REPORT NO 545/01

ANGUS COUNCIL

ROADS COMMITTEE

26 APRIL 2001

A92 PUBLIC LOCAL INQUIRY – INTERIM REPORT
CLOSING SUBMISSION ON GENERAL SESSION EVIDENCE

REPORT BY THE DIRECTOR OF ROADS

ABSTRACT

The report appended gives Committee an update on the ongoing Public Local Inquiry (PLI) into the Compulsory Purchase Orders and Side Roads Orders associated with the A92 Dundee to Arbroath dualling project. The report details general session evidence only. A further report on closing submissions relative to site specific issues will be prepared in due course.

1 RECOMMENDATIONS

It is recommended that the Committee:

i) note that the A92 PLI has been ongoing since 18 April 2001 and is expected to be completed as of 26 April 2001;

ii) note that the Closing Submission of Angus Council and Dundee City Council in respect of the General Session of the PLI is appended to this Report for information purposes;

iii) to note that a further report detailing both the general submission and site specific issues will be reported to Committee at a later date.

2 INTRODUCTION

The A92 PLI into issues arising from the promotion of compulsory purchase orders and side roads orders associated with the dualling of the A92 between Dundee to Arbroath has been ongoing at the Panmure Hotel, Monifieth since 18 April 2001. It is expected to finish on or around 26 April 2001.

3 DETAILS

i) The Council’s case has been presented by Messrs Shepherd & Wedderburn, WS with officers of both the Roads Department and the Law and Administration Department being actively involved in presenting the Council’s case and giving evidence throughout the concurrency of the inquiry.
ii) The Reporter previously agreed that the Inquiry be divided into 2 stages, namely,
   - General Session
   - Site Specific Issues

iii) The General Session has discussed both the Councils’ and objectors’ views on the need for the project and related issues.

The Site Specific Section will deal with the remaining 6 objections relating to specific issues raised. There will be a further report to Committee at a later date on these.

4 FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

5 HUMAN RIGHTS IMPLICATIONS

There are no human rights implications arising from this Report.

6 CONSULTATION

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

7. CONCLUSION

This report details the closing submission of Angus Council and Dundee City Council in the General Session of the ongoing A92 PL1 into issues relating to compulsory purchase orders and side roads orders associated with the A92 Arbroath to Dundee dualling project.

Dr Bob McLellan
DIRECTOR OF ROADS

NOTE

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

BMcL/SH
REPORTS/a92.pli
24 April 2001
Closing Submission

by

Colin Innes

on behalf of

Angus Council

and

Dundee City Council

in respect of

A92 Dundee to Arbroath Proposed Upgrading:

Shepherd & Wedderburn WS
Saltire Court
20 Castle Terrace
Edinburgh EH1 2ET
This inquiry arises from the submission to the Scottish Ministers of the following orders:-

3. The Dundee City Council (A92 Dundee - Arbroath Dualling) (New side roads etc) Order 1999 and

My closing submission is broken down into the following topic headings

1. Need
2. The Scheme
3. Justification for the Scheme
4. Objections
5. The Statutory Orders
6. Conclusion

1. Need

There is a significant volume of evidence before this inquiry of the need for the proposed scheme. The need for the scheme is set out in detail in the evidence of Dr McLellan, Mr Sherriff and Mr Green. It is evident that there are three primary justifications for the scheme. These are the accident history relating to the existing route, the traffic volumes and economic need. Furthermore in my submission the relevant planning and transportation policies further support the need for the project.

1.2 Road Safety
The accident history of the existing A92 was set out in Chapter 4 of Dr McLellan's precognition. This demonstrated the A92's poor-accident record with the accident rate in some sections being more than 50% above the national average for a single carriageway road. This evidence was amplified in Mr Green's evidence (Section 3.2 Main Precognition and also Productions CP1 4. 2 and CP37). Mr Sherriff confirmed that the safety issues were also of concern to the City of Dundee Council. The evidence demonstrated that the existing road has an unacceptable accident record. This results in real terms in grief and suffering to those involved and also results in a social cost to society. (See 3.2.6 of Mr Green's Precognition and 3.1 of Mr Sherriff's Precognition). The A92 since 1998 has been subject to further speed restrictions and Dr McLellan advised that he had ascertained the latest figures a couple of days before the inquiry and these demonstrated that in the years 1999 and 2000 there had been a reduction in accidents with 2 killed or seriously injured and 13 slight accidents in 1999 and 4 killed or seriously injured and 8 slight in the year 2000. He advised that these figures were still above the national average for the road type. He also advised that in his view the measure of accidents had to be recorded over a period of time to give an accurate measure of the statistics. For example, between 1999 and 2000 there was a doubling of the serious accidents. On one view this could be interpreted as meaning that the measures were initially successful but that their impact was reducing
over time. The key, according to Dr McLellan was to take figures over a period of time. The UK Government has set national road safety targets to result in a 40% reduction in killed or seriously injured accidents by the year 2010. The Councils are committed to achieving these targets and the A92 upgrade is considered as playing an important part in contributing to meeting these targets (Angus Council Road Safety Plan, CP39). In my submission it is clear from this evidence that the upgrading of the A92 is required to assist in the long-term reduction of accidents. Furthermore the traffic flows are predicted to increase which would result in the road capacity being further exceeded with the further potential for accidents to increase. The importance of safety was also supported by the responses of Scottish Citylink and Strathclyde buses to the consultation conducted in relation to (CP1). They viewed the introduction of the scheme as being beneficial in road safety terms and in particular Strathclyde identified the need for safety in junction design. Furthermore, in Appendix 1 of CP2 Tayside police advise that they considered the dualling of the A92 would improve road safety. In my submission, these comments are from groups with real experience of the existing A92 and their views should be accorded particular weight.

1.3 Traffic Volume

The evidence of Mr Green established that the traffic flows on the existing A92 result in traffic volumes which are greater than the existing capacity of the road CP38. This is a document which forms part of the Design Manual for Roads and Bridges ("DMRB"). The evidence of Mr Green was that whilst this was a document relating to Trunk Roads it was used by Roads Authorities as providing general guidance for those Authorities in respect of the capacities of rural roads. It relates to the design of new roads and gives an indication on page 2/1 of the recommended flow ranges for new rural roads. The continuing development and expansion of the coastal towns of Monifieth, Carnoustie, Arbroath and Montrose is likely to result in further traffic growth. The existing base flows between the Claypotts and Ardestie at 1995 was 15,460 annual average daily total (AADT). This exceeds the levels desirable for a 7.3m wide single carriageway of 13,000 AADT (CP38). The national traffic forecasts for the design year 2014 demonstrate that this figure is likely to be greatly exceeded in the future. The result of these forecasts range from 21,400 AADT (low growth) to 26,100 (high growth). Even on the eastern section of the A92 it is anticipated that growth will result in level of 14,500 to 17,800 AADT depending on low and high forecasts. These figures suggest that it will be necessary in capacity terms to have a dual carriageway road which would have the ability to handle 11,000 to 39,000 AADT (CP38). In my submission the evidence presented to this inquiry demonstrates that existing and predicted traffic flows require a scheme. Some objection was taken to the providing of new roads by CTC. They criticise the "predict and provide" culture to new road construction. However it is clear from the figures above that this scheme is not only required to meet anticipated growth but also to cope with existing traffic on the network. The Councils have carefully considered how traffic volumes might be reduced by other measures including radical measures supporting public transport, however, these did not reduce the traffic volumes to a level which could be safely or appropriately accommodated within a single carriageway road on the A92. This is perhaps not surprising given the large hinterland which the A92 serves.
1.4 Economic Benefits

