

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - 21 OCTOBER 2003

MODERNISING PUBLIC LOCAL INQUIRIES : A CONSULTATION PAPER

Report by Director of Development Services

1 PURPOSE OF REPORT

- 1.1 To advise and obtain the Committee's views on a consultation paper entitled 'Modernising Public Local Inquiries prepared by the Scottish Executive.

2 BACKGROUND INFORMATION

- 2.1 In November 2001, the Scottish Executive commenced a review of existing arrangements for enabling people to become involved in planning issues with the publication of the consultation paper 'Getting Involved in Planning'. This consultation paper was presented to the Development Services Committee of the Council at its meeting on 13 March 2002 and the Council's comments on the paper were subsequently presented to the Executive for consideration. 'Getting Involved in Planning' indicated that many people found the formalities of Public Local Inquiries daunting and one of the questions posed by the consultation was 'How can we make appeal inquiries more accessible and less intimidating?' The present consultation seeks the Council's views on how this particular issue can best be addressed.

3. THE CONSULTATION PAPER

- 3.1 The consultation paper is directed at the public local inquiry process that is used to consider planning appeals and called-in planning applications. However, it is recognised that many of the proposals in the paper have wider application to the consideration of objections made to local plans as part of the development plan making process and in association with appeals being considered by an exchange of written submissions. Each of the improvements considered in the paper apply both to those appeals and called-in applications determined by the Scottish Ministers and to those determined by reporters acting under delegated powers.
- 3.2 The consultation paper recognises that much of the existing planning appeals system remains effective but that change should be introduced where it is needed and where there is a clear advantage for the public interest. In the modernisation of the appeals process, the Executive is seeking to:-

- strive for greater certainty about timescales, procedures and the responsibilities of parties at every stage of the process;
- achieve better consistency of approach across parties legal entitlements;
- create a system focussed on the public interest and that is less susceptible to abuse;
- process cases more quickly;
- seek more focussed evidence and submissions from all parties; and
- produce shorter, more focussed decisions and reports to the Scottish Ministers.

3.3 A summary of the main suggestions made in the consultation paper is attached to the report as an Annex.

3.4 The Council's views are sought on a series of 21 specific questions relating to the various stages involved in the planning appeal inquiry process, building on the strengths of current practice. A full commentary has been prepared which endorses most of the proposed improvements. The main points are summarised in the Annex to this report.

4 FINANCIAL/PERSONNEL/LEGAL IMPLICATIONS

4.1 There are no financial, personnel or legal implications at this stage of the consultation process.

5 RECOMMENDATIONS

5.1 It is recommended that the Committee agrees:-

- a) to approve the contents of this report; and
- b) to authorise the Director of Development Services in conjunction with the Head of Legal Services to submit a full response to the consultation paper based on the key points set out in the Annex to this report.

Stephen Chorley
Director of Development Services

3 October 2003 (JL/SA)

LIST OF BACKGROUND PAPERS

- 1 Scottish Executive Development Department Consultation Paper 'Modernising Public Local Inquiries' : June 2003
- 2 Full response proposed.

For further information on the content of the report, please contact John Lilley, Principal Planning Officer, on 01563 576754

Implementation officer: Alan Neish

Annex 1: SUMMARY OF MAIN SUGGESTIONS

- (i) In the case of planning appeals, public local inquiries now called 'planning inquiries';

Agreed that designation should be changed.

- (ii) Qualification of the right of an appellant or planning authority to a planning appeal inquiry or hearing;

Agreed that right to a public inquiry in place of consideration through written procedure or an informal hearing should be limited.

- (iii) Early notification of the planning authority's views in appeals against non determination;

It is suggested that Planning Authorities should be required to give a view on whether they would have approved or refused an application appealed on non-determination within 2 weeks. Such appeals may relate to applications which would be determined by Committee in which case an Officer's view would not be competent. Two weeks is an unacceptably tight timescale for preparing a report and convening a Committee.

- (iv) Rejection of appeals that remain incomplete;

Agreed that incomplete documents should be rejected. They should apply to all appeals including householder applications.

- (v) Advance notice and disclosure of their case from everyone wishing to take part in a planning inquiry;

Agreed that this should be requirements.

- (vi) More explicit Guidance on the essential issues to be considered by a planning inquiry;

Agreed that this would help focus the debate in Inquiries to general benefit.

- (vii) Identification of areas of agreement and disagreement;

Agreed that this could avoid time taken on presentation of evidence on matters which are agreed.

- (viii) Planning appeals treated as being withdrawn when not brought to inquiry;

Agreed that there should be a time limit of 6 months except when both the Council and the applicant agree that an Inquiry should be sisted ahead of a Local Plan Inquiry.

- (ix) Recovery of costs of abortive work;

This is welcomed.

- (x) Promotion of non-adversarial hearings for the benefit of communities and residents;

This is strongly encouraged.

- (xi) Limitations on the scope to consider new material after a planning inquiry has closed;

Agreed that no new material should be considered except for changes in the policies of the development plan.

- (xii) Development plan inquiries;

Agreed that every effort should be taken through discussion, and where appropriate mediation, to reduce the number of objections to a development plan before an Inquiry, and that Inquiries into development plans should also adopt the streamlined procedures and less adversarial approach being advocated for other Inquiries.

- (xiii) A clear distinction between the development plan inquiry and inquiries to be held to consider planning appeals and called-in applications.

Agreed that Inquiries relating to specific applications should not be conjoined with development plan Inquiries.