



20 Spoutwells Road

Scone PH2 6RW 21/04/17

Dear Madam Provost,

We have been extremely disappointed not to have received a response from you to the email below sent over 9 weeks ago. Please have the courtesy to inform us by Monday 24<sup>th</sup> April whether you intend to respond or not. Thank you,  
H. Mackinnon secretary SDCC

**From:** Outlook North Scone

**Sent:** 07 February 2017 20:11

**To:** 'eagrant@pkc.gov.uk' <eagrant@pkc.gov.uk>

**Cc:** hazel (hazelmackinnon5@gmail.com) <hazelmackinnon5@gmail.com>

**Subject:** Response from the SDCC to your letter of 30th January 2017

Dear Madam Provost,

I write to you in the absence of the SDCC secretary, at the request of the SDCC.

Thank you for your letter of 30<sup>th</sup> January. We are very disappointed with your response. The reasons for this are as follows, and questions which require an answer are in bold to aid your response.:

In the second paragraph of your letter you comment: *With reference to the amendments proposed at the Council Meeting on the 14th December 2016, the Head of Legal & Governance Services gave clear advice that these were not competent and I ruled accordingly. I am satisfied that no-one has been misled or has misunderstood the relevant facts. It was not open to the Council to amend the approved Local Development Plan and I must object to the inference that officers have sought to deceive Elected Members or the public in the course of the decision making process.*

***Our original letter to you said:*** 'As the two amendments put forward were deemed 'illegal' by your legal advisor who said the Reporter's actions cannot be changed, we now further request that the two amendments suggested at the Council meeting on the 14th Dec 2016 regarding H29 be brought once more to the Council for voting'.

As you see, we recollect that the claim at the meeting by the Planning representative was that it would be illegal to allow the amendments because the **Reporter's** rulings cannot be changed, not the LDP. All 8 members of the SDCC and Study Group who were there recollect this and we are sure it will be in the minutes. This has nothing to do with the LDP. [However, for information the LDP CAN be changed if there are 'material considerations' that so mandate this (our contention is that the harm to health is such a material consideration)].

We then went on to say: *'It is clear that the Planning representative was either ignorant of the facts or misled the Council and Legal advisor into believing the change was instituted by the Reporter, when this was clearly not the case, as those of us representing SDCC in the audience were fully aware'*. (We had and still have the papers from the Reporter from our FoI request). You will note that the choice is either ignorant or misled the Council. This does not imply deceit unless you so perceive it, however you yourself have now changed it to *'It was not open to the Council to amend the approved Local Development Plan'* rather than what was said at that meeting, in front of witnesses ie

**the Reporter changed it.** The press release from the Council you convene (of which you are unaware so copy below) was issued just after the Council meeting you Chaired. At this meeting, let us remind you, the Planning representative (in front of the whole Council and many of the public) stated that the change from "constructed" to "a committed project" was made by **the Reporter**. We were there. This is what was said. So he was either in ignorance or misled the Council.

The press release clearly states that the Council's Planning Dept told the Developer's that "constructed" was an error. This change was not shared with anyone, specifically the statutory consultees. Indeed, the statutory consultees were all consulted on "constructed". Government regulations say that where an error is found in a planning process then the process must revert back to the time of this error and start again from that point. This means back to the draft LDP upon which we WERE all consulted.

In paragraph 4 you indicate that the Head of Legal & Governance Services has independently looked at this issue and found no fault. We think, in the interests of openness we should meet with the Head of Legal to hear this view. If this is not possible then their ruling, and the reasons for it, should be made public in writing, since it is such an important issue.

Further we do not believe she can be fully independent as she ruled the amendments incompetent. We ask that you let us see exactly what the Reporter said by allowing sight of the full document, as our Freedom of Information documents from the Reporter apparently show that it was the Council who changed "constructed" to "a committed project", not the Reporter, and the Reporter's words quoted at the Council meeting by the Planning Representative related to the 100 houses NOT a change from "constructed" to "a committed project".