The A92 is an important strategic route in the Angus and Dundee area serving Dundee, Carnoustie, Monifieth, Arbroath and Montrose. It provides a busy commuter route both to and from Arbroath and Dundee whilst also serving as a major route for commercial traffic to the coastal towns and ports of Arbroath and Montrose. It has been identified that in particular Montrose and Arbroath suffer from a lack of access to and from the trunk road network and the limitations of the existing A92 exacerbate this position. The unreliability of journey times on the existing A92 was dealt with by Mr Green in Section 3.5 of his Precognition. In my submission again the evidence demonstrates that this is the case and is further supported by the policy documentation submitted to this inquiry. In the next section of my closing submission, I will examine the policy support for the project and this has recognised for a considerable period of time that the existing A92 does not serve the coastal communities not the ports of Arbroath and Montrose in the appropriate manner. In order to fulfil the aspiration of the Structure and Local Plans it has been identified that it is necessary to improve the A92 to benefit the communities east of Dundee. This is also a position which is supported by the existing bus operators (Appendix 4 CP1). The need for the scheme in economic terms is also identified by the Arbroath and District Chamber of Commerce (letter 7 June 1996), the Dundee and Tayside Chamber of Commerce and Industry (letter 10 June 1996) and the Montrose Chamber of Commerce 6 June 1996 (all in Appendix 4 to CP1). The support was further re-emphasised in the consultation responses in Appendix 1 of CP2 and in particular the letter from Arbroath and District Chamber of Commerce dated 22 August 1996 which enclosed various letters written to the Chamber by its members in relation to the concept of upgrading the A92. It is evident that the Arbroath and District Chamber of Commerce consulted widely on the issue and received substantial responses from businesses that use the A92. These included Tay Salmon Produce Limited, John M Henderson & Co Limited, Thornton's Ws, Armstrong Packaging, Moray Firth Malting plc, the Bank of Scotland and Pert's House Furnishers. These are responses received from businesses in Arbroath who have identified particular concerns regarding the existing performance of the road and therefore in my Submission it would be appropriate to accord weight to their comments.

1.5 Policy Support for Need

Section 8 of Mr Green's Precognition sets out in detail the Policy support for the need for a Scheme. Mr Sherriff identified the relevant planning and transportation policies of City of Dundee Council in paragraphs 3.4 to 3.6 of his precognition. There is Policy support from the Tayside Structure Plan 1993, (CP10) from the adopted Angus Local Plan (CP11A), the Dundee Local Plan 1998 (CP11B), The Carnoustie Local Plan 1982 (CP11C) the first draft Dundee and Angus Structure Plan December 2000 (CP28), the Angus Local Transport Strategy 2000 (CP29) and the Dundee City Council Local Transport Strategy 2000 (CP30).

I do not propose to detail all the support for the Scheme. The context of these policy documents is fully set out in the Precognition identified above. I would however place particular weight on the 1993 Structure Plan support for the A92 improvement, the references in the adopted Angus Local Plan to the Scheme and in particular Policy TRA2 and also the draft written statement of the Dundee and Angus Structure Plan at
proposal 2 on page 35. The Local Plan was examined at a Public Local inquiry and although the adoption has been challenged it is not on grounds relating to the A92 upgrade and related proposals. The Scheme fulfils an identified need in policy terms. Furthermore the Angus Local transport Strategy identified the role that the upgraded A92 would play in fulfilling its objectives and this includes a specific provision regarding the promotion of the A92 dualling. I would also add that the provision of the footpath and cycleway is also supported in the context of the policy documentation identified.

1.6 Scottish Office/Scottish Ministers Support

In my submission the evidence to this inquiry has demonstrated that there has been explicit Scottish Office/Scottish Minister support for the need for the scheme. This was demonstrated by the approval of the 1993 Structure Plan and the Angus local plan which was submitted to Scottish Ministers. It was further supported by the Scottish Office award of the Challenge Fund in 1996 and the Scottish Executive support for the project funding in terms of the public private partnership. In respect of the funding the Executive has agreed to provide grant assistance on the basis of the outline business case which has been submitted. Furthermore, in the planning context, the Notices of Intention to Develop in respect of the Scheme required to be notified to the Scottish Ministers given that objections were maintained to them. The Scottish Ministers chose not to require the submission of an application to them and allowed planning consent to be granted for the Scheme. In my submission, the actions of the Scottish Office, Scottish Executive and Scottish Ministers have supported the need for the Scheme and have also approved the principle of this particular Scheme.

2. The Scheme

2.1 The description of the Scheme is set out in Section 4 of Mr Reid's precognition. I do not propose to describe the whole Scheme, but in broad terms, the Scheme involves the dualling of the A92 from Claypotts to Arbroath, together with improved side roads, the Barry Bypass and the provision of cycle/footpath. This results in the following major junctions: a roundabout at Balgillo Road East, a full diamond grade separated junction at West Grange Road, compact grade separated junctions at Ardestie, Upper Victoria, Muirdrum and Salmond's Muir and finally a roundabout at Elliot. As well as the dualling the Scheme proposes significant improvements in terms of side roads and in particular the side roads serving the communities of Monifieth and Carnoustie. At West Grange Road the new link road will serve both the northwest and north of Monifieth (Victoria Street link). At the Ardestie junction an improved side road is to be provided to serve the east of Monifieth. At Upper Victoria an upgraded A930 link is to be constructed to Carnoustie. This side road initially uses the existing road alignment but the southern section adopts a new line into Carnoustie to a new roundabout. At the Muirdrum junction, there is provision for the upgraded side road being the A930 Carlogie road which serves the north east of Carnoustie. The alignment proposed utilises the existing alignment from Muirdrum to a roundabout at Panbridge Road but further south there is a new alignment into Carnoustie. To the south of the Salmond's Muir junction it is proposed to improve the Hatton Road. This also initially utilises the existing alignment but deviates thereafter. As part of the Scheme there will also be a bypass on the A930
which provides a bypass to the village of Barry. Mr Reid gave evidence that all the proposed roads both on the A92 and the side roads fully conformed with the Design Manual for Roads and Bridges (DMRB) and advised that in respect of the compact grade separated junctions there was an enhancement to the DMRB in respect of providing full width for the diverging lanes on the grounds of road safety. This was a design element that was approved after consultation with the Police. In Section 4 of his Precognition, Mr Reid also advised that as part of the Scheme it is proposed to construct a dedicated 3 metre wide footway/cycletrack along the route from Claypotts to Arbroath. His Precognition paragraphs 4.13 to 4.21 describe this element of the Scheme. Mr Reid also advised of the pedestrian and cycle links which would be improved as part of the side roads orders.

