



REPORT

To: Infrastructure Committee

29 November 2006

**From: Network Manager
Roads
Infrastructure Services Department**

PETITION – A970 SOUTH LOCHSIDE: TRAFFIC SPEEDS

1. Introduction

1.1 In this report I am responding to a petition received by the Council on 2 November 2005.

1.2 I will deal with the issue of traffic speeds on the A970 at South Lochside and outline possible courses of action.

2. Background

2.1 On 2 November 2005 the Council received a petition from Mr D Thomason and various residents of South Lochside, Lerwick.

2.2 This petition comprising some 36 signatures expressed concern “fir wir bairns safety” due to the number of vehicles exceeding the 30mph speed limit along South Lochside.

2.3 The petition also called for a “traffic calming solution and a lower speed limit”, although a number of signatories noted that they did not want “road humps”.

2.4 Mr Thomason’s concern over traffic speeds on South Lochside have been well publicised over the past few months and in that time he has been in regular contact with the staff of the Roads Service.

2.5 Letter writers have expressed much comment in the local press regarding Mr Thomason’s campaign. It has also been reported that our local MP and MSP are supportive of the call to investigate a 20mph limit on South Lochside.

3 Links to Council Priorities

3.1 The Council’s Local Transport Strategy’s Aims and Objectives include the following which are all of some relevance to this scheme:

- Sustain the economy of Shetland through maintaining an appropriate level of accessibility by road, sea and air, both for internal and external transport.
- Improve and enhance access to Lerwick town centre and all other existing settlements by all forms of transport and provide for appropriate levels of car parking.
- Improve facilities for disabled access.
- Develop public transport corridors and promote innovative and flexible public transport usage.
- Promote awareness of travel options in order to limit traffic growth.
- Improve environmental conditions by promoting traffic calming measures that increase the safety of all road users.
- Maintain the asset and make improvements to the road network in order to support gains in safety, environmental, accessibility, integration or economic terms.
- Maximise facilities for walking and cycling as an alternative means of transport.

3.2 Under the Council's Corporate Plan, the Action Plan for the Maintenance Improvement & Use of the Road Network was approved in April 2001 following widespread consultation, and assessment of technical need. Included in this was a list of proposed new major road improvement schemes, including this one.

4 Traffic Speeds

- 4.1 Over the period 27 September to 13 October 2005 we carried out traffic counts and vehicle speed surveys on South Lochside using automated counters. We also put out the Intelligent Road Signs (Smiley Face Signs) at various times over the period.
- 4.2 Analysis of the data collected shows that the average speed of all vehicles is around 28mph, the 85-percentile speed is 33.5mph, and some 1.7% of drivers exceed 40mph.
- 4.3 The "Smiley Face" signs had some effect on vehicle speeds and this could be seen from the data collected. While there was very slight reduction of about 0.8mph in the calculated average and 85% speeds there was no discernable effect on the percentage travelling at over 40mph. However, the percentage travelling over 30mph, but below 40mph, dropped by almost 10%.
- 4.4 To put these figures in perspective I have tabulated them and other relevant statistics from a selection of traffic surveys below:

Location	Date	Average Speed	85% Speed	% below 30mph	% over 40mph	24 hr Flow
A970 South Lochside	18/08/94	28mph	34mph	77%	3.3%	5422

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Lochside						
A970 South Lochside	29/09/05	28.6mph	33.6mph	61%	1.7%	7917
A970 South Lochside	06/10/05 Smiley Face Signs	27.9mph	32.7mph	71%	1.7%	7286
A970 South Road (by school)	09/06/05	32.1mph	38.0mph	33%	7.5%	7938
A970 South Road (by Nederdale)	09/06/05	30.5mph	35.8mph	44%	1.1%	9508
Oversund Road	08/09/05	31.1mph	37.2mph	39%	4.3%	838
A969 Church Road	27/05/04	23.4mph	28.7mph	92%	0.9%	7832

5. Analysis

- 5.1 From the data collected and presented here in summary form it can be seen that traffic speeds along South Lochside are in general at or below the level that we would expect for such an urban road with average speeds below the limit and 85% speeds only slightly above.
- 5.2 However, there is an unacceptable level of traffic travelling at excessive speeds and the drivers of these vehicles are making a very conscious decision to travel at such speeds. However, this is in common with almost all of the roads we survey within Shetland and there is little difference between now and the previous records from 1994.
- 5.3 Investigation of our accident record data for South Lochside shows one reported incident in the five years between 1 January 2000 and 31 December 2004.
- 5.3.1 This was a fatal accident where the rider of a motorcycle was killed when he collided with a lamppost after losing control.
- 5.3.2 There was also a serious injury accident reported outside the Clickimin Centre where a pedestrian ran in front of an oncoming vehicle. However, this accident pre-dated the installation of a Pelican Crossing at this location.

6 Speed Management

- 6.1 From a traffic-engineering point of view there are a number of courses of action open to us in relation to speed management along a route. The application of any of these options must always refer back to the purpose

and function of the route in question, and to how that route fits into the surrounding road network.

- 6.2 South Lochside is a principal traffic distributor forming part of the A-Class spine route network within Shetland. With daily flows totalling some 8000 vehicles, and peak hour flows numbering about 750 vehicles, it carries a significant volume of traffic.
- 6.3 In terms of traffic movements within Lerwick, Lochside is an important route connecting the north and south sides of the town with good junctions at either end to encourage traffic away from other less suitable roads such as Gilbertson Road, Burgh Road, King Harald Street and the Esplanade.
- 6.4 Any works carried out to Lochside, especially if it changed the convenience of the route, must be very carefully considered in order to ensure that they did not result in the transference of traffic onto other less suitable roads nearby.

7 Options

7.1 20mph Limit or Zone

- 7.1.1 The creation of 20mph limits or zones is very tightly regulated at national level and the technical guidance issued by the Scottish Executive must be adhered to.
- 7.1.2 Where traffic speeds are not generally below 20mph physical measures must be employed to slow vehicles to that speed before the limit can be introduced.
- 7.1.3 These measures almost universally take the form of vertical deflections, commonly known as speed humps or cushions, which make it virtually impossible to drive at excessive speed without damaging the vehicle.
- 7.1.4 Lochside is singularly unsuitable for such a form of traffic calming due to the volume of through traffic that it must carry. Emergency response times for both the ambulance and fire services would be compromised by the physically imposed restriction so close to their bases. Traffic would inevitably transfer to adjacent streets and roads to avoid the “humps”.

7.2 Existing Limit with Restrictive Traffic Calming

- 7.2.1 Looking at the speed data it is apparent that a small but measurable number of drivers are making a very conscious decision to exceed the speed limit, rather than just being guilty of letting their speed creep up through inattentiveness.
- 7.2.2 Such speeds can be controlled to a degree by installing “horizontal deflection” traffic calming such as chicanes, or by careful design of

the road layout, basically eliminating straights and using back-to-back tight radius bends.

- 7.2.3 All of these measures work by bringing opposing flows of vehicles into conflict with each other through a reduction in the clearance between them. The effectiveness of such measures is directly related as to how tight or narrow they are.
- 7.2.4 However, on principal traffic distributor routes such as Lochside, where there are a significant number of commercial and public service vehicles in both directions, there are minimum widths that must be provided in order to allow safe passage.
- 7.2.5 Traffic calming features, or specifically designed road layouts, that provide suitable clearances for large vehicles will not significantly restrict the vehicle driver who makes a conscious decision to speed.
- 7.2.6 The introduction of restrictive traffic calming techniques on a road has been shown to encourage traffic migration away from the route. Given the alternative routes available this would be counterproductive.

