

**ANGUS COUNCIL**

**ROADS COMMITTEE**

**28 AUGUST 1997**

**ASSESSMENT OF ROAD BRIDGES**  
**IN THE OWNERSHIP OF RAILTRACK**  
**AND THE BRITISH RAIL PROPERTY BOARD**

**REPORT BY THE DIRECTOR OF ROADS**

**ABSTRACT**

This report describes recent developments in the requirements to assess road bridges in the Council area in the ownership of Railtrack and British Rail Property Board.

**1 RECOMMENDATIONS**

It is recommended that the Committee:

- (i) note in general terms the content of the legal opinion of Counsel obtained by South Lanarkshire Council in respect of Scottish Local Authorities' responsibilities for assessing and, where necessary, strengthening road bridges in the ownership of Railtrack and British Rail Property Board (BRPB);
- (ii) agree to delay progressing the assessment of these privately owned bridges until the issue becomes clarified nationally;
- (iii) agree the virement of the £85,000 contained within the capital financial plan for 1997/98 under the heading of bridge assessments from the assessment of Railtrack and BRPB bridges to the strengthening and repair of the Council's own bridge stock.

## 2 INTRODUCTION

Report No. AC 647/97 detailed the requirement to undertake assessments of all road bridges within the Council area in respect of their capacity to carry vehicles complying with new EC legislation, with effect from 1 January 1999. It was understood at that time that under UK national legislation the Council's responsibility extended to those road bridges in private ownership (Railtrack and BRPB). The report made financial provision for the funding of the assessment of Railtrack bridges.

## 3 DETAILS

- (i) It had been understood that the framework supporting this requirement had been established through earlier exhaustive dialogue involving COSLA, the County Surveyors Society, the Scottish Office and Railtrack.
- (ii) However, South Lanarkshire Council have sought Legal Counsel opinion upon the duty of a Scottish Local Authority to be responsible financially for the assessment and consequential strengthening of bridges in private ownership. Counsel's opinion included the following:
  - Scottish Local Councils have no obligation to assess or strengthen private bridges,
  - the Council should not contemplate any form of Joint Venture Agreement with Railtrack, and
  - the Secretary of State would require to introduce primary legislation to make local authorities responsible for private bridges carrying public roads.
- (iii) It is understood that South Lanarkshire have made their legal opinion available to COSLA with a request that they take the issue up at a national level with the Scottish Office. It is further understood that this is currently under active consideration by COSLA.

- (iv) At the same time the Director of Roads has passed the relevant papers to the Director of Law and Administration in order to ascertain the implications of the opinion and its consequences for Angus Council.
- (v) Until this issue is clearly and unequivocally resolved at national level it is considered premature to progress further any agreement with Railtrack or BRPB to undertake assessments of bridges in their ownership.
- (vi) It is unlikely that this issue will be resolved quickly and while it should be stressed that the eventual outcome cannot be immediately predicted it seems probable that significant delay will result for the assessment of these privately owned bridges.
- (vii) It had previously been agreed at the Roads Committee of 5 June 1997 that the Convener would write to the Minister having responsibility for transport (Rt Hon Gavin Strang MP) stressing the Council's dissatisfaction at the inequitable responsibility imposed upon Authorities to assess and strengthen privately owned bridges. In view of these recent developments it is considered that it would now be inappropriate to write in such terms pending resolution of the issues.

#### 4 FINANCIAL IMPLICATIONS

##### (i) **Capital Budget**

As previously reported (AC 647/97) an allowance of £85,000 had been made in the current financial year for the assessment of Railtrack bridges. In the light of the foregoing it is now recommended that this amount be transferred to the block headings for the strengthening and repair of the Council's own stock of bridges.

(ii) **Revenue Budget**

There are no implications for the Revenue Budget arising from this report.

5 **CONSULTATION**

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

6 **CONCLUSION**

In the light of legal opinion recently obtained by South Lanarkshire Council it is recommended that Angus Council defer expenditure on the assessment of Railtrack bridges pending resolution of the issues raised. The sum of £85,000 previously assigned for the assessment of Railtrack bridges in the current financial year should be vired to the strengthening and repair of the Council's own stock of road bridges.

Dr Bob McLellan  
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. AC 647/97 - Roads Committee on 5 June 1997.