REPORT NO 78/04

ANGUS COUNCIL

INFRASTRUCTURE SERVICES COMMITTEE

22 JANUARY 2004

ROAD CONSTRUCTION CONSENTS – RECOVERY OF EXPENSES

REPORT BY THE DIRECTOR OF ROADS

ABSTRACT
This report details the findings of a recent review of the recovery of expenses associated with the supervision of Road Construction Consents and recommends a new regime and scale of charging for this work.

1 RECOMMENDATION

1.1 It is recommended that the Committee agree to the proposed changes to the level and method of recovery of expenses associated with the supervision of Road Construction Consents (as detailed in Appendix 1) with effect from 1 April 2004 (i.e. to apply to Road Construction Consents granted on or after 1 April 2004).

2 INFORMATION

2.1 Under the Roads (Scotland) Act 1984 Section 140 (6), Local Authorities are entitled to recover from the Developer reasonable costs incurred in inspecting works relating to Road Construction Consents.

2.2 The current charges for this service were approved at the Roads Committee in March 1997. (Report No 304/97)

2.3 A review of the level and method of charges for this service has recently been conducted and comparisons drawn with charges levied by other Authorities. As part of the review it was found that there are two basic methods of charging for this service. They are:-

(i) **Standard Hourly Rate**

This is generally based on the specific length of time the Council’s representative spends on site and travelling to and from that site multiplied by a fixed hourly rate. Mileage charges are also commonly added.

(ii) **Percentage of Bond**

In new residential developments a developer is required to provide the Council with a Road Bond sufficient to complete the construction of the new
roads in the event that the developer defaults. This method of recharging is based on a percentage of that Bond value.

2.4 Some Authorities offer Developers the option to choose which of the above methods they would prefer to use prior to works commencing on site.

2.5 Results from review are shown in Table 1 below:-

**TABLE 1**

<table>
<thead>
<tr>
<th>Recharging Method</th>
<th>No of Local Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hourly Rate</td>
<td>10</td>
</tr>
<tr>
<td>Percentage of Bond</td>
<td>4</td>
</tr>
<tr>
<td>Hourly Rate or Percentage of Bond</td>
<td>3</td>
</tr>
</tbody>
</table>

Notes:

(a) 4 Authorities do not charge any fees for this service.

(b) 10 Authorities did not respond to the request for information.

2.6 As with the majority of those Authorities who responded Angus Council presently use the hourly rate method of charging.

3 DETAILS

3.1 From the review and recent recharging data from Angus Council sites it is considered that the level of charging should be increased to meet rising costs associated with staffing and administration of the service. It is also considered appropriate to review the method of recharging for the service.

3.2 Basic Hourly Rate.

3.2.1 Based on comparisons drawn with charges levied by other Authorities and recent recharging data from Angus Council sites it is proposed that the current charges should be increased to £40 per hour (inclusive of mileage charge). This will better reflect the current cost of the service whilst the removal of the separate mileage charge will make administration of the scheme simpler.

3.3 Percentage of Bond Value

3.3.1 This would be the simplest and most efficient way to charge for the service as the inspection fee is fixed and established at an early stage. The fee is paid ‘up front’ by the Developer and the administration of the scheme by inspection and administrative staff would also be simpler.

3.3.2 Four Local Authorities presently use this method of charging for this service, however, it does not conform with the ‘letter’ of the Act and it could therefore be legally challenged.
3.3.3 It is understood that Aberdeen City Council who currently use this method have been challenged by a Developer and they are reconsidering their procedures.

3.3.4 Fife Council was recently considering introducing this method but was advised by the Scottish Executive that this was an incompetent method because of the terms of the Act. Angus Council’s Director of Law and Administration has also expressed concerns about introducing this method of charging for the above reasons.

3.4 Developer’s Choice - Basic Hourly Rate or Percentage of Bond Value

3.4.1 Several Councils currently offer Developers the option to use either of the above methods.

3.4.2 This arrangement is considered to be appropriate regardless of the correct interpretation of the Act as it places the onus on the Developer to make his choice of payment method in advance of the commencement of works.

3.4.3 A number of Developers appear to prefer this arrangement as it allows them to opt for the percentage of bond method of payment. They seem to prefer this method as the level of charge is agreed by both parties at an early stage and this permits the Developer to budget for these charges over the period of the contract.

3.4.4 Although the percentage of bond method is not in keeping with the terms of the Act, it is thought that a successful legal challenge would be unlikely by operation of personal bar since the method would have been chosen by the Developer and not imposed on him by the Council.

3.4.5 After due consideration, the Director of Roads proposes that the Committee agrees to increase the basic hourly rate and will offer developers the option of the percentage of bond method of payment. Based on comparisons drawn with charges levied in other Authorities and recent recharging data from sites in Angus it is considered that Angus Council should charge 2.00% as the Percentage of Bond rate.

4 FINANCIAL IMPLICATIONS

4.1 The additional income arising from these proposed changes to the method of charging for the supervision of Road Construction Consents is difficult to quantify since it cannot be predicted at this stage how many developers will choose to opt for the Percentage of Bond charging method.

4.2 The actual costs of supervising Road Construction Consents charged as a percentage of the Bond will be monitored for a period of time to check that the charge covers the costs. Any proposed change to the percentage would be the subject of a further report to this Committee.

5 HUMAN RIGHTS IMPLICATIONS

5.1 There are no human rights implications arising from the proposals in this report.
6 CONSULTATION

6.1 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

7.1 The present charging rates for the inspection of works related to Road Construction Consents have not changed since 1997/98 and it is considered that they should be increased to reflect increased staff and administration costs incurred by the Council.

7.2 The present system of charging for this service is cumbersome in terms of administration as a result of inspection staff having to note both the time and mileage associated with each individual site, and the subsequent conversion of these measures to costs. Similarly the administration of the recovery of these costs by the raising of invoices and the subsequent delay in payments is time consuming and expensive.

7.3 It is considered that by giving Developers a choice of method of payment this could potentially increase the efficiency of the administration of the service if Developers choose the Percentage of Bond method.

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:-


RWM/JSG
4 December 2003
REPORTS/consent.expenses
**APPENDIX 1**

**Angus Council**

**Roads Department**

**Review of Charges for Inspection Fees associated with Roads Construction Consents**

<table>
<thead>
<tr>
<th>Method of Charging</th>
<th>Current Charge</th>
<th>Proposed Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Hourly Rate</td>
<td>All Staff Grades £25/hour</td>
<td>All Staff grades £40/hour</td>
</tr>
<tr>
<td></td>
<td>Travel Costs 55p/mile</td>
<td>Travel Costs Included</td>
</tr>
<tr>
<td>Percentage of Bond</td>
<td>N/A</td>
<td>2.00% of Road Bond Value</td>
</tr>
</tbody>
</table>