7.3 Environmental Measures (Psychological Traffic Calming)

- 7.3.1 While the term “Psychological Traffic Calming” may sound a little grand and abstract, in traffic engineering terms it is well accepted that the visual appearance of a roads layout and its environment affects driver behaviour.
- 7.3.2 South Lochside has a very open aspect to it, with a wide vista to the west over the playing fields and Clickimin Loch. The expanse of unbroken surfacing extending into the parking area only helps to reinforce the message to drivers that this road is wide, open and suitable for fast travel. It is all too easy to ignore the housing that is fairly close by.
- 7.3.3 From the collected data it can be seen that the “Smiley Face” signs had a positive effect on at least 10% of drivers, bringing them from over 30mph to under 30mph, and probably had some effect on the other 25% or so who travelled at less than 40mph. The “Smiley Face” sign imparted no physical restriction on drivers but rather was a part of the road environment.
- 7.3.4 Unfortunately studies have shown that measures such as the “Smiley Face” signs have diminishing effect over time and are best employed for short periods throughout the road network at salient locations such as schools, leisure centres and play parks.
- 7.3.5 Environmental changes that have been shown to work long term are those that give the driver consistent visual clues and guidance all along the route. The arrangement of street furniture, the choice of surfacing materials and colours, both on and alongside the road can

have a significant impact on how a driver reacts to his environment – if the road looks like a motorway he will drive differently than if it appears to be a residential street, regardless of the speed limit in force at the time.

- 7.3.6 By altering how South Lochside looks to a driver we can influence their behaviour and therefore encourage a more suitable selection of speed.

7.4 Safety Cameras

- 7.4.1 There is little doubt that to the majority of drivers the presence of “speed” cameras is a deterrent as they increase the likelihood of being caught. However, their effectiveness depends on the coverage and it is not uncommon for the effect on speeds along a route to be fairly localised to the camera site.

- 7.4.2 Safety cameras are operated by either the Police or under a Camera Safety Partnership arrangement. While there has been consideration and discussion regarding entering into a Camera Safety Partnership it is not seen as an available option at this time as our accident records do not appear to meet the criteria.

- 7.4.3 Fixed camera sites, however they are operated, may only be installed following authorisation from the Scottish Executive. Such consent is only given if the site meets specific criteria with regards to accident history and traffic speeds. There needs to be a correlation between excessive speeding at the location and a resulting accident history. We do not appear to have any sites within Shetland that would meet the current criteria.

- 7.4.4 In 2001 the Council, through its Road Safety Forum, purchased a Laser Speed Detector and Mobile Video Camera Unit for use by the Police in Shetland.

- 7.4.4.1 The Laser Speed Detector continues to be heavily used within Shetland on a regular basis and since June 2005 Northern Constabulary have carried out 17 periods of speed checks on Lochside. The deployment of patrols is determined by community concern and professional judgement, validated by data obtained by both the Police and relevant Council departments

- 7.4.4.2 However, the Mobile Video Camera does not appear to be approved under the current Scottish Executive regulations relating to the use of Road Safety Cameras.

8 Financial Implications

- 8.1 There are no direct financial implications at this time.

9 Policy and Delegated Authority

9.1 The Council's Local Transport Strategy seeks to pursue objectives which include the following:

- Sustain the economy of Shetland through maintaining an appropriate level of accessibility by road, sea and air, for both internal and external transport.
- Improve and enhance access to Lerwick town centre and all other existing settlements by all forms of transport and provide for appropriate levels of car parking.
- Improve environmental conditions by promoting traffic calming measures that increase the safety of all road users.
- Maintain the asset and make improvements to the road network in order to support gains in safety, environmental, accessibility, integration or economic terms.

9.2 The Infrastructure Committee has full delegated authority to act on all matters within its remit (Min Refs SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

9.3 It is Council policy to provide alterations to junctions, parking and road layouts, and introduce speed limits and other regulations, all intended mainly to improve traffic flow and safety in built-up areas. (Min Ref Resources Committee 52/01).

10 Conclusions

10.1 A970 South Lochside is a principal traffic distributor and forms an important part of the road network not just within Lerwick but also for the whole of Shetland. Any form of physically restrictive traffic calming is likely to have a negative impact on other less suitable roads within Lerwick through the transference of traffic.

10.2 Vehicle speeds along South Lochside are generally at or below the levels found on similar roads and there is no significant accident history. While the use of Safety Cameras is not currently permitted here the Police patrol Lochside on a regular basis.

10.3 The physical appearance of South Lochside could be improved to alter drivers' perceptions of the nature of the road. This should have a positive effect on the speed of the majority of traffic without encouraging them to seek alternate routes.

11. Recommendations

- 11.1 I recommend that the Committee approve that I should not proceed any further with options 6.1 or 6.2 above. That is, that neither a 20mph speed limit nor traffic calming by vertical or horizontal deflection measures be implemented for the reasons given above.
- 11.2 I recommend that the Committee endorse the development of a scheme of “environmental” safety measures for the reasons given in 6.3 above.
- 11.3 I also recommend that Committee note my comments on Safety Cameras in section 6.4 above and accept that they are not an available option on South Lochside at this time.

Our Ref :CJG/SMG

Report Number : RD-25-05-F



REPORT

To: Infrastructure Committee

29 November 2005

**From: Network Manager
Roads
Infrastructure Services Department**

A970 SCORD TO SCHOOL, SCALLOWAY

2. Introduction

- 1.1 In this report, I seek approval to take forward design options for a road improvement through the proposed quarry extension at the Scord, Scalloway, and onwards to the area of the School.
- 1.2 The present road at this location is sub-standard on a number of grounds:
 - a) The gradient is very steep for a Principal Road carrying among other things a significant number of commercial vehicles (to and from the quarry, Blacksness Pier, etc.)
 - b) The hairpin bend has a significant accident record, as do several other lengths of the section.
 - c) A combination of the gradient, bend and high level of traffic means that access up and down the Scord in wintry conditions can be unreliable, and unsafe.
 - d) The East Voe and Tingwall Valley Junctions do not have good approach/sighting arrangements.
 - e) The Mill Brae on the approach to the School is too narrow for the frequent lorries and buses to pass each other easily, the footway is very narrow (and used more and more as the number of houses in Blydoit grows), and snow clearing here is a problem (large drifts are common, and the wall bars us from ploughing snow into the field).
- 1.3 The proposal is to continue with a joint project whereby, firstly, the quarry extension's Notice of Intention to Develop is produced in Spring 2006 showing long term reinstatement plans which include a

new road alignment. Secondly, the new road's design would be developed in the normal manner to confirm that it was both technically feasible and value for money.

3. Statutory Requirements

- 2.1 The Council is required under the Roads (Scotland) Act 1984 to “manage & maintain” the public road network. It is empowered under the Act to improve the road network where this is required to meet the above obligation in terms of improving safety for all road users, reducing maintenance costs and disruption, easing congestion, improving access, etc.

4. Links to Council Priorities

- 3.1 Those of the Council's Local Transport Strategy's Aims and Objectives which are relevant to the joint project are as follows:

- Sustain the economy of Shetland through maintaining an appropriate level of accessibility by road, sea and air, both for internal and external transport.
- Improve and enhance access to Lerwick town centre and all other existing settlements by all forms of transport.
- Develop public transport corridors.
- Improve environmental conditions.
- To maintain the asset and make improvements to the road network in order to support gains in safety, environmental, accessibility, integration or economic terms.
- Maximise facilities for walking and cycling as an alternative means of transport.

- 3.2 Under the Council's Corporate Plan, the Action Plan for the Maintenance Improvement & Use of the Road Network was approved in April 2001 following widespread consultation, and assessment of technical need. Included in this was a list of 20 proposed new major road improvement schemes, to which this improvement has subsequently been added by the Member/Officer Working Group in March 2005.

- 3.3 The sustaining and extension of the quarry is included in the Roads Service Plan. The joint project to extend the quarry and then include a new road in the landscaping on completion of extraction was approved by the Infrastructure Committee in August 2005. (ref 50/05).

5. Benefits to other Services / Participation by Others

- 4.1 As well as road users, virtually all public & private services and organisations benefit from genuine improvements to the road network.

