

**REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE
28 JANUARY 2002**

**REPORT ON: A92 PROJECT – ISSUE OF SCOTTISH MINISTERS’ DECISION AND
CONSEQUENTIAL ACTION**

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 83-2002

1 PURPOSE OF REPORT

- 1.1 This report updates the Council on the issue of the decision of the Scottish Ministers following the Public Local Inquiry (PLI) into the Compulsory Purchase Orders and Side Roads etc Orders associated with the A92 Dundee-Arbroath Dualling Project and asks the Committee to agree the consequential action now required.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Committee:
- a note the successful outcome of the A92 Public Local Inquiry in terms of the decisions issued by the Scottish Ministers in terms of Scottish Executive letters dated 29 November 2001 with relative Report on the Public Local Inquiry;
 - b note the confirmation of the Dundee City Council (A92 Dundee-Arbroath Dualling) Compulsory Purchase Order 1999 by the Scottish Ministers with modifications as listed in Appendix 1 to this Report, and approve the taking of all necessary steps to complete title to the land comprised in the Order and consequential action including, in due course, the payment of necessary compensation by Angus Council;
 - c agree to formally resolve to confirm the 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 as an unopposed Order;
 - d note that an amending Order to the Side Roads etc Order referred to in recommendation (c) will be promoted in early course;
 - e note the issue of the updated consolidated Business Case for the Project updated to September 2001;
 - f agree to formally authorise Angus Council to proceed to issue of Invitation To Negotiate (ITN), consultation upon, receipt and evaluation of bids along with selection of and negotiation with a preferred bidder for the A92 Project on behalf of Dundee City Council in respect of that part of the A92 Upgrading Scheme within Dundee City Council’s boundaries in terms of sections 56 and 69 of the Local Government (Scotland) Act 1973; and
 - g instruct the Director of Support Services to remit this report and intimate the Council’s decision to Angus Council for its information.

3 FINANCIAL IMPLICATIONS

- 3.1 The issue of the Scottish Ministers’ decision in respect of the required Statutory Orders marks a key milestone in the progress of the Project. The next stage in progressing the Project is for

Angus Council to proceed to issue ITN and to complete the Compulsory Purchase Orders. The capital costs associated with these steps within the Dundee area including land assembly and compensation costs are to be borne solely by Angus Council up to the indemnity limit of £1.6m and, if in excess of that figure (which is not anticipated), shared 50/50 between the two Councils. Dundee City Council's annual contribution to the unitary charge payable by Angus Council has been limited to the annual cost to the City Council of maintenance of the A92 with reference to the base figure of £51,800 as at June 1998 prices and subject to increase in line with the Retail Price Index (RPI). There will be no net increase in expenditure for Dundee City Council by virtue of proceeding with the A92 Project in terms of this Report.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 As noted earlier in this Report, whilst the upgrading of the A92 would have some disadvantages in terms of land loss and reduced amenity for some of those living alongside the new road, it would result in significant improvements in terms of road safety, journey time reliability, traffic distribution, local community benefit and economic development opportunity. As such, the proposal is of net benefit in terms of LA21.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 The upgrading of this important route would create a safer environment for all sections of Dundee's population.

6 BACKGROUND

- 6.1 As a fundamental element of the scheme to upgrade the A92 between Dundee and Arbroath along with improvements to certain associated side roads, Angus and Dundee City Councils agreed to promote the necessary Compulsory Purchase Orders (CPOs), Side Roads etc Orders (SROs) in May and October 1999 respectively (Report No 146/1999 considered by the Planning and Transportation Committee at its meeting on 7 June 1999 refers). Both authorities have agreed to proceed with this project under the partnership agreement between the authorities for the A92 Project, with Angus Council undertaking the necessary work as lead authority.
- 6.2 Thereafter, objections to the Angus and Dundee CPOs and SROs having been made, the Scottish Ministers appointed a Reporter to hold a Public Local Inquiry (PLI) into these objections, which took place between 18 and 25 April 2001. In the interval, Angus Council pursued negotiations with the objectors in an attempt to resolve these objections. This resulted in the Council agreeing to promote certain modifications to Dundee CPO and SRO (Report No 232/2001 considered by the Planning and Transportation Committee at its meeting on 18 April 2001 refers). An analogous decision was taken by Angus Council in respect of the Angus CPO and SRO. As required by the CPO legislation, all modifications requiring additional landtake were consented to by the relevant owners, occupiers and lessees.
- 6.3 The Scottish Ministers' decision on the Statutory Orders has now been received and this Report apprises members on the terms of that decision and the consequential action now required.

7 SCOTTISH MINISTERS' DECISION

- 7.1 By letters from the Scottish Executive dated 29 November 2001 together with the associated Report of the PLI, the Scottish Ministers intimated their decision to confirm the Dundee and Angus CPOs and the Angus SRO subject to the essentially same modifications sought by both Councils at the PLI. Copies of the Scottish Executive letters with associated PLI Report have been placed in the Members' Lounge for inspection in connection with this Report. It is also intended that they be deposited for public inspection in both Dundee and Angus in the

interests of making the information as freely available as possible. The modifications as confirmed by the Scottish Ministers to the Dundee CPO form, Appendix 1 to this Report.