The technical specification of the roads was identified in section 4.22 of Mr Reid's Precognition. This provided the specimen specification for the road design from Claypotts to Elliot with a change in the specification as a result of the urban nature of the section between Claypotts and Balgillo Road East. He also identified the specification of the side roads at paragraph 4.22.6. In my submission there was no evidence at this inquiry which challenged this design from a roads engineering perspective.

2.2 The scheme objectives are set out in Mr Green’s precognition at Section 5 and include the following:-

- To reduce accidents.
- To improve junctions and eliminate right turn cross-carriageway manoeuvres in the interest of road safety.
- To improve journey time reliability.
- To improve the attraction of the A92 for travellers (relative to other less suitable routes).
- To relieve traffic from minor roads currently attracting significant volumes for inappropriate traffic.
- To facilitate improved public transport services for the coastal corridor.
- To facilitate improved economic regeneration potential in the area.

At a more localised level the scheme also identified very real benefits for the communities of Barry and Muirdrum in providing by-passes to the villages which are presently bisected by roads carrying considerable volumes of traffic. The studies which have been carried out by the Councils demonstrate that these objectives will be met by the scheme.

2.3 Junction Strategy

One of the fundamental elements of the scheme are the junctions along the route. The importance of the junction strategy was established in Chapter 4 of CP2 and has been continued forward in the project formulation. The project has identified that the avoidance of right turning traffic will result in considerable road safety benefits. This is achieved by appropriate junction design. This was an issue which was specifically raised by Strathclyde Bus and Coach in their letter in Appendix 4 of CP1. In this respect they particularly identified that they did not want to have similar problems to that encountered on the A90. There was considerable evidence at the inquiry about the
issues relating to the non-grade separated junctions on this route and in particular, the fact that further improvements were having to be carried out to the road as a consequence of the problems with the existing junctions. In relation to the A90 particular evidence was given about the proposals to require further grade separated junctions. The importance of junction design was also identified by Tayside Police in a letter of 8 July 1996 as part of Appendix 1 to CP2. Some of the objectors have criticised the junction design and have suggested that grade separated junctions should be replaced by roundabouts. At the inquiry Mr. Green gave evidence about the costs associated with grade separated junctions and these result in the approximate cost of £6,000,000 (1 full grade separated junction at £2M and 4 compact grade separated at £1M) whereas a typical roundabout having a diameter of approximately 100m would cost in excess of £200k. At the inquiry Mr McCrae gave evidence that the proposed roundabouts may have to be larger and therefore the cost differential between the two is likely to be reduced as a consequence of this. In terms of an overall Scheme this would only achieve a maximum saving of around 13% in the assumption that the number of roundabouts would be the same as the number of grade-separated junctions currently proposed, whereas it is likely that a greater number of roundabouts would be required. In terms of the evidence of Mr. Green, Mr. Sherriff and Mr. Reid the roundabouts would not be as safe a design as the grade separated junctions and furthermore would not achieve the major objective of the Scheme in providing a safe free-flowing route which would attract traffic from the coastal corridor. Mr Reid in his main Precognition paragraph 7.8 highlights that the roundabout strategy would result in stop/go traffic flow which was unlikely to support free flowing traffic and would potentially be less safe. Furthermore the roundabouts would have to be lit at night and would therefore potentially have a greater environmental impact. The fact is that roundabouts have the potential to have conflicting traffic movements and this was one characteristic which the Scheme sought to remove. The other key part to the junction strategy was to reduce the number of junctions to as few as possible on the new A92. This resulted in a reduction from 47 existing junctions down to 5 grade separated junctions, two roundabouts and 14 restricted accesses (left-on/lef-off junctions). In my submission the evidence at this inquiry amply demonstrates that the junction strategy adopted by the Council is a sound one which will provide a safe and free flowing route. It is also consistent with many of the other objectives set out for the scheme. The junction design also improves the links to Monifieth at West Grange Road and Ardestie and for Carnoustie via the Upper Victoria Link and the upgraded Carlogie Road. The junction design is important to drawing traffic up on to the A92 from A930.

3. **Justification for the Scheme**

It is clear from the evidence which has been given that the requirement for the Scheme has been demonstrated for a considerable time. This is reflected in the Policy documents which are outlined above. Having demonstrated a need Angus Council along with the City of Dundee Council considered proposals of how the need for change could be met in terms of the A92. This is contained in Core Production CP1 which was the Challenge Fund Bid submitted by Angus Council in 1996 with support from City of Dundee Council to the Scottish Office for funding. In my submission Section 5 of this document demonstrates that the Councils considered the options for the A92 with an open mind. The scheme which has now emerged has only emerged after rigorous analysis of different options which might have been available to the
Councils. In particular I would highlight the fact that a public transportation option was considered. This was considered in detail and although public transport was identified as having an important role to play in the future it was identified that this alone could not solve the issues relating to the A92. Indeed the present state of the A92 and A930 did not assist in the provision of reliable bus services. The second major option considered was the traffic management option. The conclusions of the study on this matter were that whilst measures had been introduced to investigate and prevent accidents these were having a localised effect and were not reducing the overall accident level. The conclusion which was reached was that more radical treatment was required for the road.

Having reached the conclusion that the route up-grade was required the Councils then went on to consider various options including option 1 improving the existing single carriageway, option 2 a dual carriageway on existing alignment (with possible inclusion of the A92/A930 links) and option 3 a dual carriageway on a new alignment. The third option has certain characteristics which are similar to the option which was proposed but withdrawn by certain objectors i.e. an off-line new road. The conclusion of this assessment was that the Second option (the dual carriageway primarily on the existing alignment) had the least environmental impact, was more cost effective and achieved the most positive first year rate of return in terms of economic assessment. It was identified that the re-aligned option would be considerably higher in cost and would also potentially have greater environmental impact. The consultations in the appendix of CP1 demonstrate that the considerable local support for the A92 dualling included support from the public transport providers on the route, from the various Chambers of Commerce and also from Tayside Police.