6. Definition and Justification of Service Need

- 5.1 Projects are defined solely on whether they are genuine improvements in terms of maintenance, safety, etc and not just “new roads for the sake of new roads”.
- 5.2 They are justified under a formal appraisal system which addresses economy (in reduced maintenance costs, as well as community and commercial benefits), safety, environment, accessibility (social inclusion), and integration (with Council & others’ plans).
- 5.3 In this case, only a superficial assessment of the proposed road improvement has been made so far. However, the significant benefits to be gained from a much shallower gradient, and larger curve radius of the Scord Section should far outweigh the costs: especially as these will not include “earthworks” costs.
- 5.4 The section on towards the School should be subject to a much more thorough appraisal.

7. Socio-Economic Considerations

- 6.1 These will eventually be addressed. However, for reasons stated in 1.2 and 5.3 above, I would recommend that the normal STAG Stage 1 and 2 studies need be done in outline only for the Scord Section.
- 6.2 The section towards the School will require a more thorough STAG appraisal.

8. Stakeholder and Client Consultation

- 7.1 There has been considerable consultation on the Scord Extension, and the proposed re-routing of the A970 through it, with the Community Council, a public meeting, a specific Member/Officer Group, etc. The Capital Programme Management Team agreed earlier this month to support the project at this stage.
- 7.2 Consultation will also take place with regard to the Stage 1 and 2 studies for the section towards the school.

9. Funding (Capital & Revenue)

- 8.1 The Scord Quarry is a stand-alone entity, and its budgets are accounted separately. The proposed road improvement would be funded in the normal way from the Capital Programme (apart from earthworks costs).

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- 8.2 Although construction of the Scord Section of the new road would not take place for many years to come, the Council needs to fund a small amount of design and other preparation work at this stage. This is in order to confirm that the best alignment is chosen, and that the Planning process is satisfied.

- 8.3 Therefore, I recommend that the “A970 Scord to School, Scalloway” road improvement be formally approved as a scheme for inclusion in the Council’s Capital Programme with the following funding meantime:

2005/2006	£5k
2006/2007	£20k
2007/2008	<u>£10k</u>
Total	£35k

This should be sufficient to cover design and other preparation costs, including land acquisition (if necessary)

- 8.4 The Revenue implications of the above improvements may be a marginal increase in very long term costs. Although the new A970 would be slightly shorter than the current route, we would need to retain part of the existing road to access Easterhoul and the Viewpoint. For many years after construction, however, there would be reduced maintenance costs.

9. Timing

- 9.1 Apart from design and other work required now, it would be at least 15 years before the Scord Section could actually be built.
- 9.2 It may prove desirable to build the East Voe to School Section much sooner, but this would depend on the result of the appraisal which should be carried out relatively soon.

10. Brief for Future Studies

- 10.1 These are outlined in Sections 5 to 8 above.

11. Policy and Delegated Authority

- 11.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit (Min Ref SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.
- 11.2 The Capital Programme Method requires that a proposed new scheme be subject to appraisal (as outlined above), reported to the Capital Programme management Team (CPMT) and to the relevant Committee, and then considered by the Council for inclusion in the Capital Programme. (Min Ref 122/03)

12. Recommendation

12.1 I recommend that the Committee recommend that the Council approve funding as in 8.3 above:

- i. in order to design and prepare for the proposed diversion of the A970 through the Scord Quarry Extension landscaping on completion of extraction, and
- ii. to carry out a STAG appraisal of the continuation of the improved A970 towards the School: a project which must be designed before (a) is finalised; and which may be constructed much sooner than (a).

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DJM/SMG



REPORT

To: Infrastructure Committee

29th November 2005

**From: Network Manager
Roads
Infrastructure Services Department**

B9081 MID YELL LINK ROAD PROPOSED HILLEND DIVERSION

10. Introduction

- 1.1 In this report, I propose an extension to the above scheme to deal with safety issues at the entrance to the village.
- 1.2 The main scheme, for substantial improvements to the road between the A968 junction and the entrance to the village, was included in the Capital Programme in May 2005 (ref 29/05). However, it is of relatively low priority, and only design and preparation funds are approved within the current 5-year programme.
- 1.3 The extension, however, is of much higher priority and I now recommend that this section be constructed separately and much sooner.
- 1.4 The Discussion Paper presented to the Member/Officer Working Group (Road Schemes) in September 2005 is appended to this report along with the location plan. It gives a full description of the proposed by-pass of the houses at Hillend, the new T-junction with the main village road, and the new pedestrian arrangements along part of the bypassed road. It also recommended that the rest of the Link Road to the A968 be fully upgraded to 2-lane standard, since the new T-junction means that there is now no fear of this leading to unduly high speeds at the entrance to the village.

11. Statutory Requirements

- 2.1 The Council is required under the Roads (Scotland) Act 1984 to “manage & maintain” the public road network. It is also empowered under the Act to improve the road network where this is required to meet this requirement in terms of improving safety for all road users, reducing maintenance costs and disruption, easing congestion, improving access, etc.

12. Links to Council Priorities

3.1 The Council's Local Transport Strategy's Aims and Objectives include the following which are all of some relevance to this scheme:

- Sustain the economy of Shetland through maintaining an appropriate level of accessibility by road, sea and air, both for internal and external transport.
- Improve and enhance access to Lerwick town centre and all other existing settlements by all forms of transport and provide for appropriate levels of car parking.
- Improve facilities for disabled access.
- Develop public transport corridors and promote innovative and flexible public transport usage.
- Promote awareness of travel options in order to limit traffic growth.
- Improve environmental conditions by promoting traffic calming measures that increase the safety of all road users.
- Maintain the asset and make improvements to the road network in order to support gains in safety, environmental, accessibility, integration or economic terms.
- Maximise facilities for walking and cycling as an alternative means of transport.

3.2 Under the Council's Corporate Plan, the Action Plan for the Maintenance Improvement & Use of the Road Network was approved in April 2001 following widespread consultation, and assessment of technical need. Included in this was a list of proposed new major road improvement schemes, including this one.

13. Benefits to other Services/Participation by Others

4.1 As well as road users, virtually all public & private services and organisations benefit from genuine improvements to the road network.

14. Definition and Justification of Service Need

5.1 Projects are defined solely on whether they are genuine improvements in terms of maintenance, safety, etc and not just "new roads for the sake of new roads".

5.2 They are justified under a formal appraisal system which addresses economy (in reduced maintenance costs, as well as community and commercial benefits), safety, environment, accessibility (social inclusion), and integration (with Council & others' plans).

5.3 In this case, there is a genuine need for an improvement to safety and amenity, especially for pedestrians, in the Hillend Area. There is a

secondary need for the improvement of the whole Link Road to a better standard for free flow of traffic, and in its maintained condition.

15. Socio-Economic Considerations

- 6.1 These are addressed in the appended Paper and in the previous Report to CPMT (in April 2005).

16. Stakeholder and Client Consultation

- 7.1 There has been thorough consultation with the Community Council, the local Member, and our own Maintenance staff over the various options. A view has been expressed by the local residents via the Community Council, that if possible this improvement should be attended to before construction of the New School.
- 7.2 The Working Group contributed to the development of the scheme, recognising especially the strongly held local view that pedestrian safety in the Hillend area is a particular problem.
- 7.3 The Capital Programme Management Team on 7th November 2005 agreed to recommend the above scheme for the Hillend area. They also recommended that the main scheme for the Link Road to the A968 junction remain as it is meantime: in “future years” and with part of its length remaining single track.

17. Project Options to Meet Identified Service Needs

- 8.1 The options addressed are listed in the appended paper.

18. Funding (Capital and Revenue)

- 9.1 Funding has been approved in the Capital Programme for design, land acquisition and other preparatory work as follows:

2005/2006	£10k
2006/2007	£25k
2007/2008	£10k

- 9.2 The works costs of the original scheme, £1.25m, are only approved for “future years”.
- 9.3 I would now recommend that the works costs of the Hillend Extension, estimated to be £200k, be approved for 2008/2009 which is the earliest estimate for construction to begin.
- 9.4 I also advise that the rest of the Link Road should eventually be constructed to a higher standard than originally intended. This would require approval at some future date for a scheme costing £1.55 million (in place of the £1.25m

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scheme originally discussed) Due to the much lower priority of this, however, I would still recommend that it remain in “future years”.

