

# Royal Burgh of St Andrews Community Council

## Special meeting August 2nd 1999

### Chairman's introductory comments

This meeting has been convened by the special request of 200 members of the public, who appear to be electors in St Andrews, under the provisions of the Fife Council's Scheme for the Establishment of Community Councils. We are requested to consider counsel's opinion concerning the decision taken by the Fife Council as regards the Kingask development and to take any further action we deem appropriate.

#### 1) Background History.

The Community Council discussed the Kingask application at its meetings in September and November 1998. Acting on advice from its Planning Committee at the latter meeting it decided to oppose the Kingask development application. This was endorsed at its meeting in January 1999 by 9 votes to 2 with 3 abstentions. Furthermore in June 1999 the council voted by 11 votes to 2 with 2 abstentions to ask the Secretary of State to 'call in' the golf related developments around St Andrews. Letters of objection were lodged to the first application that was turned down by the Fife Council's East Area Committee in February. Objections were also lodged to the second application that was subsequently approved by the Fife Council's Strategic Development Committee in July. The Community Council was represented at the departure hearings for both applications. The Community Council, with the support of the MP, the MSP and a variety of national and local bodies appealed to the Secretary of State and subsequently to the First Minister that the Kingask (and other related developments at Scooniehill and Feddinch) should be 'called in'. A letter dated July 23rd from the First Minister's office declined the request for a call in.

The Kingask development was approved by the Fife Council's Strategic Development Committee on July 7th contrary to advice from the East Area Planning Committee. At this stage it appeared that the Community Council's involvement with the affair was at an end despite the vigorous efforts that had been made by office bearers to implement the wishes of the Community Council.

However, Cupar solicitors Bennetts had been approached independently to obtain counsel's opinion on the validity of the Kingask decision. Mr Bennett was aware of the earlier decisions of the Community Council. He approached the Chairman with this information asking if the Community Council would wish to be associated with this approach to counsel and seeking a financial contribution to costs. Mr Bennett was informed that it could prove difficult to provide Community Council funding for such a purpose although the Council would welcome any steps that might ensure that its wishes on Kingask could be implemented. It then transpired that further clients of Bennetts provided the additional funding necessary, therefore the necessity to convene a meeting of the Community Council did not arise. Mr Bennett also informed the Chairman that his clients intended to present counsel's opinion to the Community Council with an invitation for the Council to take any action that might be possible according to the terms of the opinion. The most likely action would be a call for a judicial review of the decision.

The Chairman was invited by Mr Bennett to attend a private meeting with senior counsel in Edinburgh on July 23rd. Two other local representatives and Mr Bennett were present at this meeting. My concern at this meeting was threefold:

1. to ensure that factually correct information was presented to counsel,
2. that counsel advised that the Community Council was the correct (and only) body through which action for judicial review could be launched, and
3. that all parties understood that the Community Council would most likely only be willing to act if there was a strong probability of achieving its aims.

I defined these aims as halting the Kingask development either permanently, or for a minimum period of around six months. I also made it clear that I believed that the Community Council would only act if counsel's opinion were sufficiently strong and that there was sufficient finance available to the Council to cover all eventualities. At that meeting it appeared that there might be grounds for a judicial review of the Fife Council's decision.

An extraordinary meeting of the Community Council can be called either by the Chairman or on the request of a minimum of 20 electors. Aware of the fact that counsel's opinion was to be presented to the Community Council and after discussion with the Secretary and Planning convener, I declined to call a meeting of the Community Council because of my strong

connections with this affair. Instead, I asked that should the public be so minded, 20 or more local electors should require the Secretary to convene a special meeting. In the event some 200 signatures were collected over a two day period. Also, because we were aware that this request would almost certainly be received and because of the time scale involved the Council Chamber was booked for the current meeting.

Throughout the whole 'Kingask affair' actions taken on behalf of the Community Council by Chairman and Secretary have been after mutual consultation and invariably after consultation with the Chairman of the Planning Committee. Also many actions were taken with the full knowledge of the Planning Committee.

## **2) Procedure for this meeting**

A meeting of this type is unprecedented for the Community Council and poses special problems for all members. For a Community Council to consider the possibility of launching legal action against its parent body is an exceedingly grave step and should only be taken after the best possible advice has been obtained and then only after the most thorough consultation and discussion. Accordingly, the Chairman, in consultation with the Secretary, has invited certain people to be present at this meeting in order to obtain their advice and assistance as necessary. These people include Mr R. Bennett, Mr M. Campbell MP, Mr I. Smith MSP, Mr J. Purvis MEP, Cllr Rev. P. Douglas (Chairman East Area Planning Committee), Mrs D. Morrison (Preservation Trust) and the members of the public who funded counsel's opinion.

### **2.1) Confidentiality**

Matters of a confidential nature will be discussed, almost certainly after a motion to discuss the matter in private session has been considered. Should a motion to hold discussions in private be placed before the Council it would be appropriate to exempt those specially invited to the meeting from that exclusion.

Furthermore, when discussions of a statutory body such as a Community Council are held in private it members must subsequently reveal in public details of the confidential matters and the discussions that have taken place during the course of that meeting. Members are asked to respect such confidentiality. At the request of Mr Bennett, again to ensure confidentiality, written copies of Counsel's opinion will not be distributed for members to retain. Counsel's opinion, available to the Community Council from this morning (Monday), has been seen by all office bearers of the Council.

### **2.2) Order of Business**

It is proposed to take the business in the following order:

1. To ask members to read this statement and to adopt the proposed order of business.
2. To ask Mr Robin Bennett to present counsel's opinion and, if Mr Bennett so requests, to place a motion for continuing the meeting in private before the meeting.
3. To invite the other persons specially invited to the meeting to present their advice to the Council.
4. To invite members of the Council to question Mr Bennett and the specially invited persons to ensure the maximum clarity about the matters before the Council.
5. To call for and adopt a motion (or motions) as to how the Community Council should proceed.
6. There will be no further business.

*(FGR: 01 - 08 - 99)*