The Scheme continued to evolve after the initial Challenge Fund Bid and this included technical and financial evaluations of the scheme options. This included the study conducted by Coopers & Lybrand and Crouch Hogg Waterman (CP2). These studies helped to further formulate the scheme and demonstrated both its technical feasibility and affordability. Further work was conducted after the production of these documents including the traffic and economic assessments of the project contained in CP4. This used the model NESA98 to assist in formulating the outcome of various option appraisals. This tested various options both from a traffic and economic assessment perspective. The proposed scheme was identified as option D in this report. In terms of the economic performance the present option was not the best but was only marginally behind the best option. However, when the overall objectives of the project proposals were taken into account the scheme was identified as the most efficacious.

This study also analysed public transport options. Even where all the public transport options were implemented it only had the effect of reducing the modal share by car from 92 to 80%. This still resulted in traffic flows which were well above those recommended for single carriageway route and would be unlikely to achieve the improvements in safety being sought. The consultants also identified that the effect of all the public transport measures amounted to 3 years average traffic growth. I would also highlight that Option 5 on the Public Transport included consideration of fiscal measures including increasing of parking charges and the provision of a tax on private parking (See Section 4 of CP4). In my submission the conclusions reached by CP4
demonstrate that the project will result in considerable benefit to traffic throughout the network and also in real economic benefits being achieved by the scheme.

After this study further traffic work has been conducted in terms of document CP5, CP6 and CP7. The studies used the updated A92 SATURN model. The results are contained in pages 7, 8 and 9 of CP7. In terms of table 4.3 there is an identification of the network queues in terms of queuing hours. This demonstrated that on low growth assumptions to 2003 there would be a marginal increase in terms of traffic queues but in terms of the later years the Scheme had considerable benefits in terms of network queues. As the text in paragraph 4.6 identified, the increase in queues was due to re-routing caused by the new Scheme. There was considerable evidence at the inquiry that one of the objectives of the Scheme was to try and draw traffic up onto the A92 in order to assist the provision of public transport on the A930 corridor. Therefore whilst there might be an initial increase in queuing hours in the initial phase of the Scheme in later years there was a considerable benefit. In terms of average network speeds the Scheme provided benefits in terms of all projected forecasts. The Scheme also resulted in benefits in journey times (see tables 4.5, 4.6 and 4.7 of CP7). Under no scenario was there identified to be an increase in journey times. Tables 4.8, 4.9, 4.10 and 4.11 identified the traffic flow forecasts within identified built up areas. These identified that the Scheme was likely to achieve its objectives of drawing traffic up onto the A92 away from the build up areas of Broughty Ferry, Monifieth and Barry. The conclusions of the output of this model are contained on page 10 of CP7. This identified the fact that the Scheme would achieve the objectives which had been set. Further evidence in this regard was led by Mr Sherriff of City of Dundee council in relation to Claypotts junction. He accepted that one of the consequences of the Scheme would be an increase in queues at the junction for westbound am peak hour traffic. This was consistent with the objectives of the Scheme and given the reduction in journey times in the wider area there were likely still be reductions in overall journey times. Furthermore, in terms of the Claypotts junction it was anticipated that the smoother arrival of traffic would potentially increase its capacity. Mr Sherriff identified that at the present time "lumps" of traffic appeared from the A92 which resulted in congestion and the junction not operating at its technical capacity. At the present time the queues westbound at the morning resulted in delays of just over 3 minutes and the present scheme would only result in increases of 10 to 15%. He also identified junction improvements which were going to be carried out which would further improve its capacity (by approx 6%). In my submission madam you should accept the evidence of Mr Green and Mr Sherriff in respect of these matters. The evidence demonstrates the careful and considered manner in which the Councils have approached the formulation of the scheme and the ongoing scrutiny by external consultants to ensure the best possible scheme. Furthermore, CP27 demonstrates the commitment which the Councils have made in respect of upgrading the public transport services along the A92 and A930 which is one of the benefits of the dualling of the A92.

3.2 Environmental Considerations

The scheme has also been subject to rigorous environmental appraisal. The outcome of this research is contained in document CP3, CP3A and CP3B. These are dealt with in section 5 of Mr Reid's precognition. Again in my submission Madam these matters are considered in detail and no objector has contradicted the information contained in
the Environmental Statement or the evidence of Mr Reid in this regard. It is clear that
the Councils have identified the impacts that are likely to occur as a result of the
scheme and have attempted to reduce these wherever possible. Where impacts will
occur mitigation measures have been provided where possible. The only issue
substantially raised by objectors has been the issue of land-take and this is dealt with
separately under the McCrae & McCrae Objectors section.

3.3 Public Consultation and Political Support

From the outset of the inception of the scheme it is evident that the Councils have
consulted widely. Local representative organisations were consulted prior to the
submission of the Challenge Fund Bid, Crouch Hogg Waterman carried out further
consultation as part of the process of the evaluation of scheme options in terms of
CP2 and wider public consultations were held in relation to the scheme (see sections
7.2.1 and 7.2.3 of Mr Green's main Precognition). There is wide spread support in the
communities for this project.

It is evident that from the evidence of Mr. Green and Mr. Sherriff that there is
considerable Policy support contained in policy documents of both the Councils. The
Councillors have also been kept fully appraised in relation to the project and have
supported the Scheme throughout (see CP15).

3.4 The Funding of the Scheme

The funding of the Scheme was put in issue by some of the objectors. The funding of
the Scheme is a complex matter and one which caused some confusion at the inquiry.
The first funding which has been obtained was the successful challenge bid in 1996.
This provided a sum of £2,000,000 to the Councils to assist in the formulation of the
project.

Support for the funding of the project has also been obtained from the Scottish
Executive in terms of their acceptance of the outline business case submitted as part
of the public private partnership. In terms of the capital expenditure required to
construct the road, Mr Green gave evidence that at the present time the approximate
cost was £37.7M. Dr McLellan gave evidence that the Executive has supported the
project up to a capped figure and it was his view that the Executive would support the
further procurement of the project on the basis of this cost. He accepted that further
discussion would require to be held with the Executive in this regard. He was
however confident that such funding would be made available. In terms of the capital
cost, this would be provided by the Scottish Executive by grant support on a year-by-
year basis which would from part of the unitary charge to be paid to the service
provider. Neither of the Councils would require to pay such sums directly and this
reflected a direct capital input by the Executive. In addition to the capital costs the
unitary charge would also incorporate the costs of maintaining the dual carriageway
throughout the contract period of approximately 30 years. In this respect Dundee City
Council confirmed that they will be paying the equivalent of the maintenance of their
existing section together with sums which were identified would have been required
to be paid in capital expenditure on their road throughout the 30 year contract period.
Angus Council will be responsible for the balance of the revenue funding on an
ongoing basis during the contract period.
In my submission the funding of the scheme is not a matter which is directly relevant as to whether the present orders should be confirmed. However the funding requirements of the private finance initiative have ensured that the financial elements of the proposals have been rigorously analysed to ensure that the scheme will deliver value. The fact that Scottish Executive is prepared to provide funding demonstrates the priority which has been given to this project in national terms (see section 7 of Pecognition of Dr McLeLLan and Section 12 of Mr. Green's Pecognition). What is clear however from the evidence which has been presented is that the scheme is likely to be implemented given the level of support it has achieved and the rigorous financial analysis which has accompanied the evolution of the scheme.