- 9.5 The implications of the above scheme for the Council’s Revenue accounts are that there is likely on balance to be a slight increase in costs. The main Link Road would in places be wider than at present and the extension would be a new length of road. These would be partly offset by reduced maintenance costs for many years to come, and by the conversion of a short length of the existing road into a footway only.

10. Timing

- 10.1 As discussed above, I recommend that the Extension be constructed as soon as is reasonably possible. Since land would need to be acquired, 2008/2009 would be an achievable date.
- 10.2 The main Link Road may be left in “future years” meantime, as long as sufficient funds remain available meantime to cover preparatory and appraisal costs.

11. Policy and Delegated Authority

- 11.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit (Min Ref SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.
- 11.2 The Capital Programme Method requires that a proposed new scheme be subject to appraisal (as outlined above), reported to the Capital Programme management Team (CPMT) and to the relevant Committee, and then considered by the Council for inclusion in the Capital Programme. (Min Ref 122/03)

12. Recommendations

- 12.1 I recommend that the Committee recommend that the Council approve the B9081 Hillend Diversion be constructed in 2008/2009 at an estimated cost of £200k.
- 12.2 I also recommend that the rest of the B9081 Mid Yell Link Road remain in “future years” with only sufficient funds meantime to cover preparatory costs, and a revised STAG Stage 2 study to appraise Option 1b (in Appendix)

DISCUSSION PAPER

**To Members/Officers Working Group
Management of Road Schemes**

19 September 2005

**From: Network Manager, Roads
Department of Infrastructure Services**

**B9081 Mid Yell Link to the A968: Stage 2 Proposal Amendment
Additional works required to include improvements to the Hillend Bend**

1 Introduction

- 1.1 Previously discussed options for improvements on this stretch of road resulted in a report to the CPMT and the scheme being included within the Council's Capital Programme. In addition to the proposed improvements, it was also recommended that further consideration be given to improving the "blind" bend at Hillend on the entry to Mid Yell. This has now been carried out, resulting in these recommendations.

The current alignment of the B9081 through the bend at Hillend on the approach to Mid Yell provides poor visibility for oncoming vehicles and little or no provision for pedestrians. As is common in such situations, it is the distinct lack of safety measures and perceived danger of the conditions that provide a modicum of safety to road users. That is to say that it is so dangerous that all take particular care, which is all well and good if all road users are equally aware of the situation. This is not ideal. The accompanying plan shows the current layout along with the 2 options for improvement.

2 Objective

- 2.1 The main aim of further works to improve conditions at this bend is to include pedestrian facilities whilst either providing enough road space for large vehicles to meet and pass safely with restricted visibility, or provide full forward visibility round the bend, or both.

Constraints of the current arrangement are in part due to the vicinity of a house, "Hildasay", and also topography. Limited improvements are

available only within these constraints. As a result of this, a previous idea to realign the road to the north of “Hildasay” has been revisited and a proposal now exists for this option.

3 Options

Two basic options are available for improving the bend, and one also includes an additional widening package for the remainder of the road from the bridge and on up the hill.

- 1a) Option 1a seeks to realign the road to the north of Hildasay, terminating at a mini roundabout to the east of the Hilltop bar. This would completely remove the risks faced by vehicular traffic and pedestrians on the current alignment, and create a speed reducing feature at the entrance to the village.
- 1b) Option 1b is as above, but includes additional widening to provide a 2-lane road all the way from the A968 junction to the village entrance. (instead of the current plan to widen only part of this road).
- 2 Option 2 relies on widening of the existing alignment on the outside of the bend at “Hildasay”, to create a full bend widening double width road plus footway.

Options	Est. Cost	Objectives Achieved	Works Summary
Option 1a Realignment to create new road entrance to village.	£200k	All objectives are achieved, including a speed reducing feature at village entrance.	Approx 250m of new road construction from cattle grid round the north side of Hildasay to rejoin main road somewhere to the east of the Hilltop bar.
Option 1b Realignment to create new road entrance to village. plus widening to full double width from bridge to village	£200k +£300k	All objectives are achieved, including a speed reducing feature at village entrance. road will cope with all future demands	Approx 250m of new road construction from cattle grid round the north side of Hildasay to rejoin main road somewhere to the east of the Hilltop bar. additional works to widen road on existing alignment from bridge to village
Option 2 Widen bend at Hildasay to provide width for large vehicles and pedestrian footway.	£100k	Achieves basic objectives but tight bend remains at entrance.	Road widening on outside of bend towards "Hildasay", to provide double width road and footway. Substantial retaining structure required and will be difficult to achieve a truly satisfactory result. Significant effect on garden of "Hildasay"

As outlined above, in addition to the proposed improvements, it would also now seem appropriate to consider extending the double width section previously approved, from the A968 junction to the bridge, and continuing double width all the way up the hill to the village entrance.

I believe there is now a case to include this section in conjunction with the realignment proposed in Option 1b. This is largely because of the ability to incorporate separate pedestrian facilities and significant speed reducing measures in the form of a tight radius curve on the approach to a mini roundabout on the new village approach road.

The additional works and cost estimates are shown in Option 1b

4 The Part 2 Appraisal

This is intended to examine the impact of the scheme with regard to the particular context of the Government's five main objectives, namely;

- Environment, where all environmental impacts are considered;

- Safety – these are accident and security benefits, which are assessed in terms of accident savings and qualitative changes respectively;
- The impact on the Economy, itself broken down into two parts:
 - Transport economic efficiency (TEE): this addresses the economic welfare impacts of the proposal, which are assessed in terms of what users are willing to pay in order to use it and the financial impact on private sector transport providers; the TEE assessment should also include any demand side impacts arising from land use or other impacts of the proposal
 - Economic activity and location impacts (EALIs): this addresses the need to include an assessment of any national, and where appropriate regional, subregional or local, employment/GDP impacts which may accompany improvements in TEE, together with any impacts associated with land use changes attributable to the proposal.
- Integration, which addresses the impact of the proposal against a three-fold definition of the objective;
- Accessibility and Social Inclusion, which addresses community and comparative accessibility, which are broken down into public transport network coverage, local accessibility, and the distribution of impacts by people group and location.
- Integration, which addresses the impact of the proposal against a three-fold definition of the objective;

4.1

Environment

There will be a minimal impact on the environment associated with either of the options since the new road will largely follow the existing alignment, other than the proposal to re-route the road at the entrance to the village round the other side of the dwelling Hildasay. There will however be environmental benefits derived from providing a two lane road up the hill in Option 1b, particularly from heavy vehicles who currently have to use passing places to wait for oncoming vehicles and lose existing momentum, although these will be difficult to quantify.

4.2

Safety

The current state of the road, particularly at the Hillend bend, has little or no pedestrian provision and presents a serious risk. A new engineered two-lane road will remove the current ambiguous nature of the ad hoc widening and clarify the position of the pedestrian, as well as providing suitable verges as a refuge. The proposed re-routing at the Hillend bend will provide a dedicated pedestrian route without the need to maintain a vehicular access on the current road.

4.3 Impact on the Economy

Economic impact of such schemes is limited, other than to potentially assist existing development, and partly encourage further development attracted by improved accessibility and marginally shorter journey times.

Impacts associated with delays to traffic during the works and reductions in fuel usage post construction are not usually thought to be of any significance in cases where the improvement is over a relatively short length with low traffic volumes, and are unlikely to be recoverable or beneficial over the design life of the road.

4.4

Accessibility

Improvements in accessibility as a result of this scheme include those which would be considered to be normally required through the demands of increasing vehicle size and weights over the past 30 years or so since the road last received any major upgrading. Current traffic numbers are shown in the appended tables. There would also be significant improvements to pedestrian access in the whole Hillend area.

4.5

Integration

This consists of three distinct elements;

- Transport Integration
- Transport Land-use Integration
- Policy Integration

Little if any effect either way from transport and land-use integration, since the scheme seeks only to improve the quality of the infrastructure and to serve existing and future levels of usage.