- 7.2 In summary, the Reporter has found that, overall, whilst the A92 Upgrading scheme would have some disadvantages in terms of land loss, reduced amenity for some of those living alongside the new road and some inconvenience as a result of the rationalisation of existing accesses, it would result in significant improvements in terms of road safety, improved journey time reliability and a more appropriate distribution of traffic on the local road network. The Reporter found that it would also benefit communities such as Muirdrum and Barry in Angus by removing significant through traffic and improve prospects for economic development in the area. On balance, the Reporter declared herself entirely satisfied that the scheme is justified and desirable in principle.
- 7.3 The Reporter proceeded to make certain recommendations regarding the objections to include adjustments to the Angus CPO and SRO only which do not undermine or compromise its objectives whilst allowing a fairer balance between the public interest and objectors' interests. These further adjustments can be accommodated by Angus Council and do not affect the Dundee CPO and SRO.
- 7.4 The Scottish Ministers in their decision letters have adopted the recommendations of the Reporter. As far as the Dundee SRO is concerned, this was ultimately not objected to as referred to above and was therefore not dealt with in the Report. The original (unmodified) Dundee SRO has accordingly been returned by the Scottish Executive for the Council to confirm as an unopposed Order in terms of the relevant legislation. It is therefore recommended that these Statutory Orders now be formally completed in terms of recommendations (b) and (c) of this Report. The modifications previously agreed to the Dundee SRO will have to be promoted as a separate adjusting Order at a later date in terms of the legislative procedures applicable to confirmation of such "unopposed" Orders to achieve consistency with the modified Dundee CPO. This is referred to in recommendation (d) of this Report.

8 CONSEQUENTIAL ACTION

- 8.1 Given the positive terms of the Scottish Ministers' decision, Angus Council consider that it is now appropriate to conclude the tender documentation to enable issue of ITN at the earliest practicable time. This process is now being concluded by Angus Council with a view to issue of ITN by the end of January 2002.
- 8.2 As referred to above, Angus and Dundee City Councils have agreed to pursue the A92 Project in partnership with Angus Council acting as lead authority provided that Dundee City Council does not bear any additional net expenditure as a result (Report No 122/1998 considered by the Planning and Transportation Committee at its meeting on 23 February 1998 refers). Dundee City Council has secured agreement on indemnity from Angus Council against the capital cost of the project and restricting Dundee City Council's annual contribution to the cost of operating the upgraded A92 in terms of that decision and as expanded upon under "Financial Implications" below (Report No 563/1999 considered by the Planning and Transportation Committee at its meeting on 30 August 1999 refers).
- 8.3 Before proceeding to issue ITN and undertaking the necessary subsequent steps of the procurement process up to and including selection of and negotiation with the preferred bidder, Angus Council requires Dundee City Council's authority to take these steps in respect of that part of the A92 road within Dundee's boundaries. This is dealt with in terms of recommendation (f) of this Report. It is proposed that this authority will ultimately be formalised by an enduring formal Agreement between the Councils in respect of the A92 Project as previously agreed which will be the subject of a separate Report to Committee.

- 8.4 It may also be noted that the Business Case for the Project has been updated and consolidated. The consolidated Business Case (excluding the review of the public sector comparator) was submitted to the Scottish Executive at the end of October 2001 and has been widely circulated. A copy of the Business Case public document has been deposited in the Members' Lounge for perusal in connection with this Report.

9 CONCLUSION

- 9.1 The Council has now received the Scottish Ministers' decisions pursuant to the Public Local Inquiry held into the various Statutory Orders associated with the promotion of the A92 Project. The Council are now asked to agree the necessary consequential actions required as detailed in the Report.

10 CONSULTATIONS

- 10.1 The Chief Executive, Director of Finance, Director of Support Services, Director of Corporate Planning and Director of Economic Development have been consulted and are in agreement with the contents of this report.

11 BACKGROUND PAPERS

- 11.1 None

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18 January 2002

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APPENDIX 1

**THE DUNDEE CITY COUNCIL (A92 DUNDEE-ARBROATH DUALLING)
COMPULSORY PURCHASE ORDER 1999****These are the modifications to the Order as confirmed by the Scottish Ministers**

Plot 4 – Plot increased from 14000sqm or thereby to 17050 sqm or thereby as proposed roundabout has been relocated to the north.

Plot 13 – Plot excised. Proposed embankment gradient to be increased to avoid acquisition of sliver of land comprising Plot 13.

Plot 15 – Plot 15 now split into two areas due to Section 75 agreement with Bett Brothers plc. Plot 15 now reduced from 15695 sqm or thereby to 10940 sqm or thereby. See also Plot 521.

Plot 27 – Plot excised due to redesign of access road.

Plot 32 – Plot increased from 38840 sqm or thereby to 39940 sqm or thereby due to redesign of access road at owner's request.

Plot 506 – New plot. Equestrian overbridge added at owner's request.

Plot 507 – New plot. Equestrian overbridge added at owner's request.

Plot 508 – New plot. New field access added at owner's request.

Plot 521 – New plot. Formerly part of Plot 15, which is now split into two areas due to Section 75 agreement with Bett Brothers plc.