ANGUS COUNCIL
ROADS COMMITTEE
14 JUNE 2001

A92 PUBLIC LOCAL INQUIRY – REPORT ON CONCLUSION OF INQUIRY

JOINT REPORT BY THE DIRECTOR OF LAW AND ADMINISTRATION AND THE DIRECTOR OF ROADS

ABSTRACT
This report updates the Committee on the conclusion of the Public Local Inquiry (PLI) into the Compulsory Purchase Orders and Side Roads etc Orders associated with the A92 Dundee – Arbroath Dualling Project and advises the Committee on the next stages in the process of confirming the necessary statutory orders.

1 RECOMMENDATIONS

It is recommended that the Committee agree:

(i) to note the terms of this report; and

(ii) to authorise the Director of Law and Administration to intimate the terms of this Report and the Committee’s decision to the Dundee City Council for its interest.

2 BACKGROUND

Report No 545/01 to the meeting of this Committee on 26 April 2001 updated the Committee on the ongoing Public Local Inquiry and reported the terms of the Closing submission presented on behalf of the Council in relation to General Session evidence.

At that meeting, the Committee noted, amongst other things, that a further report detailing the site specific issues would be reported to Committee at a later date (Article 11 refers).

This report is accordingly in discharge of that remit.

3 SITE-SPECIFIC SUBMISSIONS

The second stage of the PLI termed as “Group Sessions” relating to location-specific matters only commenced on Tuesday 24 April 2001 and the evidence was concluded on Wednesday 25 April 2001. Thereafter, the Reporter carried out accompanied site inspections on Thursday 26 April.
It proved possible to substantially shorten the anticipated scope and period of this part of the Inquiry due to the large number of withdrawals of objections made by Messrs McCrae & McCrae on behalf of a number of their clients immediately prior to the commencement of the Inquiry and, thereafter, during the course of the Inquiry. No substantial reason for such late withdrawals was forthcoming from Messrs McCrae & McCrae. Nonetheless, the Councils made it clear that they took serious account of the terms of objections made and, by way of formal modifications proposed to the statutory orders (reference is made to Report No 392/01 considered by the meeting of the Full Council on 29 March 2001), accommodated objectors' requests as far as reasonably possible within the scope of the scheme. It is expected that this reasonable and accommodating approach on the part of the Councils will assist in finding favour with the Reporter.

Whilst the late withdrawals of objections (without adequate explanation) on the part of Messrs McCrae & McCrae did result in a deal of abortive work having been carried out by officers in preparation for the PLI, on balance and on advice from the Council's external legal advisers, it was concluded that it would not be advantageous for the Council to seek an award of expenses against the objectors or their advisers (principally due to the likely additional delay in issue of Reporter's decision which would result but also due to uncertainty of success and the relatively modest sums likely to be recoverable) and no such claim was made.

4 TERMS OF CLOSING SUBMISSIONS FOR GROUP SESSIONS

The programme for the PLI is attached as an Appendix to this report. It will be noted from that programme that whilst the closing submissions presented to the Reporter at conclusion of the General Session evidence were written, the closing submissions presented after each Group Session were oral only. The submissions can, however, be summarised as follows.

4.1 The first Group Session involved consideration of objections from CTC Scotland, Mr J D Fulton & Mrs W Robertson of Upper Victoria, Carnoustie and Mr and Mrs G Galloway of Mains of Ravensby Farm, Barry. These objections all concerned the alignment, land-take and design of the proposed A92 dual carriageway, including the footpath/cycle track provision at Upper Victoria. In essence, the objections related to the proximity of the proposed dual carriageway to Upper Victoria cottage, the extent of the land-take for the grade-separated junction proposed for that location and the proposed diversion of the cycle track around the cottage away from the line of the dual carriageway at that location.

In summary, the Councils' submission was that, firstly, the movement of the proposed A92 alignment northwards from this location away from Upper Victoria would require additional agricultural land-take as well as approximately 750 metres of additional road to maintain design standards at an estimated increased cost of £500,000. Secondly, the extent of the land-take was necessary to accommodate the specimen design for the width of the carriageway and the compact grade-separated junction at this point, including earthworks and allowance for maintenance access. Thirdly, in relation to the diversion of the cycle track, this was necessitated by lack of room between the existing Upper Victoria cottage and the proposed southern edge of the carriageway and hard-strip. Pushing the cycle track through that space would
compromise design width for the cycletrack as well as affecting the privacy of the occupier of the cottage (which has a number of north-facing windows).

4.2 The next Group Session submission related to an objection by Mr and Mrs P Heyder of North Grange House, Monifieth in relation to the extent of land and impact of the proposed grade-separated junction at West Grange Road. In the Councils' submission this was the most major junction for the proposed A92 (certainly in land-take terms) because of the complexity of accommodating safe and sufficient access to the junction to and from a number of side roads accommodating significant traffic flows from the substantial development which had been carried out and which was proposed for the surrounding area at that point. The Councils accordingly submitted that the extent of the grade-separated junction here was justified.

4.3 The next Group objection dealt with was from Mr D Fairlie of West Balmirmer, Carnoustie which was confined, in terms of location-specific issues, to suggesting that a roundabout would suffice instead of a grade-separated junction here and some minor issues in relation to the extent of land-take. The Councils' submission was that, in terms of the junction strategy adopted for the A92, grade-separated junctions were preferred primarily in terms of safety. The land-take was justified with reference to the specimen design scheme.

