

**ANGUS COUNCIL**

**ROADS COMMITTEE**

**13 JUNE 2002**

**WORKS TO PRIVATE ROADS/UNADOPTED FOOTWAYS**

**POLICY REVIEW**

**REPORT BY THE DIRECTOR OF ROADS**

**ABSTRACT**

This Report reviews the current Council policies in respect of works to private roads and unadopted footways.

**1 RECOMMENDATIONS**

It is recommended that the Committee agree:-

- (i) to approve the proposed revised policy on the adoption of private roads and footways:-

Policy 3 - Subject to the provisions of Section 1 of the Roads (Scotland) Act 1984, private roads and footways will be added to the List of Public Roads if they have been brought up to the appropriate standard, to the satisfaction of the Director of Roads, who shall report such proposed adoptions to the Roads Committee;

- (ii) to delete Policy 4 relating to unadopted footways adjacent to adopted carriageways.

**2 INTRODUCTION**

In accordance with the recommendations of Committee Report AC98/96 presented to Committee on 28<sup>th</sup> February 1996 the Committee agreed to adopt the former Tayside Regional Council Transportation Policies as Interim Roads and Transportation Policies.

In the Report 511/02 presented to Committee on 2<sup>nd</sup> May 2002 Policies 1 and 2 were re-affirmed.

This Report examines the existing Interim Roads and Transportation Policies 3 and 4.

### 3 DETAILS

The Interim Roads and Transportation Policies 3 and 4 are as follows:-

Policy 3 The Council, within a fixed annual sum, will endeavour to carry out repairs to private roads as follows: -

- (a) Where there is a public right of vehicular passage and the supporting information regarding repairs to the road by a former authority is either very strong or irrefutable, the Council will pay 100% of the cost of bringing the road up to a reasonable standard;
- (b) Where there is only public right of vehicular passage and no strong supporting information regarding repairs by a former authority, the Council will pay 100% of the cost of basic repairs only, except where, for engineering reasons, basic repairs are not feasible;
- (c) Where there is only public right of vehicular passage and no strong supporting information regarding repairs by a former authority, and where basic repairs are not feasible for engineering reasons, the Council will pay 100% of the cost of bringing the road up to reasonable standard;
- (d) In the case of a road where there is no strong supporting information regarding repairs by a former authority and basic repairs are feasible but the frontagers request that the road be brought up to a reasonable standard, the Council will meet 40% of that cost with the frontagers responsible for the remainder;
- (e) In the case where basic repairs on unsurfaced roads have proved unsuccessful, that the road be brought up to a reasonable standard, the Council meeting 100% of the additional cost.

Policy 4 The Council within a fixed annual sum, and subject to certain provisos, will endeavour to make up and adopt all unadopted footways adjacent to adopted carriageways throughout Angus.

The costs (including administration costs) are to be shared between the Council and the frontage proprietors on the basis of the Council making the following contributions: -

- 40% in respect of domestic premises
- 25% in respect of non domestic premises
- 100% in respect of religious or charity organisations' premises

With the provisos that: -

- (i) The Council's contributions are available only if the Council acts as agent for the works;

- (ii) The Council's contributions apply only to footways up to 4 metres in width. (Footways of widths in excess of 4 metres to be referred to Committee for individual consideration);
- (iii) The frontager/proprietor's liability to be limited to the first 40 metres of the footway length. (the cost of making up any length in excess of 40 metres to be met in full by the Council);
- (iv) The works are to be carried out in accordance with the Roads Department's Specification;
- (v) On completion of the work and after a contractual maintenance period, the Council will add the footway to its List of Public Roads.

Policy 3 was updated in Report 840/99 presented to Roads Committee on 26<sup>th</sup> August 1999 and Policy and Resources Committee on 7<sup>th</sup> September 1999. This update was to include the principle to the use of Common Good Funding for unadopted roads and to extend the policy to cover unadopted footways and footpaths.

### **Unadopted/Private Roads Policy (Policy 3)**

Throughout the Angus area there are various unadopted/private roads. Most if not all of these roads are constructed to a standard below that which is required for adoption by the Council.

By definition these roads are not maintained by the Council with respect to general road repairs or winter maintenance services.

Roads constructed as part of new developments are covered separately under the construction consent procedure, and provided they are constructed in accordance with the Council's requirements, are added to the List of Public Roads after a one year maintenance period.