Policy considerations such as Local Transport Strategy, Local Plan and Structure Plan are all in support of this type of project improving on levels of service to existing centres of population. Traffic volumes on the B9081 are significantly higher than on the A968 through Yell, underlining the importance of Mid Yell to the island. It is increasingly likely that a completely new Junior High School will be built in Mid Yell in the near future and this type of improvement to the existing road infrastructure will be of a considerable benefit to such projects by encouraging future development within the settlement.

Consultation with the local Community Council has highlighted the need for pedestrian provision on part of this road, and encouraged the pro-active approach to considering the benefits from re-routing the road at the entrance to the village. Discussions with the community council and key stakeholders will continue throughout the lifespan of this project to ensure that the best possible solution is delivered, considering all areas of interest and including the ultimate aspirations of the community.

5 Summary

The recommendation is to accept Option 1b, which although considerably more expensive than the other two, incorporates additional improvements which complete the overall aims and objectives.

Agenda Item No. 03 - Public Report

All impacts, both positive and negative are slight and will generally converge on a neutral impact by the design year, although there will be a continuous positive economic impact due to journey timesavings over and beyond the design life. Whilst the existing situation would appear to be more or less coping with traffic demand, it is approaching a desirable user-friendly capacity. This stretch of road currently carries the heaviest volume of traffic in Yell and as such could reasonably be expected to be considered for an upgrade to two lanes.

This improvement will combine safety improvements with economic benefits and have a limited and reducing environmental impact. Resting comfortably within existing policy, this proposal must surely rank well amongst existing similar road improvement schemes.



REPORT

To: Infrastructure Committee

29 November 2005

**From: Acting Head of Transport
Infrastructure Services Department**

RESPONSE TO TRANSPORT STRATEGY GUIDANCE

1 Introduction

- 1.1 On 04 November 2005 the Scottish Executive published draft guidance on Regional Transport Strategies setting out guidance in relation to the Transport (Scotland) Act 2005 which places a statutory duty for the creation of Regional Transport Partnerships (RTPs). The RTPs will have the responsibility for drawing up the Regional Transport Strategies and will be required to have regard to the finalized guidance issued by the Scottish Ministers. Copies of the Guidance document have been placed in the Members Room. A copy can also be accessed from the Scottish Executives Web site. (<http://www.scotland.gov.uk/Publications/2005/11/02112617/26177>)
- 1.2 The Guidance document outlines the Inputs, Process and Implementation requirements for a Regional Transport Strategy.
- 1.3 The guidance also identifies Shetland as a single authority Regional Transport Partnership.

2 Link to Council Priorities

2.1 This report meets the objectives of the corporate plan by contributing to the aim of sustainability and easy to use systems for transporting freight and people.

3 Response

- 3.1 A ~~proposed copy of the~~ Council response is ~~shown in attached as~~ Appendix A. This has been compiled in consultation with NHS Shetland and Shetland Enterprise. These bodies being the other partners likely to be represented in the Shetland Regional Transport Partnership.
- 3.2 Details of how the partnership is constituted, membership and powers will be the subject of a report, which will go to the Council on the 14 December 2005.

4 Financial Implications

- 4.1 There are no financial implications for the Council in responding to the consultation document.

5 Policy and Delegated Authority

- 5.1 The Infrastructure Committee has full delegated authority for transport matters for which the overall objectives and budget have been approved by the Council (Min Ref SIC 19/03 and 70/03).

6 Recommendation

- 6.1 I recommend that the Committee agree to:

- (a) approve the response ~~as~~ attached in Appendix A, with or without amendment.

Report Number : TR-33-05-F

RESPONSE FROM SHETLAND ISLANDS COUNCIL TO THE REGIONAL
TRANSPORT STRATEGY DRAFT GUIDANCE
NOVEMBER 2005

Shetland Islands Council welcome the guidance and the opportunity to work with its partners in the development and implementation of a Regional Transport Strategy for Shetland.

In particular:

- It is encouraged that transport is viewed as a community resources rather than a commercial venture.
- That the emphasis is on including its Community planning partners
- The health board involvement is necessary as set out in paragraph 90 and others as it considers transport to be a vital component in health service provision.
- It recognises the importance of an integrated approach to land use, economic development, social justice, transport and the environment.

Shetland Island Council subscribes enthusiastically to Scotland's Transport Future – Vision and objectives (Annex D of the guidance document) and will seek to use this to inform the Shetland RTP vision and objectives.

Given its geographical constraints external and internal transport links are regarded as lifeline services and are therefore of vital importance. They must take account of changing local and national priorities and the Council welcomes the opportunity to undertake with its partners and the wider community a review of these matters. As is common in a predominately rural area transport costs are high. The development of a Regional Transport Strategy for Shetland will seek to address the above issues within the framework set out in the guidance and by applying the STAG methodology to deliver an inclusive and integrated strategy for the Shetland community.

The Council is pleased that the legislation enables RTPs to evolve their functions but has some concerns over the expectation the guidance places on single authority RTPs to exercise these powers “in the early years”. The Council would want the form of the RTP to be applied in Shetland to be developed over a period of time which would be sensitive to local circumstances and be of genuine assistance in achieving mutually agreed transport objectives.

It is recognised in the guidance that the functions conferred or transferred must clearly flow from the regional transport strategy, which should be the subject of consultation with

interested parties prior to agreement and submission to the Executive. This should be completed before a draft order is placed before parliament.

It would therefore be the intention that the Shetland Regional Transport Partnership should consider the use of its powers and the transfer of functions as the strategy develops and that the transfer of powers and implementation ~~implantation~~ of a model 3 partnership should not take place until completion of the Regional Transport Strategy. |



REPORT

To: Infrastructure Committee

29 November 2005

From: Service Manager – Transport Operations
Infrastructure Services Department

NATIONAL CONCESSIONARY TRAVEL SCHEME

Introduction

The purpose of this report is to update Members on progress to implement the above scheme on 1 April 2006 and approve the Council's response to the Consultation Paper on the Scotland-Wide Free Bus Scheme for Older and Disabled People.

Copies of the Consultation Paper were placed in the Members Room on 31 October 2005.

Link to Council Priorities

- 2.1 This report meets the objectives of the Corporate Plan by contributing to the aim of sustainability and easy to use transport systems.

Discussion

3.1 Key Points of the Scheme are as follows;

- The Scheme will begin on 1 April 2006.
- Older and Disabled People will be able to travel free by bus anywhere in Scotland on local bus services and on long distance scheduled coaches throughout the day.
- Older people are defined as people aged 60 and over. The definition of disability relates to physical or mental impairment which severely affects a person's mobility and therefore their ability to carry out day to day activities. In circumstances where greater assistance is required to travel, the entitlement will include a companion.
- The scheme will be run by Transport Scotland, the new executive agency which is being set up and which will be directly accountable to Scottish Ministers.
- The bus scheme will cost a maximum of £159 million in 2006-2007 and £163 million in 2007-2008.

Agenda Item No. 05 - Public Report

- Bus Operators will be paid at the rate of 73.6% of the average adult single fare to ensure that they are no better and no worse off through taking part than they would if there were no scheme.
- The Scheme will be an application on the new Entitlement Card, which is intended over time to allow members of the public to access an increasing number of public services through a single card. The card will have an electronic capability which will help to prevent fraud.
- Older and Disabled islanders will also be entitled to a minimum of two free return ferry trips to the mainland.

3.2 Work is well advanced to ensure Shetland residents who are eligible for the new National Scheme will be in receipt of their Entitlement Card by 1 April 2006.

3.3 On 18 October 2005 a letter and national Scheme application form was sent out to all residents currently holding a Council Travel Pass. To date over 1000 forms have been returned. In addition a number of people who are eligible, but have never held a local travel pass have now applied for the local scheme, and application forms for the National Scheme will be sent to them in time for the start date.

3.4 The consultation period ends on the 5 December 2005. The consultation paper invites answers to specific questions or the response can be a more general view on the proposals.

