having its principal offices at 7 The Cross, Forfar in its capacity as roads authority under the Roads (Scotland) Act 1984, that all sums paid to Dundee City Council in terms of this clause shall be applied strictly and solely to the costs incurred in respect of the design, building, maintenance and operation of the A92 Dualling Scheme.

#### 4.3 Consequential Defined Terms

These following defined terms are in addition to the following normal defined terms which, it is assumed, will be defined on a standard basis within the City Council's normal Section 75 Agreement, namely:

the Developer  
the Development Site (sometimes alternatively termed "the Planning Permission Subjects")  
Dundee City Council  
the Planning Permission

The Section 75 Agreement will contain the usual provision for, inter alia:

Arbitration  
Enforcement including Step-In Rights on Developer Default

The consequential defined terms are as follows:

- "A92 Dualling Scheme" - means the scheme for the proposed upgrading of the A92 public road between Claypotts, Dundee and Elliot, Arbroath and certain associated road improvements.
- "Roads" - means all carriageways, footways, footpaths, cycle tracks, drains, lighting, structures, earthworks, landscaping, bunding or any works ancillary thereto to be constructed in terms of the Roads Design and Specification.
- "Roads Design and Specification" - means the detailed design specification, layout and plans for the construction of all Roads serving the proposed development on the Development Site and, in particular, connecting the same with the A92 public

road.

“Specimen Design”

- means the specimen design for the A92 Dualling Scheme as detailed in the planning permission granted therefor in terms of the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981, with particular reference in terms of the proposed development in terms of the plan reference A92/NW/01 dated 1 July 2000 and titled "A92 Dundee-Arbroath Proposed Upgrading Sheet No 1 A92 Claypotts Junction to Balmossie" [a copy of which is annexed and executed as relative hereto.]

## **5 Conclusion**

- 5.1 It is submitted that a Section 75 Planning Agreement is reasonable and necessary in the case of the present proposed development for the protection of the A92 dualling scheme and the proposed Agreement terms are reasonable and necessary to meet that purpose.

As previously stated, Angus Council proposes to rest on this written submission for its stated interest in this appeal but would be happy to provide such further information or assistance as the Reporter may think fit. This letter has been copied to Dundee City Council (2 copies) and to the Appellant's agents.

I trust that this is of assistance.

Yours faithfully

Mark Allan  
Principal Solicitor

cc Dundee City Council, FAO Mr C Walker, Planning and Transportation Department  
Messrs Maclay Murray and Spens, FAO Mr C M Smylie

11 January 2002

FIRST CLASS POST  
Rosemary Holmes  
SEIRU  
2 Greenside Lane  
EDINBURGH  
EH1 3AG

Dear Madam

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APPELLANTS: LINLATHEN DEVELOPMENTS LIMITED  
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UPGRADING PROJECT**

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  - If the proposed development were to take place prior to completion of the A92 Scheme (now programmed for Spring 2005, not 2003 as stated at 4.12 of the Transportation Assessment), appropriate binding provision would require to be made upon the developers to secure the provision of the proposed new link compatible with the A92 Scheme.

These issues, it is submitted, support the making of Section 75 Agreement requirements upon the developer if outline planning permission is granted as referred to in detail in Section 4 of this submission.

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- Any land in the developer's control forming part of the landtake for the scheme would be transferred to the Council for no consideration.
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The protection of this strategic proposal and the contribution by the developer to the cost of any infrastructure consequences of the proposed development is therefore justified in planning terms.

3.3 It is essential that the proposed access arrangements for this development insofar as connecting with the A92 are safe and suitable, particularly given that one of the principal objectives of the scheme is to improve the safety of road by, inter alia, reducing the proliferation of junctions and avoiding right-turn manoeuvres. Further, if the access arrangements result in a departure from the specimen design this will have a financial consequence for the scheme and the public purse in terms of both increased construction costs and increased full life maintenance costs. The proposed method of procurement of the scheme by way of a Design, Build, Finance and Operate Contract under the government's Private Finance Initiative (which is considered to offer best value for money for the public authorities concerned) is irrelevant for the present purposes to this issue since the public purse may suffer increased cost by virtue of the development whatever the method of procurement (both in construction and whole life cost terms) and, in that event, the developer should meet that increased cost. It does, however, focus attention on the need to address ongoing maintenance issues as well as construction issues. It is reasonable and necessary that the developer should accept the burden of the increased cost of such infrastructure provision to the public purse as a consequence of its proposed development.

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respect of altered trunk road infrastructure to mitigate development effects (para 12). Notwithstanding that the A92 is no longer a trunk road (having been de-trunked in 1978), its strategic importance remains and the same principle applies.

- 3.6 The proposed Agreement terms are therefore for a planning purpose in that they are: related to the use and development of the land in question; they are related to the proposed development with particular reference to the public roads infrastructure consequences of the development; they are related in scale and kind to the proposed development being limited to ensuring safe and suitable access to/from the development, only requiring compensation attributable to the consequences of the development and not seeking unrelated gain; and they are otherwise reasonable in all the circumstances.
- 3.7 It is further considered that use of a Planning Agreement as opposed to planning conditions is necessary here by virtue of the proposed developer contribution. This would not be competent by way of planning condition but is necessary for the reasons outlined above. This accords with government policy in terms of SODD Circular 4/1998 [Core 23].