4. Objections

4.1 Introduction
It is inevitable that major road Schemes will have an impact, particularly on those situated adjacent to the construction of the new roads. At the strategic session, Mr McCrae represented some 7 (now 6) statutory objectors who maintained an objections to the Scheme. In my submission given the size of the Scheme, this is a relatively small level of objection.

4.2 General objection by McCrae & McCrae

Mr. McCrae represented the interests of a number of statutory objectors who are potentially affected by the Compulsory Purchase Orders and Side Roads orders. He led evidence at the general session regarding his clients' objections and these can be summarised as follows:-

1. There is no justification for the capital expenditure proposed to be incurred in relation to the Scheme.
2. An alternative option is to leave the road as it is at present.
3. There is an alternative to upgrade the road along its proposed line but to reduce land take by having roundabouts instead of grade separated junctions.
4. Failure to provide a fully integrated Scheme.

4.3 Financial

In my submission the question of whether it is appropriate to spend the capital investment on the A92 Scheme is not a matter which is directly relevant to this inquiry. However, evidence has been led on how the Scheme is to be funded and in my submission it demonstrates that there has been a rigorous analysis of the financial costs of the project. Furthermore the successful Challenge Fund Bid and the Scottish Executives' support for the PPP project confirm the view that the Scottish Executive considers that this is an important Scheme which should benefit from support of Central Government funding. In my submission, in essence Mr. McCrae seeks to challenge the decisions which have been made. In cross examination Mr McCrae accepted that in effect he was seeking to challenge the Scottish executive policy in this regard. In my submission this is not the forum in which to debate how Central Government should allocate its resources. In my submission the examples of
alternative Schemes stated to be more deserving by Mr. McCrae are not relevant because they do not relate to the problems presently encountered on the existing A92.

4.4 The Option to leave the road as at present

Mr. McCrae's first line of argument was that the existing road is adequate and that provided speed restrictions are maintained, then the safety issues have been addressed. In my submission this evidence is clearly contradicted by the evidence of four of the Council witnesses. Simply put, the existing road is wholly inadequate for the volume of traffic which is using it. Furthermore the safety record of the road is a very poor one and whilst interim measures have been introduced in the short term these are not lasting solutions. Furthermore from the Policy documentation which has been submitted to the inquiry it is clear that there is a long established need to improve the road infrastructure in the area to the benefit of the community. Mr. McCrae sought to justify his approach by stating that there were delays at Claypotts junction and that the dualling could only be justified if it was upgraded through to the Kingsway by a dual carriageway. Mr. Sherriff demonstrated that the queues in this regard are limited and only occurred at limited times during the day. In this respect the delays at Claypotts only occurred in a west bound direction at the am peak on a weekday. This means that the remaining 158 hours during the week the westbound traffic does not have capacity problems at Claypotts. In percentage terms this is less than 6%. Furthermore, in traffic terms the a.m. peak only accounts for 8% of the daily westbound traffic. He also demonstrated that there were presently plans to upgrade the Claypotts junction to increase the capacity. In his view the proposed A92 Scheme would result in smoother traffic flows to the Claypotts junction which would enable it to operate closer to its theoretical design capacity. Mr Sherriff also advised the fact the Claypotts junction performs a very important role in controlling traffic into the Dundee network. He advised that if there were uncontrolled access through Claypotts through to the (Scott Fyffe) roundabout, it would be very difficult to control the traffic in the same manner given the complexities of the roundabout and the number of limbs. A further feature of Mr McCrae's existing road option would be its improvement by adding some form of lay-bys to allow traffic to pass. In my submission it is evident that this is wholly unsatisfactory for a major link road. Similarly it does not deal with the fundamental problem of road safety and the volume of traffic which is anticipated to use the road in the future. It is clear from the evidence which was submitted that the existing road will not serve the communities well and is certainly not a solution which is acceptable. It is also a position which was considered by the Councils at the outset and rejected. Mr McCrae suggested that if the Scheme proceeded it was likely that the traffic would be drawn down on to the A930 resulting in higher pedestrian casualties. However in cross examination he accepted that this was a position which was not likely to occur and he accepted that it was more likely that traffic would be drawn up onto a new A92 Scheme. In fairness to Mr McCrae, in cross examination he also accepted that he did not believe leaving the road at present was appropriate and that his preferred option was one which resulted in dualling together with roundabouts.

4.5 Replacement of grade separated junctions with roundabouts

The junctions strategy is fundamental to the A92 Scheme. It was identified very early in the Scheme that the grade separated junctions would provide the most satisfactory
solution in road engineering terms. The benefits of the grade separated junctions was spoken to by Mr Green, Mr Sherriff and Mr Reid at the inquiry. The grade separated junctions have significant safety benefits over roundabouts. Furthermore the use of roundabouts would result in the stop/start traffic flow which would certainly make the road less attractive to users and would also provide less effective links to the coastal towns. They may also cause problems in accessing the new road. Use of grade separated junctions was also supported by the police. The replacement of grade separated junctions with roundabouts would fundamentally undermine many of the objectives of the Scheme. I would ask you to accept the evidence of Mr Green, Mr Sherriff and Mr Reid in this regard. Mr McCrae also gave evidence about the economic impact of using grade separated junctions. It is accepted by the Councils that it will increase the cost of the Scheme by a maximum of 13% but that this was an appropriate expense to incur to fulfil the Scheme objectives. Furthermore, in evidence Mr McCrae advised that he thought larger roundabouts might be required that he had originally envisaged. Given the configuration of roundabouts doubling the diameter increases the land take by a factor of four times. It would reduce the cost savings of the roundabout option by a commensurate amount. It would also reduce land take benefit which I will now go on to discuss. 

