

ANGUS COUNCIL

ROADS COMMITTEE

24 JANUARY 2002

VISIBILITY IMPROVEMENTS AT VARIOUS ROAD JUNCTIONS
PROGRESS REPORT AND PROPOSALS FOR RE-ALLOCATION OF
ROADS AND TRANSPORT RENEWAL AND REPAIRS FUND MONIES

REPORT BY THE ACTING DIRECTOR OF ROADS

ABSTRACT

This report advises the Committee on progress in providing the visibility improvements approved by the Roads Committee on 8 June 2000 (Report No 654/00) and recommends the serving of obstruction notices at three locations. It also proposes the re-allocation of the funding for these three visibility improvements to urgent renewal and repairs works.

1 RECOMMENDATIONS

It is recommended that the committee agree:-

- (i) to authorise the Director of Roads to serve obstruction notices (a) requiring the setting back of the fence to the east side of the A934/C42 junction at Farnell Crossroads, (b) requiring the setting back of the wall to the east side of the B965/U485 junction at Gilchorn and (c) requiring the setting back of the wall to the south side of the C51/C54 junction at Letham Cemetery; and
- (ii) to approve the re-allocation of the Roads and Transport Renewal and Repairs funding previously agreed for these three visibility improvements to (a) Coastal Protection Works at Milton Mill, Monifieth; and (b) the re-furbishment of the Willow Walls at Basin View, Montrose.

2 INTRODUCTION

Report No 654/00 by the Director of Roads outlined a programme of visibility improvements at various junctions throughout the Angus Road Network. This programme has progressed and in general landowners have agreed in principle to sell the required land to the council. Members will however recall Report No931/01 presented to the Roads Committee of 23 August 2001 at which the Committee agreed that two obstruction notices be served on the landowners at (a) Monikie Railway Bridge and (b) Netherbow by Forfar. Three more obstruction notices now require to be served at another three junctions as the Director of Property is having difficulty progressing the land acquisition at these locations.

The slippage which has occurred while these negotiations have been ongoing and the timescale required for the due process of obstruction notices will delay the execution of these junction improvements until the new financial year.

3 DETAILS

3.1 Junction Improvements

The three junctions where it has not been possible to progress the necessary land acquisition are:-

A934 Montrose –Forfar Road at Farnell CrossroadsC42 (Drawing No 1)

Visibility is poor in both directions at this junction. It is proposed to set back the fence line to improve visibility on both sides. However, the landowner is not responding to the Director of Property's approaches. It is therefore proposed that an obstruction notice be served on the landowner in terms of the Roads (Scotland) Act 1984 – Section 83.

B965 Friockheim – Inverkeilor Road at Gilchorn Junction U485 (Drawing No 2)

Vehicles avoiding the low bridge at Inverkeilor use the U485. Visibility is poor to the east along the B965 at this junction. Again the landowner is not responding to the Director of Property's approaches. It is therefore proposed that an obstruction notice be served on the landowner in terms of the Roads (Scotland) Act 1984 – Section 83.

C51/C54 Junction at Letham Cemetery (Drawing No 3)

Visibility is poor to the south of this junction. Once again the landowner is not responding to the Director of Property's approaches. It is therefore proposed that an obstruction notice be served on the landowner in terms of the Roads (Scotland) Act 1984 – Section 83.

Section 83 of the Roads (Scotland) Act 1984 gives permissive power to a roads authority, where they are of the opinion that it is necessary for the prevention of danger arising from obstruction of the view of road users with respect to land at or near a corner, bend or junction in a road, to serve a notice (referred to as an "obstruction notice") upon the owner or occupier of the land directing him to alter the height or character of any wall, fence or hedge thereon so as to cause it to conform with any requirements specified in the notice.

A person on whom an obstruction notice is served is entitled to recover from the roads authority any expenses reasonably incurred by him in carrying out any directions contained in the notice. Alternatively, the roads authority may, with the consent of that person, do on his behalf anything necessary for complying with the requirements of the notice.

Also a person sustaining loss in direct consequence of any requirement of such a notice or a person who proves that this property is injuriously affected by restrictions imposed by such a notice shall, if he makes a claim within six months after it service, be entitled to recover from the roads authority compensation for the injury sustained.

Persons upon whom an obstruction notice is served may object by counter-notice intimated to the Council within 28 days of the date of receipt by them of the obstruction notice. The consequential appeal or any dispute over quantification of expenses reasonably incurred (as referred to above) falls to be determined by arbitration or, if the parties do not agree to arbitration, by the Sheriff.

Due to the timescale involved in serving obstruction notices and the statutory period allowed for objections and subsequent determination the funding previously agreed for these three junction improvements will not now be required until 2002/03 (assuming a successful outcome of the obstruction notices).

3.2 Additional Urgent Renewal and Repairs Works

While it is not possible to progress the above detailed junction improvements, other renewal and repairs works have been identified which require to be progressed within a tight timescale but for which there is currently no funding available.

Coastal Protection Works at Milton Mill, Monifieth

Report No 1333/01 agreed by the Roads Committee of 22 November 2001 approved the re-allocation of £10,000 within the Roads Financial Plan for 2001/02 from the Environmental Improvement of Brothock Bridge, Arbroath to additional coastal protection works at Milton Mill, Monifieth comprising repairs to the rock armour revetments and timber groynes at this location.