4.4 The next objection dealt with was from Mr J Gray of Auchrennie Farm, Carnoustie in relation, firstly, to the proposed alignment and location of the grade-separated junction at Muirdrum and, secondly, in relation to the line of the proposed Upper Victoria Link as it will pass through Middleton of Panbride Farm by Carnoustie.

In relation to the first issue, the Council's submission was that the grade-separated junction was justified on the basis of the evidence already stated in the General Session. The extent of the land-take for the grade-separated junction had also been justified in the General Session evidence. The presence of Muirdrum to the north and the sewage treatment works to the south essentially provided constraints for the location of the grade-separated junction and the topography of the surrounding land along with these constraints and the environmental considerations dictated the necessity of having the A92 placed in deep cut at this point. In relation to the alignment of the Upper Victoria Link at Middleton of Panbride, the alignment was deliberately selected by the Councils to provide a reasonable distance from the properties at San Melito and to avoid unworkable severance of the agricultural field there.

4.5 The final Group Session for location-specific objections related to the proposed Barry bypass and objections were considered from Mrs L M Clark, West Cotside Farm, Barry and Mr S Northcott, who did not appear in person at the Inquiry. Mrs Clark did not maintain her objection to the need for the Barry Bypass but, rather, confined her objection to the extent of land-take and location of the proposed junction at the western end of the proposed bypass. The Councils' submission was that the land-take with particular reference to provision of "swales" (part of the drainage requirements) was assessed as required through the Environmental Statement and in consultation with Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA) so was necessary. In relation to the proposed location of the connecting access, the Councils' submission was that this had been prepared to minimise land-
take and maintain suitable road geometry. Further, planning permission through NID had been duly obtained for the location of the proposed access and no planning permission existed for the proposed move of the access (by the objector) in an easterly direction.

5  FURTHER PROCEDURE

The Reporter made a number of procedural requests in relation to production of post-Inquiry submission of documents namely: an “unknown owner” plot site notice, evidence of consent to modifications and copy Committee Minutes, all of which are being attended to.

In terms of the guidance contained in Scottish Office Circular 17/1998 (Code of Practice for Planning and Compulsory Purchase Inquiries), the Reporter’s findings in fact, reasoned conclusions and recommendations would be expected to be submitted to the Scottish Ministers within approximately six weeks of the conclusion of the Inquiry and, thereafter, the Scottish Ministers’ decision should be issued within approximately two months of receipt of the Reporter’s report.

Accordingly and taking due account of the duration of the Inquiry, it could reasonable be anticipated that the Council will receive notification of the Ministers’ decision by August. This would allow the Council to proceed to the Invitation to Tender stage of the project. A separate Report (Report No 675/01) is being presented to this meeting of the Committee on the current position achieved in the project and the next steps required.

6  FINANCIAL IMPLICATIONS

There are no financial implication arising from this report.

7  HUMAN RIGHTS IMPLICATIONS

There are no Human Rights Implications arising directly from this report. Any Human Rights implications would be a matter for the Reporter at the Inquiry and no express Human Rights issues arose during the PLI.

8  CONSULTATION

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

9  CONCLUSION

It is considered that the Councils’ evidence and submissions in relation to the Orders required for the proposed A92 Dualling were presented to the Reporter in a clear, comprehensive and persuasive manner. It is hoped therefore that an early positive decision can be given by the Scottish Ministers to allow this project to proceed.

Catherine Coull
DIRECTOR OF LAW & ADMINISTRATION

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.

MA/SH
REPORT/a92.pli.conclusion
8 May 2001
## A92 DUNDEE – ARBROATH DUALLLING
PUBLIC LOCAL INQUIRY INTO CPOs/SROs
PL1 PROGRAMME AS AT: 23 APRIL 2001

<table>
<thead>
<tr>
<th>Date</th>
<th>Scope of Evidence</th>
<th>AC/DCC Witnesses</th>
<th>Objectors</th>
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<tr>
<td>Wed 18 April 2001</td>
<td>Preliminary Matters</td>
<td>Dr Bob McLellan – General Introduction and Overview for Scheme</td>
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<td>@ 10.00 am (Start Date)</td>
<td>General Session (including need for the Scheme/alternative route)</td>
<td>Jeff Green – Scheme Justification</td>
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<td>(pm session)</td>
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<td>John Reid – General Scheme Details and Modifications (General)</td>
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<td>Louise Trayner – Modifications Detail</td>
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<td>John Reid – Location Specific evidence</td>
<td>Mr &amp; Mrs Galloway (CPO/A/8 &amp; SRO/A/8)</td>
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<td>Plot/Location Specific evidence only</td>
<td>Mr Fulton and Mrs Robertson (CPO/A/10 &amp; SRO/A/10)</td>
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<td>Closing Submissions after each Group (oral)</td>
<td>CTC Scotland (SRO/D/4 &amp; SRO/A/37)</td>
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<td>Mr D Fairlie (CPO/A/23 &amp; SRO/A/22)</td>
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<td>Date</td>
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<td>Wednesday 25 April 2001 @ 9.30 am</td>
<td>Group Session – Location Specific evidence only Close enquiry</td>
<td>John Reid – Location Specific evidence Plot/Location Specific evidence only Closing Submissions after each Group (oral)</td>
<td>Mr &amp; Mrs Heyder (CPO/D/4 &amp; SRO/D/3) Mr J Gray (CPO/A/14 &amp; SRO/A/14) Mrs L M Clark (CPO/A/31 &amp; SRO/A/30) [Simon Northcott (CPO/A/33) – not appearing]</td>
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<td>Thursday 26 April 2001 @ 10.00 am</td>
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