Mr McCrae also raised issues regarding land take in relation to the junctions. In examining the plan in the environmental statement it was clear that the existing alignment was not wholly on a Grade 1 agricultural land although it is fully accepted that the new route would be taking prime land i.e. from Grade 1 to 3(1) (CP3 11.3). It was also clear that Mr McCrae had miscalculated the impact of the land take in agricultural terms. In my submission the best evidence in this regard is to be found in CP3 at page 95. Page 95 identified that approximately 95ha of prime agricultural land will be required for the Scheme. Table 11.1 (page 98) identifies the land area of Scotland by the various land classes. There is 635,000 ha of prime land in Scotland. The Scheme will take up 0.01496% of the prime agricultural land in Scotland. In terms of the main junctions which will have an agricultural land take the West Grange Road junction is situated in grade 3.1/3.2 land Ardestie in grade 3.1 and partially 1, Upper Victoria Class 2, Muirdrum primarily Class 3.1 with some possible impact on grade 1 and Salmonds Muir grade 2. On page 99 it is confirmed that the Scottish Office Agriculture Environment and Fisheries Department advised that they would favour on-line dualling with minimal deviation for engineering reasons. This is further supported by a letter from the Scottish Office Agricultural, Environment and Fisheries department dated 12 July 1996 which is one of the consultation responses in Appendix 1 to CP2. Mr Reid in his evidence advised that this was the strategy which had been adopted by the Council in relation to the A92 upgrade. Furthermore, Mr Reid also confirmed that the Council has complied with the guidance in CP40 relating to land take and in particular the land associated with embankments and cuttings. Furthermore, the Councils have confirmed that in the terms of the final design there may well be opportunity to further reduce the land take. If this were to occur then the land would be offered back. Furthermore, in my submission the evidence of Louise Trayner has demonstrated the Councils have carefully considered any objections in relation to land take and where possible have reduced it.

In my submission the junction strategy adopted by the Council is an appropriate one and one which is supported by both the police and the consultants who advised the Council. The only other issue which Mr McCrae raised was a reference to the A50
between the M6 and M1. In my submission this evidence is of little use at this inquiry as the circumstances relating to the junction designs on the A50 are not given in sufficient detail to ascertain whether any meaningful comparison could be achieved. Simply put, junction design is a matter which has to be considered in the context of a particular scheme which is being promoted. The removal of the grade separated junctions would fundamentally undermine the objectives of this Scheme.

4.6 Failure to provide an integrated scheme

In my submission the evidence of Mr McCrae in this regard was unfounded. The Scheme has been carefully designed to ensure that the maximum benefit is derived from the dualling of the A92. In particular, particular attention has been paid to improving the links from the coastal settlements to the A92 to make its use more attractive and to divert traffic from the coastal routes. It also increases the accessibility of these settlements. The pedestrian and cycle network has been carefully considered and the scheme will result in a considerable improvement over the existing provision. It also provides opportunities for improvement of local bus services (CP27).

4.7 CTC Scotland

There has been a volume of written material lodged by CTC Scotland although it is understood that CTC's finalised position is contained in their letters of 6 March 2001 and 3 April 2001. The letter of 6 March reiterates the challenge to the principle of the scheme. CTC Scotland are not statutory objectors in this regard. In my submission the material which they submitted is not relevant to your consideration of matters relating to the CPO orders. Furthermore the general submissions are not ones which are in support of a statutory objector. The statutory objectors' position is not that there is a policy which prohibits new road buildings but that there are other more deserving road schemes. Furthermore at the inquiry Mr McCrae's position moved to support the view that an upgrade was necessary but that it should be via roundabouts and not grade separated junctions. However if you are minded to consider them relevant in my submission there is absolutely no support for the views expressed in relation to the particular circumstances of this scheme. The concept of the scheme has been tested at the Angus Local Plan inquiry and the policy principle established for it by the granting of deemed planning consent for the scheme. CTC appear to be opposed to all road construction and this is not a policy contained in NPPG17 nor in other national policies. It is clear from a proper reading of the Structure Plan, Local Plans and draft Structure Plan that there is support for this Scheme. Furthermore when one examines the National planning policies in NPPG 17 (CP20) and PAN57 (CP22) there is express provision made for road schemes (see paragraph 59 to 66 CP20, paragraph 42 CP22). Both Councils have produced local transport strategies and have identified that the Scheme fits within them. Indeed in my submission one examines the relevant National policies it is clear that the way in which the scheme has evolved is entirely consistent with them. In my submission the evidence of CTC in this regard seeks to challenge established planning policy and is therefore in my submission irrelevant.

I now turn to deal with the specific evidence given by Mr Hawkins in respect of the question of need. In my submission the broad evidence of Mr Hawkins was no more
than evidence by assertion. In my submission this is no substitute for a proper analysis of the particular scheme against established policies. It was clear that Mr Hawkins had not taken the trouble to acquaint himself with the relevant documentation in respect of this inquiry and was unable to answer basic questions in cross-examination regarding the policy documentation. Mr Hawkins impliedly criticised all the studies which have been submitted to the inquiry in support of the scheme. For example, he advised that they had not considered the question of the public transport alternative. In my submission, this is wrong and demonstrates that Mr Hawkins has not considered the documents which have been produced. The public transport option was considered in detail in terms of the Challenge Fund Bid and also in terms of the further work undertaken by Oscar Faber in CP4. Mr Hawkins also sought to challenge the economic benefits which might accrue from the scheme. Again, his comments were extremely general and did not result from an analysis of the circumstances in relation to this particular scheme. In my submission, this evidence was clearly contradicted by the evidence led by the Councils. Furthermore, the planning policies contained in the various plans had carefully considered the need for the scheme. In my submission the economic need for the scheme is clearly demonstrated in terms of the Structure and Local Plans and indeed will support the achievement of planning policy in the area.

Mr Hawkins' criticism for the need of the Scheme was made in broad terms and without careful analysis. In my submission his failure to properly analyse the Scheme in terms of national policy and to consider the relevant documentation undermines the evidence which he gave to this inquiry. In my submission it would be appropriate to accept the supported evidence of the Council witnesses in this regard. Furthermore when asked as to the outcome he would like from the inquiry he was unable to provide an appropriate explanation.

In discussing the particular benefits of the scheme for cyclists, Mr Hawkins would not accept the present scheme would result in a benefit as compared with the existing situation. His evidence was that the existing position was better. In my submission he was not supported by CP44 which highlighted the fact that it is anticipated that the A92 upgrade will provide a segregated traffic free path from Dundee to Arbroath. It also seems to be contrary to that part of the precognition of 3 April which Mr Hawkins chose not to read out at the inquiry which appeared to be supportive of the cycletrack provision provided by the Scheme.

