



THE KINROSS-SHIRE CIVIC TRUST

Helping Protect, Conserve and Develop a Better Built and Natural Environment

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DPEA
4 The Courtyard
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Dear Sir/Madam

Perth & Kinross Local Development Plan Process

Case Reference LDP-340-1

Kinross-shire Civic Trust wishes to express concern at the way Perth & Kinross Council (PKC) has handled the consultation process during production of its Local Development Plan (LDP). In the Trust's view PKC did not adhere to its Participation Statement published in its Development Plan Scheme.

In both the November 2009 Development Plan Scheme and the January 2012 version, Stage 5 of the LDP is described as follows:

LDP Stage	When	Who	How	Why
Stage 5: Publish Modified Local Development Plan	Nov 2012	Stakeholders, Key Agencies, and those affected by the modifications	Formal consultation with Stakeholders on modifications Advertise in local press and on website Send letter/e-mail to all parties likely to be affected by the modifications	Further opportunity for those affected by the modifications to make comments

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Despite receiving 1,526 representations making in excess of 2750 comments on the Proposed Local Development Plan, PKC did not make any modifications to the Plan; thus Stage 5 of the Development Plan Scheme was completely omitted. The Civic Trust considers that PKC's Participation Statement was misleading.

The Trust is greatly concerned that PKC placed a higher priority on getting the LDP adopted swiftly rather than following the full democratic process. Report 13/18 to the Special Perth & Kinross Council meeting of 23 January 2013 says:

“It should be noted that in the event of notifiable modifications the target date for the adoption of the Local Development Plan will slip from late 2013 to September 2014 at the earliest. This revised date would only be achieved if the DPEA can deliver within its 6 month target. Indications are that there is a high risk this may not be possible if the Council does not submit in February 2013 due to the number of other plans being submitted for examination around the same time. This could lead to a further 6 month delay to final adoption in March 2015. Appendix 1 identifies the timeline for the adoption of the Plan under both scenarios.”

(Section 3.3 of Report 13/18).

It should also be noted that, according to its original timescale, PKC did not expect final adoption to take place until December 2014, not late 2013 as stated in Council Report 13/18. Modifying and republishing the plan would therefore only have resulted in a three-month delay, whereas Council officers led Councillors to believe there would be a delay of over a year (“adoption ... will slip from late 2013to final adoption in March 2015”).

Another serious concern the Trust has of the PKC process is the inadequate and misleading publicity given to the Main Issues Report consultation. A press release issued by PKC in September 2010 said that the publication of the MIR was: “to stimulate discussion and encourage views on what policy and development options could be included in the Proposed Local Development Plan.” The press release also states: “The MIR is not a draft development plan, but provides options and general proposals for development and land use.” In the same press release, Leader of the Council, Ian Miller, said: “It is important to remember that absolutely nothing has been decided yet - the MIR is not a draft plan but merely a set of ideas and proposals to start the debate and to encourage comment and ideas.” This is evidence that PKC understated the importance of the MIR. The Trust is aware that many people locally did not engage with the process until the consultation stage on the Proposed Plan; they had not realised that the MIR was published or alternatively that it was the key stage to get involved.

Of the 53 questions formally posed in the MIR, 22 started with “Do you agree ...?”. This form of wording has recently been judged by the Electoral Reform Society to be a leading question (Scottish Independence Referendum question). As such the Trust believes the questions lack validity and given the key nature of the MIR this could be subject to legal challenge.

Another shortcoming was the consultation period set by PKC for the Proposed Plan; it was originally set to end on 9 April 2012, which was Easter Monday, and was then changed to

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10 April 2012. Nevertheless, this is contrary to the advice in PAN 3/2010 to avoid holidays for consultation periods.