As regards the 100 houses that Planning have repeatedly told us was the Reporter's decision. We should like to draw you attention to the Schedule 4 document prepared by Council officials for the Council Meeting on 23rd January 2013 which was produced by Planning: '*12. The council has acknowledged that it would not be unreasonable to allow the construction of 100 houses once the CTRL is a committed project. However, the owner of this site wishes to be able to develop 100 units in advance of the CTRL becoming a committed project. Site H29 has reasonably good standard of accessibility to public transport, which could be expected to reduce the level of reliance on car-based commuting into Perth and thereby the extent to which development there would add to traffic congestion and air quality problems. Prospective development sites in other settlements on the A93 and 94 corridors would not have the same level of public transport accessibility. Bearing this in mind and also the fact that Scone is identified as a principal settlement in TAYplan, and should therefore be a focus for development within the Proposed Plan, it is concluded that an initial phase of 100 houses should be permitted to take place in advance of the CTRL becoming a committed project.*'

It appears clear to us, that the Reporter merely ratified the proposals submitted by the Council, and the repetition in many, many letters from Planning, blaming the Reporter for the change is completely false. We contend again, that this change was made locally, and none of the statutory consultees were consulted. A huge error in process.

In paragraph 5 you comment: '*I believe that this and the subsequent formal consultation process, which led to the formal change in wording by the Council, has already been explained to you in detail by various officers including our Head of Legal & Governance Services, therefore I do not propose to reiterate the position*'. Unfortunately saying that other letters have been sent does not cover this point. We have not received clarification on this issue, instead we have received letters which do not answer questions and which contradict previous letters. We are concerned that letters stating we have received other letters seem to imply we are getting answers! We are not. We have, however, papers from the Freedom of Information request to the Reporter clearly stating that Jim Irons made a 'typo' (Developer's quote), along with a document from your own website further clarifying this. We, and many other have letters from Planning saying the Reporter changed "constructed" to "a committed project". After the Council meeting, where again it was stated it was the Reporter, a press release came out saying, no, it was the Council. We again refer you to the press release below.

In paragraph 6 you admit that the public and the statutory consultees including SDCC were NOT consulted on this change. We were consulted on "constructed" in the draft LDP from Jan 2012, which is a very serious fault in the Council's process. Why is it a serious fault? Because a HUGE number of objections would have been the result (as you are seeing now) if the public had been consulted correctly on "a committed project" vs "constructed".

In paragraph 7 you say: *'The change to the Plan in line with the recommendations was made by the Council and was not within the gift of or instituted by any officer.'* Sorry, we are confused. In the paragraph above you say it was the Reporter, now here you say it was the Council? **Please explain.**

In paragraph 8 you state that there is no legislative means to change the LDP. This is untrue as LDPs are changed where there are 'material considerations'. These material considerations include many of the issues we are trying to raise with the Council. We would be happy to send you a list if this would be helpful.

In paragraph 9 you indicate that the Planning Review is not yet law (though nearly so) and so will not be taken into account. If PKC Planning Department do not take the independent review of the Scottish planning system report of May 2016, approved by the Scottish Government in July 2016, (which also states that LDPs should be flexible to take account of local needs) into account, with the drafting of a White Paper in the offing, then we believe they are wrong and would be pleased to take Scottish Government advice on this. **Please could you respond and clarify in writing that although something has been ratified and passed as something to be made law, that Perth & Kinross Council can decide unilaterally by themselves that the Government is wrong, and ignore this pending legislation? Please clarify.** Further it should be noted, as we have done, that this likely WILL be law when final submitted plans come online.

In paragraph 11, you say that as you believe the Head of Public Health in NHS Tayside has written in a personal capacity you can downgrade its importance? When we have many letters, to us, villagers, and MSPs saying the Council Planning Dept. would be taking the advice of NHS Tayside Public Health Unit? To be honest we are rather shocked at this statement that this is now to be treated as a personal comment, when Planning have consistently said they would consult with this person over such a huge and serious issue as our health. **Please inform us to whom you refer when you say 'the NHS as our community partner', we should like to know who these people are who you believe are more competent to comment on public health issues than the Director of Public Health. We have the right to know their qualifications in Public Health, accreditation in which is required to practice and advise in the area of Public Health.**

We await your responses to the above queries and would appreciate a prompt reply

Yours, Jill Belch for the Scone and District Community Council