In order to minimise engineering/admin costs and take advantage of competitive rates already established through the tendering procedure for the Coastal Protection Works at Milton Mill, Monifieth contract, this additional work is being ordered as a variation to the main contract. This variation order has now been priced by the contractor and the cost based on agreed rates is £17,000. Allowing for additional engineering/admin and site supervision costs of £1000 associated with this variation to the contract there is therefore a requirement for an additional £8000 (over and above the £10,000 already re-allocated within the Financial Plan) to allow these necessary works to be carried out. The contractor's rates are based on the work being carried out as an extension to the existing contract. In order to take advantage of the cost savings accruing from these contractual arrangements it will be necessary to confirm the variation order immediately (subject to the Committee's approval of this report). If the works were to be carried out as a separate contract at a

later date the estimated costs (including the engineering/admin involved in re-tendering) would be £21,000. There is also a pressing need to put these works in hand as soon as possible to reduce the risk of further damage to these weakened structures as a result of winter storms. It is therefore proposed to re-allocate £8000 of the available Roads and Transport Renewal and Repairs Fund monies previously approved for the programme of junction improvements to these necessary coastal protection works.

Willow Walls at Basin View, Montrose

The Willow Walls at Basin View, Montrose were established as environmentally friendly noise insulation barriers required as part of the contract for the Montrose Inner Relief Road. While still functioning well for the purposes of noise insulation, the condition of some of the willow cladding which forms the outer faces of the walls has deteriorated partly due to vandalism and partly due to stunted growth, leaving some areas very bare and unprotected. It is proposed therefore to re-establish fresh growth on the affected areas. The advice received from the Director of Recreation Services indicates that the most cost-effective way of re-establishing greenery on the outer faces of the existing structures would be through the growth of ground planted ivy from the base of the walls. The estimated cost of this necessary planting works is £18,000.

There is no funding provision in the current financial year for these works. It would be highly desirable however to catch the first available planting season (March/April) to allow this refurbishment to become established and mature sooner rather than later. It is proposed therefore to re-allocate £18,000 of the available Roads and Transport Renewal and Repairs Fund monies previously approved for the programme of junction improvements to the refurbishment of the Willow Walls at Basin View, Montrose.

4 FINANCIAL IMPLICATIONS

The estimated costs of carrying out the three visibility improvement schemes subject to the proposed obstruction notices allowed for within the Roads and Transport Renewal and Repairs were reported to the Roads Committee on 22 November 2001 (Report No 1350/01) as follows:-

A934/C42	Farnell Cross Roads	£10,500
B965/U485	Gilchorn Junction	£8,500
C51/C54	Junction at Letham Cemetary	<u>£7,000</u>
	Total	<u>£26,000</u>

The proposed utilisation of this funding in the current financial year is now:-

Coastal Protection Works at Milton Mill, Monifieth	£8,000
Willow Walls at Basin View, Montrose	<u>£18,000</u>
Total	<u>£26,000</u>

It is hoped that it will be possible for the Council to make further contributions to the Roads and Transport Renewal and Repairs Fund when setting its budgets for 2002/03 which will allow the delayed visibility improvement schemes to be carried out in the new financial year (subject to successful outcomes to the obstruction notice procedures). This would however obviously deny the opportunity of allocating any such new funding to other necessary renewal and repair schemes for the equivalent amount. The likelihood however is that if the proposed funding arrangements in this report are not acceptable the proposed works at Monifieth and Montrose would be given priority within any new programme of Roads and Transport Renewal and Repairs works (albeit at a greater cost than is currently available).

5 HUMAN RIGHTS IMPLICATIONS

Article 1 Protocol 1 of the European Convention on Human Rights must be considered in making a decision in respect of this report.

The owners of the land at the three junctions are entitled to peaceful enjoyment of their possessions, in this case the right not to be deprived of their land. However, Angus Council may take such action, as is necessary to control the use of the property in accordance with the general interest.

In coming to its decision the Committee must firstly consider the legitimate aim it is attempting to achieve and determine whether there is proper justification for proceeding. Secondly, the Committee must decide whether its proposed actions are in accordance with the law. Finally, the Committee must weigh up the human rights of the landowners, considering proportionate effects on the parties involved. It is accepted that, if the recommendations are approved, the human rights of the landowners will be affected. However, it is considered that the Council is justified in taking this action because it is necessary for the general interest to improve the safety of the roads in question; that it is in accordance with law being allowed for in Section 83 of the Roads (Scotland) Act 1984; and that the action would be proportionate to the aims of the Council because this is the minimum amount of intervention required to improve road safety at these locations.

As referred to in this Report, attempts to produce this result with the landowners voluntarily and avoid the formal intervention presently proposed have been tried first but without success.

Affected parties also have effective rights to compensation for expenses reasonably incurred and of appeal in respect of both the obstruction notice and the amount of compensation which further secure the proportionality of the action proposed in this Report.

6 CONSULTATION

The Chief Executive, the Director of Law and Administration, the Director of Finance, the Director of Planning and Transport, the Director of Recreation Services and the Chief Constable have been consulted in the preparation of this Report.

R W McNeil
ACTING DIRECTOR OF ROADS
NOTE

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above Report: -

Report No 851/96 – Improvements at Road Junctions – Roads Committee 17 October 1996
Report No 654/00 – Visibility Improvements at Various Road Junctions – Roads Committee 8 June 2000
Report No 677/01 – Utilisation of the Roads and Transport Renewal and Repairs Fund – Roads Committee 14 June 2001.
Report No 931/01 - Visibility Improvements at Various Road Junctions – Roads Committee 23 August 2001
Report No 1350/01 - Visibility Improvements at Various Road Junctions – Roads Committee 22 November 2001

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