4.8 The Hedge

In my submission the provision of a hedge along the A92 cyclepath/footpath is not an appropriate matter to raise in the context of a CPO inquiry. It is a matter for the planning system and my submission is not relevant to this inquiry. This is further reinforced in Mr Hawkins' evidence that he was not proposing any additional land take. In my submission, the CTC has not provided a consistent approach to this issue. In the first instance Mr Hawkins wrote to Angus Council in his letter of 14 June 1999 and stated "we are not concerned about the provisions for cyclists, which I understand have been broadly agreed with our local representatives". The request for a hedge did not emerge until September 2000 by which time planning consent had been obtained for the scheme and the present orders promoted. The reasons for not incorporating the hedge are fully set out in Mr Reid's precognition. Mr Reid's view
was that the hedge was unlikely to have any real benefits in terms of safety and this was a view Mr Hawkins agreed in advising that he thought it would only be a perceived benefit. Parts of the A92 are situated in isolated areas and in Mr Reid’s view there maybe the implications for pedestrian and cyclist personal safety arising from the provision of a hedge. The provision of the hedge would have a landscape impact. This was particularly relevant given the comments in the environmental statement about the certain landscaping not being provided in some areas because of the open nature of the countryside. The provision of the hedge in the location proposed by CTC would obscure views to the coast from the road which is a matter considered relevant by DMRB. The provision of the hedge is not supported in the consultation document (CP31). Indeed this document supports the provision of a 3 metre unsegregated cycle track for long distance routes whereas Mr Hawkins was suggesting that it could be reduced to 2 metres in order to accommodate the hedge. Mr Hawkins also gave evidence that emerging policies were supporting the wider widths. Furthermore in my submission the provision of the hedge is not relevant to the consideration of the Side Roads Orders. Mr Hawkins also seemed to suggested that a hedge would help reduce pollution. In my submission his evidence in relation to this was taken from an article which outlined the benefits of tree planting. There was no evidence that a localised level this would result in any pollution reduction. Finally, the provision of a hedge would also require maintenance which might be problematic given the proposed length and location of the hedge.

4.9 Sustrans

The letter of 13 March is Sustrans’ submission to the inquiry. Sustrans were not originally objectors to the scheme and in my submission, their submission is not relevant to your consideration in relation to CPO orders. In my submission their general submission to the inquiry is not relevant. However, in the event that you decide that they are, in my submission there is absolutely no justification for the comments made by Sustrans on the question of need. It is entirely contradicted by up-to-date planning policies and it would appear that the approach of Sustrans is to oppose all new road building schemes but this is not formulated in any national policy and in particular in NPPG17.

In terms of cycling provision the Councils have demonstrated a commitment to provide cycling provision along the route of the A92 at a considerable cost. Sustrans wish a hedge to be constructed between the new road and the cycle pathway. This has been rejected and the reasons for this are contained in Mr Reid’s Precognition. In any event, in my submission, the matter of provision of the hedge is a matter more appropriately addressed in the planning context and is not one which is directly relevant to a CPO inquiry. Furthermore in context of the Side-Roads Orders this is not relevant. In my submission therefore it is not a matter which can competently be raised in the context of this inquiry.

5. The Statutory Orders

I annex to this closing submission extracts from the following Acts and Regulations:

2. Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.;
3. Extract from the Ancient Monument and Archaeological Areas Act 1979, Appendix 3;
4. The Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986;
5. The Compulsory Purchase of Land (Scotland) Regulations 1976.

Section 104 (1)(a) of the Roads Scotland Act 1984 (hereinafter referred to as "the 1984" Act) gives powers to Road Authority to acquire land required in respect of the construction, improvement or protection of a public road. Section 105 (2) provides a Roads Authority with powers to acquire land which in their opinion is required in connection with the carrying out of works authorised under Section 12 or Section 70 of 1984 Act. (Section 12 being the power to promote Side Roads Orders and Section 70 being the power to stop up roads under a Section 12 order) Section 106 gives the Road Authority power to acquire land for the purpose of mitigating any adverse affect of a road constructed or improved by them. Section 110 (2) provides powers to acquire servitude rights in connection with any of the other powers of land acquisition. The powers therefore exist for both Angus Council and City of Dundee Council as Roads Authorities seek to exercise powers in terms of the Act for compulsory acquisition. The compulsory purchase orders have been promoted on the basis of the powers set out in Sections 104, 105, 106 and 110 (2) of the 1984 Act Section 110 (3) of the 1984 Act applies the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (hereinafter referred to as the 1947 Act) to such acquisition. The 1947 Act provides the mechanism for the compulsory purchase.

Part 1 of the First Schedule to the 1947 Act provides the mechanism for the promotion of the order, the ability for objections to be received and for confirming authority to confirm the order. Paragraph 3 of the First Schedule provides the requirement to advertise and notify. This is further re-enforced by the detailed provisions contained in The Compulsory Purchase of Land (Scotland) Regulations 1976 (SI. No. 820). The legislation gives particular rights to those individuals who receive statutory notification. In terms of paragraph 4 (2) of the First Schedule in the event that any such objection is made there is a requirement to hold a Public Local inquiry or give the objector a right to be heard prior to the confirmation of any order. In my submission it is not surprising as essentially the purpose of the 1947 Act is to enable those affected by the Compulsory Purchase Order to make representations given that such parties are likely to be directly affected. Paragraph 4 (3) provides that in the event that a statutory objector avails himself of the opportunity of being heard, then the confirming authority will provide an opportunity for other parties whom the confirming authority consider expedient to be given the right to be heard. This is essentially the power which enables the confirming authority to allow third party or non-statutory objectors to be heard in relation in relation to the compulsory purchase order. These provisions provide a statutory right of objection to those statutory objectors and the Confiming Authority has discretion in respect of non-statutory objectors. At this inquiry there are only 7 (now 6) statutory objectors and these are the objections which require to be considered. In my submission there is a discretion to consider the other objections which have been received. I have previously made submission in respect of the relevancy of the representations from CTC and Sustrans given that they do not directly support the position adopted by the statutory objectors. I would also highlight in particular that in my submission the questioning of need for the present scheme is not one which should be accorded any weight because the
principle of the scheme has been essentially established both in the context of planning policy and also in the direct support from the Scottish Executive in relation to the scheme. Furthermore, the objectors have not sought to establish that the retaining of the existing use of land would override the purpose for which the land is being acquired.

Objectors have raised issues regarding the implementation of the scheme and, in particular, the statutory objectors have raised issues regarding the grade separated junctions. In my submission the evidence regarding this matter clearly demonstrates that the Council's junction strategy is entirely an appropriate one which justifies the appropriate land take. In my submission the evidence led on behalf of the Councils demonstrated that the compulsory purchase of the land is appropriate and necessary.

During the course of the inquiry Madam you raised an issue regarding paragraph 12 contained in part III of the first Schedule to the 1947 Act. This provision was repealed by Schedule 5 of the Ancient Monuments and Archaeological Areas Act 1979. Another issue which arose in the context of the inquiry that was the issue of that land where the owner could not be identified. Miss Trayner confirmed that the appropriate notifications had been placed in this respect. (Plot 501)

Paragraph 5 of the first Schedule states that the "the order as confirmed by the confirming authority shall not unless all persons interested consent, authorise the acquiring authority to purchase compulsory any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification." The purpose of the statutory provisions is to ensure that any person affected by a Compulsory Purchase Order is not faced with an amendment to the land to be taken without first consenting to such a position. It is quite understandable that in a Scheme of this size matters of detail will evolve during the Statutory Consents process. In my submission it is evident that the Councils have listened to objectors and where possible have tried to accommodate their concerns within the finalised scheme.