4 Proposal

4.1 I propose that Members consider the draft response as attached as Appendix 1 and confirm or amend as they see fit.

5 Financial Implications

5.1 There are no financial implications associated with the report. Costs for the National Concessionary Travel Scheme will be met by Transport Scotland.

6 Policy and Delegated Authority

6.1 The Infrastructure Committee has full delegated authority to act on all matters for which the overall objectives have been approved by Council, in addition to appropriate budget provision. (SIC Min Ref 19/03 and 70/03)

7 Recommendation

7.1 I recommend that the Infrastructure Committee note that satisfactory progress is ongoing with regard to local arrangements to ensure implementation of the scheme on 1 April 2006 and approve the proposal as set out in Section 4 of this report.

Report Number: TR-31-05-F
Our Ref: IB/SMG

Appendix 1

Executive Director: Graham Spall

DRAFT LETTER TO:

David Lee-Kong
Concessionary Travel Implementation Project
Scottish Executive
2E D/S
Victoria Quay
Edinburgh
EH6 6QQ

Our Ref: IB/SMG/T/F
Your Ref:

Transport
Infrastructure Services Department
Grantfield
Lerwick
Shetland
ZE1 0NT

Telephone: 01595 744866
Fax: 01595 744869
Infrastructure@sic.shetland.gov.uk
www.shetland.gov.uk

If calling please ask for
Ian Bruce
Direct Dial: 01595 744872

Date: 07 November 2005

Dear Sirs

Consultation on the Scotland-Wide Free Bus Scheme for Older and Disabled People

This letter contains Shetland Islands Council's response to this national consultation document. The Council welcomes the opportunity to comment particularly to highlight the particular needs and concerns of this community.

The Council's comments are broadly linked to the questions set out in the consultation document.

Q1. *Do you have any comments on the scheme as describe above and as set out in the draft Order on the scheme.*

The Council generally endorses the proposals set out in the draft Order, however, there are concerns re the "centralisation" of scheme management with regard to operator payments.

Q2. *Do you have any comments on the categories of people who will be eligible to use the scheme as described above and as set out in the draft Order on eligibility.*

The Council notes that all local scheme card holders eligible for the disabled concession will obtain a pass and people whose card expires after April 2006 will be re-assessed according to the rules of the new scheme when their card expires.

Q3. *Do you have any comments on self assessment or assessment of impairment more generally to access the national scheme.*

The Council notes that guidance will be issued to those responsible for validating applications.

Q4. *Do you have any comments on the bus and coach services which will be included in the scheme as described above and as set out in the draft Order on eligibility.*

The Council has no comments on the eligible bus services which are to be included in the scheme, other than noting the scheme includes cross border services to Berwick and Carlisle.

Q5. *Do you have any comments on the proposals to implement the commitment to give older and disabled islanders an entitlement to a minimum of two free return ferry trips to the mainland.*

The Council endorses the commitment to give eligible residents the above concession. The Council further insists that the entitlement includes a berth on the overnight crossing to and return from Aberdeen.

The Council would wish to propose an amendment to the entitlement for disabled persons who because of the severity or nature of their disability can not easily endure an overnight ferry crossing to the mainland.

The Council would wish to see this entitlement available for air travel to Aberdeen in these circumstances enabling a journey time of 1 hour against 12 to 14 hours on the ferry.

The Council hopes the Executive will give serious consideration to their proposed amendment.

Yours faithfully

Service Manager – Transport Operations

PROVISION OF FERRY SERVICE BETWEEN SHETLAND MAINLAND AND FOULA

OUTLINE SPECIFICATION

GENERAL INFORMATION

The maintenance of a scheduled ferry service between Shetland Mainland and Foula is essential to counter the island's peripherality, fragile economic base and continuing depopulation.

The Service Operator will utilise m.v. New Advance bare boat chartered from the Shetland Islands Council to meet the operational requirements as set out below. The vessel shall not be used in connection with any other purpose without prior written authorisation from Shetland Islands Council.

OPERATIONAL REQUIREMENTS

The Service Operator will be required to offer a minimum service between Foula and Shetland Mainland of,

One return trip on three days a week (summer service) and one return trip on two days a week (winter service) weather permitting. Note – All services to operate on a Bookings Only basis.

The service will be expected to meet an operating performance standard target of 95%, (excluding those services cancelled for safety reasons).

Community Hires and Charters will be arranged subject to appropriate notice and crew availability.

Service to be operated by m.v. New Advance based in Foula.

Crews to report for duty at Foula (i.e. live on Foula during periods of duty).

SAFETY REGULATIONS

The vessel (m.v. New Advance) used in the provision of the Service and its operation must comply with all appropriate MCA, Lloyd's and HSE legislation and other applicable regulations.

m.v. New Advance must be retained in class with Lloyd's.

Maintenance of vessel and shore facilities to be provided by the Service Operator in accordance with Shetland Islands Council specified schedules. Relevant documentation must be submitted to Shetland Islands Council as necessary.

CREW

The Service Operator will employ the existing crew at the point of transfer. TUPE regulations will be applicable.

The Service Operator will ensure pension fund for crew is in place prior to transfer of service.

All crew used in the operation of the Service must be fully trained and qualified and should have the appropriate level of experience in the environment and weather conditions to be encountered.

FORM OF CONTRACT

In respect of the fares the Service Operator may charge on the service, they shall charge the current ferry tariffs as set by Shetland Islands Council.

The Service Operator shall ensure that all aspects of the operation are fully covered by insurance with a reputable insurer or insurers which are to the satisfaction of the Council. The insurance policy or policies shall cover any contingent liability of the Council and provide Public Liability insurance in a sum of not less than £5 million. The Service Operator shall provide to the Council for inspection such policy or policies together with evidence of payment of premiums and shall notify the Council of any change proposed to the insurance policy or the cover to be provided thereunder for the Council's approval before any change is implemented.

The Service Operator shall provide to Shetland Islands Council monthly financial and operational reports to be received by the 15th of the following month.

CONTRACT

The Service Operator will be bound by the Conditions of Contract attached.

PERIOD OF SUPPLY AND COMMENCEMENT

The agreement will operate from 2005 to 2006 inclusive.

This Specification is: -

Dated this day of 2005

and signed by

as a duly authorised agent for and on behalf of:-

Company Name

.....

Company Address

.....

.....

.....

.....

Appendix 2

COMMENTS ON FERRY SERVICE SPECIFICATION CHANGES REQUESTED BY FOULA COMMUNITY

General Information

An amendment was sought to delete the words "and continuing depopulation" from the opening paragraph. This sentence is included to support the case for subsidising the ferry service and is in line with the air services PSO. It needs to stay in to show consistency.

A change was sought to allow the use of the vessel in emergency circumstances. I do not think that this is anything to do with the specification and it should not be included. However, these arrangements can be agreed between the Council and the operator so that the vessel is available for emergency evacuations and to respond to a call by the coastguard. I would see this as a separate letter of authorisation.

Operational Requirements

The Council specification is designed to allow flexibility regarding sailing times and days. The community response seeks a specific arrangement setting out the sailing days and adding that if the ferry fails to sail on the scheduled days it should cross on the next day weather allows, provided there is cargo or passengers booked.

I do not think that there is anything between us in terms of what the specification is trying to achieve and this point could be further refined. However, I would prefer to specify the minimum number of crossings and invite bidders to propose a suitable timetable, with no less sailings than currently scheduled. It is possible that an innovative operator might provide an enhanced service for a lower price and we should at least allow for such proposals to receive consideration.

There is a request that the vessel must leave from Foula and return the same day (weather permitting). I am advised that this is designed to prevent the operator from taking the boat out to the mainland and leaving it there until the next day he intends to cross. This would not, however, be possible as the specification requires the vessel to be based in Foula with crews reporting for duty there.

There is a community desire to specify the refit month to be May or June. I have no difficulty with these being the refit months but would intend to include this as part of the maintenance arrangements rather than the specification.

Safety Regulations

The community proposed that the specification should include a requirement for maintenance to be done in Foula, where possible. I would not recommend including this. Maintenance will have to be done in accordance with the maintenance schedule and it will need to be done in the most cost effective way.