Periodically requests are received for assistance in the maintenance and repair of private roads.

However, to put these requests in context, Report No. 683/01 presented to Committee on 14<sup>th</sup> June 2001 estimated that there was a backlog of maintenance on the public road network to the value of £61m.

With the introduction of the Aggregate Levy on 1<sup>st</sup> April 2002, recent bitumen price increases and general inflation cost increases, the estimated cost of this backlog has increased and an allowance of £74.4m has been identified for future years in the current Financial Plan.

Against this backdrop of an increasing backlog of maintenance on the public road network, combined with the need to make year-on-year budget cuts, there has been no funding available for works on unadopted or private roads since 1998/99.

With the current backlog of roads maintenance needs there is no foreseeable change to this situation.

It is therefore proposed that Policy 3 be amended.

The Council, as Local Roads Authority, has discretionary powers under the Roads (Scotland) Act 1984 which include:-

- Contributing to the cost of, or carrying out work on private roads (Section 14). If the proposed Policy 3 is approved this would allow for “the exception to the rule”. Where such expenditure was considered appropriate by the Director of Roads a report would be presented to Committee for approval. This could include the use of Common Good Funding as previously approved;
- Carrying out emergency works to private roads (Section 15). The authority to exercise this discretionary power is currently already delegated to the Director of Roads;
- Adopting private roads which have previously been brought to a satisfactory standard (Section 16) and adding such roads to the Public List of Roads. All such additions would be reported to the Roads Committee;

It would therefore still be possible for private roads and footways to be brought up to standard and adopted by the Council. This would, however, now be at the owners/frontagers cost rather than the public expense given the backlog of other priorities on the adopted roads.

It is therefore recommended that Policy 3 be amended to:-

Subject to the provisions of Section 1 of the Roads (Scotland) Act 1984, private roads and footways will be added to the List of Public Roads if they have been brought up to the appropriate standard, to the satisfaction of the Director of Roads, who shall report such proposed adoptions to the Roads Committee.

#### **Unadopted Footways adjacent to adopted carriageways Policy (Policy 4)**

Interim Roads and Transportation Policy 4 allows specifically for the upgrading and adoption of unadopted footways adjacent to adopted carriageways.

There are few instances of unadopted footways adjacent to adopted carriageways within Angus.

As previously stated there is no finance available within the Roads budgets to contribute to the cost of maintenance or repair work on or the upgrading of privately maintained footways.

It is therefore proposed that Policy 4 be deleted as it is now effectively superseded and will be covered under Policy 3 as proposed above.

Again it would still be possible for unadopted footways adjacent to adopted carriageways to be brought up to standard and adopted by the Council. This requirement is however now effectively covered under the proposed amendment to Policy 3. By deleting Policy 4 the Council would only be ending its commitment to make funding available to contribute towards the cost of making up unadopted footways adjacent to adopted carriageways. In recent years, due to budgetary constraints, this commitment has been hypothetical in any case. The deletion of this policy therefore merely reflects the status quo.

#### **4 FINANCIAL IMPLICATIONS**

There are no financial implications from this Report itself. The proposed amendments to the Interim Roads and Transportation Policies reduces possible future expenditure demands on the Roads budget and will allow the available resources to be prioritised for works on the existing public road and footway network.

#### **5 HUMAN RIGHTS**

There are no implications in respect to human rights.

#### **6 CONSULTATION**

The Chief Executive, the Director of Law and Administration and the Director of Finance have been consulted in the preparation of this Report.

#### **7 CONCLUSION**

In the current and foreseeable financial situation, the Interim Roads and Transportation Policies 3 and 4 are no longer viable.

The issues are legislated for in The Roads (Scotland) Act 1984 and the Local Roads Authority retains sufficient powers if necessary. It is therefore recommended that Interim Roads and Transportation Policies 3 and 4 be replaced with the proposed Policy 3 and approved as an Angus Council Policy.

R W McNeil  
DIRECTOR OF ROADS

NOTE:

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this Report:-

Report No AC98/96 – Angus Council Roads Committee – 28 February 1996.

Report No 840/99 – Angus Council Roads Committee – 26 August 1999.

Report No 840/99 – Angus Council Policy & Resources Committee – 7 September 1999.

Report No 683/01 – Angus Council Roads Committee – 14 June 2001.

Report No 511/02 – Angus Council Roads Committee – 2 May 2002.

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