#### **4 Proposed Section 75 Agreement Requirements**

- 4.1 The Developer shall produce at its sole cost the Roads Design and Specification which shall require to be compatible with both the existing alignment of the A92 public road and the proposed new alignment of the said A92 in terms of the Specimen Design to the entire satisfaction of Dundee City Council, said Roads Design and Specification to be approved of in writing by Dundee City Council prior to the commencement of any operations on the Development Site. Thereafter, the Developer, again at its sole cost, shall construct the Roads strictly in accordance with the Roads Design and Specification to the entire satisfaction of Dundee City Council and that prior to occupation or use of the Development Site in accordance with the Planning Permission.
- 4.2 Where the Roads Design and Specification requires any change, alteration or addition to the extent of the works proposed for the A92 Dualling Scheme in terms of the Specimen Design including (without limitation) the carriageways, footpath or cycle track alignment or levels, drainage or lighting requirements, structures, earthworks, landscaping or bunding requirements or any works ancillary thereto, any reasonable costs incurred or to be incurred in respect of the design, building, operation and maintenance of the A92 Dualling Scheme insofar as additional to the costs which would otherwise have been incurred by virtue of the execution of the Specimen Design (that is to say, but for the change, alteration or addition thereto attributable to the Roads Design and Specification), shall be paid in full by the Developer to Dundee City Council on the following basis:
- (a) Dundee City Council shall account to the Developer by notice in writing for the sum of the whole reasonable costs, claimed by Dundee City Council to be paid by the Developer in terms of this clause;
  - (b) the sum claimed in terms of such accounting shall be a single unitary figure representing the additional design and construction costs along with additional operation and maintenance costs commuted over the period of twenty years from the date of said accounting payable by the Developer in terms of this clause;
  - (c) The Developer shall have the period of one calendar month from the date of service upon it of such accounting being submitted to the Developer to challenge the sum claimed therein by notice in writing stipulating fully the grounds and facts supporting such challenge, said notice of challenge to be served on Dundee City Council within that period of one calendar month, failing which challenge the Developer shall be deemed to have accepted the said sum;

- (d) Any challenge by the Developer to the said sum shall be determined by arbitration as provided for in this Agreement;
- (e) The Developer shall pay the said sum falling due in terms of this clause to Dundee City Council within three calendar months of the date of agreement (whether deemed or express) or determination of the same or within such other period or by such instalments as may be mutually agreed in writing between the Developer and Dundee City Council, both parties being bound to act reasonably for this purpose; and
- (f) Dundee City Council undertake and declare, both for the benefit and interest of the Developer and of Angus Council, the local authority for local government area of Angus, constituted in terms of Section 2 of the Local Government etc (Scotland) Act 1994 having its principal offices at 7 The Cross, Forfar in its capacity as roads authority under the Roads (Scotland) Act 1984, that all sums paid to Dundee City Council in terms of this clause shall be applied strictly and solely to the costs incurred in respect of the design, building, maintenance and operation of the A92 Dualling Scheme.

#### 4.3 Consequential Defined Terms

These following defined terms are in addition to the following normal defined terms which, it is assumed, will be defined on a standard basis within the City Council's normal Section 75 Agreement, namely:

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The Section 75 Agreement will contain the usual provision for, inter alia:

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The consequential defined terms are as follows:

- "A92 Dualling Scheme" - means the scheme for the proposed upgrading of the A92 public road between Claypotts, Dundee and Elliot, Arbroath and certain associated road improvements.
- "Roads" - means all carriageways, footways, footpaths, cycle tracks, drains, lighting, structures, earthworks, landscaping, bunding or any works ancillary thereto to be constructed in terms of the Roads Design and Specification.
- "Roads Design and Specification" - means the detailed design specification, layout and plans for the construction of all Roads serving the proposed development on the Development Site and, in particular, connecting the same with the A92 public road.
- "Specimen Design" - means the specimen design for the A92 Dualling Scheme as detailed in the planning permission granted therefor in terms of the Town and Country Planning

(Development by Planning Authorities)  
(Scotland) Regulations 1981, with  
particular reference in terms of the  
proposed development in terms of the plan  
reference A92/NW/01 dated 1 July 2000  
and titled "A92 Dundee-Arbroath Proposed  
Upgrading Sheet No 1 A92 Claypotts  
Junction to Balmossie" [a copy of which is  
annexed and executed as relative hereto.]

## **5 Conclusion**

- 5.1 It is submitted that a Section 75 Planning Agreement is reasonable and necessary in the case of the present proposed development for the protection of the A92 dualling scheme and the proposed Agreement terms are reasonable and necessary to meet that purpose.

As previously stated, Angus Council proposes to rest on this written submission for its stated interest in this appeal but would be happy to provide such further information or assistance as the Reporter may think fit. This letter has been copied to Dundee City Council (2 copies) and to the Appellant's agents.

I trust that this is of assistance.

Yours faithfully

Mark Allan  
Principal Solicitor

cc Dundee City Council, FAO Mr C Walker, Planning and Transportation Department  
Messrs Brodies FAO Mr Neil Collar  
John Reid, Roads Department