Infrastructure Committee - Tuesday 29 November 2005

Agenda Item No. 06 - Public Appendix

That means that there must be flexibility for the vessel to go to the mainland for maintenance if the task to be done can be performed better there.

Appendix 3

Executive Director: Graham Spall

Mr J Gear
Community Councillor
Magdala
Foula
Shetland

Infrastructure Services Department
Grantfield
Lerwick
Shetland
ZE1 0NT

Telephone: 01595 744800
Fax: 01595 695887
Infrastructure@sic.shetland.gov.uk
www.shetland.gov.uk

If calling please ask for
Graham Spall
Direct Dial: 01595 744851

Our Ref: GS/MEC/Cp

Date: 13 September 2005

Dear Jim

Foula Ferry Service

I refer to our discussion on 30 August and I write to respond to the issues you raised with Graham Johnston in June. I apologise for the delay in getting back to you but, as I explained when we met, I have had to give priority to pressures from other quarters in the last few weeks.

I must first caveat this letter by advising you that you should seek your own independent legal and financial advice but I am happy to share the views I have garnered from Council officials on the points you raised.

Financial Vetting

You asked for details of the financial vetting information which will be required from the Foula Co-operative.

The Foula Co-operative would be required to achieve a registration on the Financial Assessment register, by virtue of completing the attached form and providing audited accounts for the last three years. If this does not provide sufficient information regarding the financial status of the organisation further financial information may be requested.

FSA- Financial Year End

You were seeking advice regarding the need for FSA permission to change the Foula Co-operative financial year.

The FSA regulates banks, insurance companies and Industrial and Provident Societies . If the Foula Co-operative falls into the latter category there will be a need to get consent to change the year end. I am given to understand that this is not without its difficulties but it can be done. I am also advised that if the year end does not tie up with the Council's there are costs associated with the Pension Fund and this is explained below. However, these

costs apart, I am sure that if the year end could not be changed appropriate accounting and reporting arrangements could be agreed to deal with the dates being different.

If the Foula Co-operative is not an Industrial and Provident Society, there is no requirement to seek FSA permission to change the year end. If the body is a charity there might be a need to inform the Office of the Scottish Charity Regulator and if it is incorporated (so a company) a form from Companies House will need to be completed

TUPE

You asked about the application of TUPE regulations and what the position would be at the end of the first one year contract.

As you will be aware the question of whether TUPE applies at all or on a second transfer has been the subject of a considerable body of case law both in the UK and throughout Europe. Our legal advisers have given careful consideration to TUPE in relation to the Foula service and have concluded that, taking into account the full range of factors, viz:

- whether or not the business's tangible assets, such as buildings and moveable property, are transferred,
- the value of its intangible assets (e.g. goodwill) at the time of the transfer,
- whether or not a majority of its employees are taken over by the new employer,
- whether or not its customers are transferred, and
- the degree of similarity between the activities carried on before and after the transfer and the period, if any, for which those activities were suspended,

TUPE should apply to protect the crew and preserve their terms of employment, including redundancy rights.

In addition, earlier this year the DTI published for consultation draft new TUPE regulations. The effect of the new regulations, should they come into force, would be that if the service were to be awarded to another party or taken back in house at the end of the first contract period, it is likely that TUPE should again apply to protect the crew and preserve their terms of employment, including redundancy rights. It is expected that there will be further legislation from the Government in this area later this year which will confirm this position and remove the uncertainties which past case law has thrown up.

Pension Fund - Admitted Body

You asked about the process for securing continuity of pensions for the existing crew through the Council's Pension Fund.

In order for the Foula Co-operative to become an Admitted Body of the Local Government Pension Scheme, the Council will have to be provided with a copy of the formal Trust Deed, or if the Cooperative is being set up as a company, a copy of the Memorandum and Articles of Association. There will be a legal check against the pension legislation to ensure that the Foula Co-operative meets the requirements to become an Admitted Body and this will be possible as long as the Co-operative is a body which provides a public service in the United Kingdom otherwise than for the purposes of gain. After legal confirmation has been received that the Co-operative is eligible, a report would be submitted to the Council to get approval for the body to become an Admitted Body.

Infrastructure Committee - Tuesday 29 November 2005

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If the Foula Co-operative has a different financial year end to that of the Council the cost of any financial reporting, for example compiling the annual FRS17 Report, will be much more expensive as it will not be done at the same time as the Council. Currently the actuarial charge for admitted bodies with a 31 March Year End is approximately £570 but Admitted Bodies with alternative year ends are approximately £3,500. There is also a requirement for a named Guarantor/Bond to be confirmed/put in place in order to safeguard the Pension Fund should the company fold. It should also be noted that if the operation of the service passed to another contractor at the end of the first one year contract, the admission agreement would have to terminate and a Winding Up Order be put in place, which can be expensive.

I hope the the above information is sufficient for your needs but please let me know if you require any further clarification. However, I would say again that you should seek your own independent legal and financial advice in order to properly satisfy yourself on these issues.

As I told you when we met, I had intended to put a report to the Infrastructure Committee in August but was unable to do so. I would now hope to report to the meeting in October and I will get in touch with you soon regarding what I propose to recommend in the specification for the service.

Yours sincerely

Executive Director - Infrastructure Services

Enc.



REPORT

To: Infrastructure Committee

29 November 2005

From: Executive Director - Infrastructure Services

PROVISION OF THE FOULA FERRY SERVICE

1 Introduction

- 1.1 On 07 October 2004 the Inter Island Ferries Board considered a report by the Ferry Services Manager regarding the contractual, legal and financial implications of transferring the operation of the Foula ferry service to the Foula residents.
- 1.2 The Board, and subsequently the Council, agreed to engage in dialogue with the Foula residents regarding the possibility of transferring the service and, since that decision was made, consultation and investigation into this proposal has been going on under my direction.
- 1.3 This report sets out the current position and seeks a decision on whether or not the service should be tendered.

2 Links to Council Priorities

2.1 This report meets the objectives of the Corporate Plan by contributing to the aim of sustainability and easy to use systems for transporting people and freight.

3 Background

- 3.1 It is Council policy that the ferry operating the Foula service be based in Foula. This has, however, led to difficulties in maintaining sufficient suitably qualified and competent staff to run the service. The Inter Islands Ferries Board, having first consulted with the Foula residents, reached the view that the option of transferring the service to the Foula residents be investigated because of these continuing difficulties.
- 3.2 Having taken the decision, the Board passed the matter to me on the basis that the service arrangements should be put in place under the auspices of the Infrastructure Committee, in common with the arrangement for other transport services.

Agenda Item No. 06 - Public Report

- 3.3 A number of meetings have been held with the community in Foula to discuss the proposal and to consult on the specification for the service. The discussions have also dealt with the method for procuring the service and the community accept that a formal procurement exercise is required.

4 Current Position

- 4.1 A proposed outline specification for the service has been produced as a result of consultation and this is attached as Appendix 1. The specification is largely agreed by the community but there are some points which the community made regarding the specification which have not been included. These points, and the reasons for not including them, are set out in Appendix 2.
- 4.2 Detailed advice has been sought on the method for procuring the service and this has been shared with the Foula residents. The steps involved in the procurement process area as follows :
- the Council must place an advertisement in the press;
 - the tender documents on which the contract will ultimately have to be based have to be prepared;
 - SIC would expect to receive expressions of interest from parties;
 - SIC requires to assess the interested parties technically and financially;
 - the Council will invite all or some of the interested parties to submit a tender;
 - upon the return of the tender, these will be assessed and the tender which is the "most economically advantageous" to the Council is likely to be accepted.
 - the contract will be concluded by the exchange of letters between the Council and the successful tenderer, who will then be expected to start running the service in accordance with the contract.
- 4.3 The Foula residents propose to use the Foula Co-operative as the vehicle for contracting to provide the service and a separate dialogue has been ongoing to clarify issues of concern to the Co-operative. A letter setting out the advice received regarding the key matters raised by the Co-operative is attached for information as Appendix 3.