The evidence of Louise Trayner detailed a number of amendments to both the Dundee and Angus CPO's. Land owners affected by the amendments have consented and in my submission the amendments set out in Louise Trayner's Pecognition are appropriate. The evidence of Miss Trayner in this regard was that all the consents had been obtained in writing apart from two which had been confirmed verbally and these consents were imminently expected. The Councils have undertaken to provide you with a schedule of the consents as soon as it is completed. In my submission, therefore, I would ask you to recommend to the Scottish Ministers that they should confirm the Dundee City Council (A92 Dundee - Arbroath Dualling) Compulsory Purchase Order 1999 subject to the modifications contained in CP19C. I would further submit that it would be appropriate to recommend that the Scottish Ministers to confirm the Angus Council (A92 Dundee - Arbroath Dualling) Compulsory Purchase Order 1999 subject to the modifications contained in CP19D.

5.2 Side Roads Orders

Section 12 (1) (a) of the 1984 Act gives powers by order to a Roads Authority to stop up, divert, improve or otherwise alter a road which crosses or enters the route of a
main road or is or will be otherwise affected by the construction and improvement of the main road and to construct a new road for any purpose connected with the main road or its construction of the Roads. Section 70 of the 1984 Act enables a Roads Authority under Section 12 of the Act to stop up any private means of access adjoining or adjacent to any of the works in the Order and also to provide a new means of access to any such land. In terms of Section 71 (3) of the 1984 Act before stopping up an access, the Roads Authority has to satisfy itself that no access to the land is reasonably required or that another reasonably convenient means of access to the land is available or will be provided in pursuance of the order.

In terms of Section 12 (6) of the 1984 Act provision is made for the Scottish Ministers to make regulations to prescribe the procedures to be followed by a Roads Authority. No such regulations have been introduced and in practice Roads Authorities adopt the procedures contained in Parts I and III of Schedule 1 to the 1984 Act. In terms of paragraph 2 of Schedule 1 express provision had been made with regards to orders submitted to the Scottish Ministers by local Roads Authorities. Paragraph 3 of Schedule 1 provides the requirement for notification. The table provided with the Schedule provides in Part (VI) that notification requires to be given to the owner and occupier of the land relating to the stopping up order. Furthermore, in terms of paragraph 5 of Schedule 1, where any objections are received from any person appearing to the Scottish Ministers to be affected and the objection not withdrawn, then there is a requirement to cause a local inquiry to be held. In my submission this identifies that the primary purpose of the notification is to allow those affected by the scheme to make representations and these are the objections which are likely to be relevant to the determination of the order.

Detailed evidence was lead at the inquiry by Mr John Reid of Angus Council in relation to the matters which were subject to Dundee City Council Side Roads etc Order 1999 and the Angus Council Side Roads etc Order 1999. In terms of the Section 12 of the 1984 Act where objection is made and not withdrawn the Scottish Ministers can confirm the Order with or without modifications (Section 12 (7)). In my submission the provision to allow the Scottish Ministers to confirm an order with modifications enables the scheme to evolve and also enables the prometers of the scheme to take into account objections which have been lodged to it.

In my submission, an objection to a Side Road Order requires to be specific and in this regard no objector has provided any evidence that any of the matters promoted in the Side Road Orders are inappropriate. A number of objectors have suggested alternative alignments but none has criticised the existing proposals from a roads' perspective. There is no evidence before the inquiry that there are technical difficulties in relation to the Side Road Orders from a road engineering perspective.

Detailed evidence was led by Louise Trayner on behalf of the councils in relation to the proposed amendment to the Side Roads Orders. It was evident from this evidence that amendments arose from representations which had been received by the Councils. The evidence of Miss Trayner also demonstrated that all those parties who were affected by the amendments had consented to them. In this respect in terms of the 1984 Act, there is no requirement to further notify modifications. In terms of the evidence of Miss Trayner, there were two circumstances in which further orders would require to be promoted by the Angus Council. These were identified in
paragraph 6.6.3 and 6.18.5 of her Precognition. These related to the stopping up of certain side roads. The purpose was to continue to allow agricultural use of these stretches of road. However, it was decided that these would be restricted to one half of the road and therefore a further order known as the Angus Council "A92 Dundee to Arbroath Dualling (Redetermination of Exercise of Public Right of Passage) Order 1999 will be promoted. These orders are not before the inquiry. This is promoted under the Stopping Up of Roads And Private Accesses and The Redetermination Of Public Rights Of Passage (Procedure) (Scotland) Regulations 1986 pursuant to Section 52 of the 1984 Act.

I would submit that it would be appropriate for you Madam to recommend to the Scottish Ministers that the Dundee City Council (A92 Dundee - Arbroath Dualling) Side Roads Order 1999 should be confirmed subject to the modifications contained in CP19A and I would also ask you to recommend that the Angus Council (A92 Dundee - Arbroath Dualling) Side Roads etc Order 1999 should also be confirmed subject to the modifications contained in CP19B.

6. Conclusions

In my submission the need for the scheme has been established for a considerable period of time. The need for the scheme has been identified in established policies and the detail of this particular scheme has been reflected in established and emerging policy. In my submission the evidence to this inquiry demonstrates the Councils have approached the formulation of the scheme with an open mind and considered all the available options open to them. The finalised scheme has only emerged after careful consideration by both Councils with the assistance of reputable consultants. Furthermore the councils' evidence to the inquiry has been supported by detailed analysis which has not been contradicted in any way by any of the objectors. The Councils have clearly identified the objectives which the scheme should achieve at the outset and the scheme design will enable these objectives to be met. In my submission it is clear that the Councils have identified a scheme which will maximise the benefits of the dualling of the existing A92 and which will result in a significant improvement to the links to both the coastal settlements and the ports of Arbroath and Montrose. This is further supported by the Councils' identification of how the scheme can benefit public transport provision and also assist in the fulfilment of their transportation policies. In my submission it is clear that the benefits of the scheme will be achieved and that therefore the public interest in promoting the CPOs has been established. Furthermore the Side Roads Orders are critical in ensuring the scheme achieves its wider objectives and again in my submission the evidence given at this inquiry supports the confirmation of these orders. The modifications which have been proposed to the orders have benefited from supplementary NIDs where these have been required.

I would therefore accordingly submit it would be appropriate for you madam to recommend to the Scottish Ministers that both the Compulsory Purchase Orders and the Side Roads Orders should be confirmed subject to the modifications identified earlier in my submission.