A further serious shortcoming was the failure of some aspects of PKC's internet technology. The Council offered several methods of submission, including: (i) the Online Local Development Plan system (OLDP), (ii) a Representation form which was available to submit online or download and submit by e-mail and (iii) Email or written correspondence. Several members of the public complained to the Kinross Community Council meeting of 4 April 2012 that they had been unable to successfully submit comments online. Two local PKC councillors appealed to PKC to have the deadline extended because of the IT difficulty, but this was refused. (Source: Kinross Community Council minutes, 4 April 2012). PKC admits in its report 12/501 to the PKC Enterprise and Infrastructure Committee on 7 Nov 2012 that there were difficulties with both its OLDP and online Representation form. Para 3.6.4 of the Report states: "Issues were also identified with the online representation form which caused some problems associated with the operating system or the browser members of the public were using. Where this was an issue the public got in touch with officers who provided advice in terms of saving the representation form and attaching it to an e-mail for submission." However, it is impossible for PKC officers to know how many members of the public had difficulty and did *not* contact the Council, or *could not* contact the Council because it was the Easter weekend, and were unable to submit comments successfully. Certainly a number of people in the Kinross-shire community who had experienced the IT difficulties felt disenfranchised because they had been unable to comment by the deadline. Para 3.6.5 of the Report states: "The Development Plan team recognise that this was an issue and are now taking reasonable steps to ensure that this is not an issue in the future including working alongside the Council's IT team to pinpoint any particular area of concern." The Trust feels that this is an unsatisfactory response to the problem and that more steps should have been taken to extend the 2012 LDP consultation, particularly as evidenced in this same Report that online submission was the most chosen method, "Over 70% were received electronically".

Trust members have only recently been made aware of the existence of the Strategic Environmental Assessment (SEA). On enquiry to two of the local PKC Councillors, W. Robertson and M. Barnacle, both very experienced and dedicated elected representatives, the Trust was advised that neither of them had any knowledge of the existence of the document either. The Trust is therefore very concerned that elected members and the wider public should be disadvantaged in this way and would like to know how, if elected members were not engaged in the consultation regarding this document just how were "the wider public" and civic groups such as the Trust meant to engage if they had no awareness of it?

Ref Main Issues Report (Sept. 2010) 1.5 Strategic Environmental Assessment (SEA)

1.5.1 "The central aim of the SEA is to help ensure that the environment is given the same level of consideration as social and economic factors within the Plan. The Environmental Report is published in tandem with the MIR and the period for consultation is identical. The Council must consult with the three Consultation Authorities – Historic Scotland, SEPA and SNH – as well as the wider public. In terms of consultation with the wider public, further details will be available on the Council website and various other communication methods accompanying the

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consultation for the MIR. Comments on the draft SEA should be submitted in the same format and within the same consultation period of the MIR as outlined above.”

The Trust would wish to know of the evidence of engagement with “the wider public” and where the record of PKC statistics of this engagement process can be found?

Trust members are also very concerned regarding advice from PKC officers that Stage 2 of the LDP process was not for the likes of the Trust to be involved with. This is despite the Development Plan Scheme identifying Stage 2 as being for engagement with key community contacts. We therefore consider this a misdirection by PKC.

In conclusion, it is the view of the Kinross-shire Civic Trust that:

- PKC did not conform to its Participation Statement as required by *Planning Circular 1 2009: Development and Planning* (para 85)
- There were serious shortcomings in the content and accuracy of information given to the public and to elected Councillors by Council officers
- PKC failed to engage in satisfactory consultation by wording of leading questions in MIR, running the LDP consultation over a holiday period, IT mismanagement and the SEA not adequately promoted to the wider public.

The Kinross-shire Civic Trust has been actively involved in planning issues for over twenty years. The Trust considers that PKC’s procedures during production of the LDP were seriously flawed and could be open to legal challenge.

In the light of this the Trust respectfully asks that the Perth and Kinross Local Development Plan should be returned for resubmission to PKC to complete the process to the standards required by legislation. (Ref Planning Circular 1/2009 Development Planning par. 85-87.)

The Trust also respectfully suggests that a formal Public Inquiry be ultimately established as the appropriate forum for Examination of the LDP.

Yours faithfully

Alistair Smith, Chairman
For and on behalf of Kinross-shire Civic Trust

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