



PLANNING BOARD **DATE: 22 DECEMBER 2009**

REPORT NO: PB/PP/032/09 **BY DIRECTOR OF DEVELOPMENT & INFRASTRUCTURE**

CONTACT OFFICER **NIGEL HOOPER, PLANNING MANAGER (0141 578 8526)**

SUBJECT **UPDATE ON PROGRESS WITH KILMARDINNY/WEST PARK**

1.0 **PURPOSE**

1.1 The purpose of this report is to update Members on the progress with the Kilmardinny/West Park case.

2.0 **SUMMARY**

2.1 The Scottish Government Reporter dealing with the Kilmardinny/West Park Public Inquiry issued a Notice of Intention Report on 6 April 2009. Amongst other things, this required a legal agreement to be registered within 3 months. At its meeting on 16 June 2009, the Council agreed to seek a time extension as the negotiations were proving challenging. The Reporter subsequently allowed a further 3 months extension (up to 14 August 2009). At the end of this period, although agreement had still not been reached, the Council indicated its willingness to continue to negotiate. The Developers were, however, not minded to support a further extension and the matter remained with the Reporter for over 2 months.

2.2 On 4 December 2009 a letter was received from the DPEA (Appeal Reporter) indicating:-

- a) Her disappointment that a legal agreement had not been agreed between the parties as she continued to consider this to be the preferred option.
- b) Her continuing belief that the agreement need only cover the three matters listed in the Notice (the £10m sports centre contribution, 55 affordable houses and a £654,048 contribution towards 7 transport measures).
- c) She was not persuaded that the delivery of the business units needed to be included in the legal agreement.
- d) On the basis of the above, the only difference between the parties is over indexation of the financial contributions and, in this context, has referred to the 2% figure offered by the appellants.

2.3 The Reporter set a 14 day deadline (18 December) for the parties to indicate whether they saw a reasonable prospect of completing the agreement on the basis of the 2% figure. If she received a positive response, she was prepared to allow a further 4 months for the conclusion of an agreement, if not, the Reporter was (without prejudice to the outcome of the appeal) willing to explore the possibility of incorporating the 3 matters in conditions.

- 2.4 Given the short timescale for responding, and having briefed the Planning Board and D&I Committee Convenors and Leader of the Council, the Council's Legal Representatives responded indicating that:-
- a) The Council is willing to continue with negotiations but a 2% indexation rate (from the commencement of development rather than the signing of the Agreement) left the Council unreasonably at risk to an increasing funding gap particularly over a replicant sports centre.
 - b) The Council continued to be of the view that it was in the public interest to incorporate more than just 3 items in the legal agreement (especially the delivery of the business units).
 - c) The differences between the parties concerned more issues than simply indexation and in particular unresolved concerns over trigger dates.

In addition an offer has been made to the DPEA to meet and liaise directly in order to confirm the Council's desire to continue the negotiation.

- 2.5 The Council's Representatives have also reviewed the pros and cons of using conditions in lieu of a legal agreement and reminded the Reporter of the shortcomings and risks of such an approach.

3.0 RECOMMENDATION

- 3.1 It is recommended that the Planning Board notes the recent correspondence with the Reporter.