5 Proposals

- 5.1 A decision is now required on whether or not to proceed with a tendering exercise. This would involve the Acting Head of Transport taking on the client role and managing the procurement of the service.
- 5.2 Approval is also required for the outline specification for the service (Appendix 1).
- 5.3 The assets relating to the Foula service, namely the vessel and the shoreside facilities in Foula, would transfer, along with the current budgets, to the Transport Service. These assets would be leased to the successful bidder under appropriate marine charter arrangements.

6 Financial Implications

6.1 The current method of using agency masters to run the Foula service costs the Council some £50,000 per annum more than directly employed crew.

- 6.2 By tendering the service and testing the market it is intended that the costs will be reduced to less than the budget figure of £610,000.
- 6.3 Currently some £191,000 of recharges falls against the Foula Ferry Service, reflecting the costs of management, engineering, stores, etc. Some of these costs might be saved but much of the overhead will remain to be redistributed across the ferry service through the recharge mechanism. The benefit in this respect will be in the form of resources deployed elsewhere in the service, rather than cash savings.

7 Policy and Delegated Authority

- 7.1 The Infrastructure Committee has full delegated authority for transport matters for which the overall objectives and budget have been approved by the Council (Min Ref SIC 19/03 and 70/03).
- 7.2 This report proposes a change in the method for delivering the Foula ferry service and a Council decision is therefore required.

8 Conclusions

- 8.1 The Council agreed to investigate the option of delivering the Foula ferry service in a different way.
- 8.2 An investigation of the possibility of tendering the service has been carried out and this has been the subject of consultation with the Foula community.
- 8.3 The community favours the option of tendering the service, in the belief that the Foula Co-operative will be able to submit a competitive bid to run the service.
- 8.4 An outline specification for the service and details of the tendering process to be followed have also been discussed with the Foula community. The specification has been largely agreed but there are some points of difference and these are described in Appendix 2.
- 8.5 It is proposed that the assets and budgets relating to the Foula ferry service be transferred from the Ferry Service to the Transport Service and that the service be subjected to competitive tender on the basis of the outline specification attached as Appendix 1.
- 8.6 All matters relating to the tender exercise, including arrangements for the appropriate maintenance of the assets, should be delegated to the Executive Director - Infrastructure Services, or his nominee. In this case, most of the work relating to the tendering arrangements will be carried out by the Acting Head of Transport, assisted by the Service Manager – Transport Operations, in

accordance with the Council's Standing Orders Relating to Tenders and Contracts.

9 Recommendation

9.1 I recommend that the Infrastructure Committee recommend to the Council that :

- (a) the outline specification attached as Appendix 1 be agreed;
- (b) the assets and budgets relating to the provision of the Foula ferry service be transferred from the Ferry Service to the Transport Service;
- (c) the Foula ferry service be tendered on the basis of the outline specification, along with appropriate arrangements for the ongoing maintenance of the assets;
- (d) all matters relating to the tendering exercise and maintenance arrangements be delegated to the Executive Director - Infrastructure Services, or his nominee.

Report Number : IFSD-11-05-F1



REPORT

To: Infrastructure Committee

29 November 2005

**From: Head of Environmental Services
Infrastructure Services Department**

PROVISION OF NEW TOILETS FOR THE ESPLANADE, LERWICK – PROGRESS REPORT

1 Introduction

1.1 In February 2003 (Min Ref 5/03) approval was granted to carry out a feasibility study on the various options to address the poor state of repair of The Esplanade public toilets. In December 2003 the feasibility study was presented [to Infrastructure Committee](#) and the recommendation approved to proceed with Option 6 - the redevelopment of Harbour House (Min Ref 39/03) in partnership with the Lerwick Port Authority (LPA).

1.2 At this time delegated authority was given to the Executive Director - Infrastructure Services (or his nominee) to negotiate with LPA for and to conclude a lease based on a suitable rental and/or payment of a capital sum for the facilities - the capital cost of which should not exceed £270,000 (Min Ref 39/03).

1.3 This report provides a progress update on the redevelopment of Harbour House, namely the impact of the recently completed cost review and asks the Committee to decide on the way forward.

2 Links to Council Priorities

2.1 The provision of public toilet facilities delivers the Corporate Plan priority of benefiting people and communities.

3 Progress on Harbour House Redevelopment

3.1 Project progress to date on Harbour House has included:

- Brief agreed for joint redevelopment of Harbour House with the LPA.
- Architectural competition and appointment of architectural team for project preliminary design

- Detailed pre-consultations with SIC's Planning Service and Historic Scotland and subsequent re-design
- Cost review – probable costs

3.2 The cost review suggests that the capital contribution required for the SIC element of the Harbour House redevelopment is £422,297 (works, fees & contingencies at 2005 prices) which exceeds the upper limit of the approved budget of £270,000 (at 2003 prices).

3.3 The suggested reasons for this increase are as follows:

- Requirement to provide a new building that presents a viable case for the demolition of a listed building
- Under-estimated initial costs (see Section 5)
- Uncertain tendering climate and recent experience on construction projects in the Lerwick area
- Inclusion of demolition costs of the existing Harbour House building
- Ground conditions in the vicinity of the existing building.

4 Revisiting the Options

4.1 In response to the cost review above, the previous options from the 2003 feasibility study were revisited and developed to enable meaningful comparison. Table 1 attached provides an overview.

4.2 Each option could provide the core toilet facilities, shower and attendant controlled ~~access~~ and be heated and ventilated. Only the Harbour House option could provide a bus waiting and left luggage facility due to the size and layout of the sites.

4.3 Cost estimates allow for fees, works costs, contingencies and temporary facilities during the works where appropriate.

4.4 An updated summary of the relevant options is provided as follows.

4.4.1 Refurbish Existing Toilets

Probable Cost: £270,000+

The existing Esplanade ~~toilets~~ Toilets would require extensive refurbishment to address their current state of repair and the alterations required to make them fully accessible in order to meet the requirements of the Disability Discrimination Act 1995. Temporary toilets would need to be provided during the period of refurbishment. The refurbished building would also have to be accessed only from the rear via a ramp; this may not be desirable. The constraints of the site would not allow a bus waiting room to be provided. There is risk due to unknown conditions within the building that can only be determined during the progress of the works.

In order to provide full access a ramp would have to be constructed to the rear of the building. SIC is only in ownership of the current building footprint and discussions with LPA indicate that the siting of the ramp could well be in conflict with their intended plans for the area and may result in this not being achievable. Temporary land requirements, to allow a working area and the siting of temporary toilets during the works, could potentially be managed.

4.4.2 Build a New Facility on the Site of the Existing Toilets

2. Probable Cost: £308,000

The option to demolish the existing Esplanade Toilets and rebuild from scratch on the site has also been explored. This would provide a more logical layout, accessed from the footway and would not require permanent additional land. It would also present an opportunity to provide an improved building that fits in better with its surroundings. There is some risk associated with the unknown foundation and slab that can only be ascertained on demolition.

As with the refurbishment option above, the constraints of the site would not allow a bus waiting room to be provided.

Discussions with the LPA suggest that the temporary land requirements, to allow a working area and the siting of temporary toilets during the works, could potentially be managed.

4.4.3 Provide a New Facility as Part of the Redevelopment of Harbour House

Probable Cost: £422,000 (£379,000 if bus waiting room omitted)

The Harbour House Redevelopment would create a facility on the same side of the road as Commercial Street and allow for the inclusion of a bus waiting room. It would also facilitate the demolition of the existing toilets building and allow the views across The Esplanade site to be opened up.

The progression of the development depends upon achieving consent to demolish the existing Harbour House building which is listed; there is no guarantee that this permission will be granted by Historic Scotland. If this were maintained as a preferred option, another option would have to be kept in reserve if the consent to demolish was subsequently refused. The LPA portion of the building is also outwith SIC control and is dependant on the LPA funding the remainder of the building.

Excluding the bus waiting room from the development could provide a potential cost saving of £43,000.

Temporary toilet facilities would not be required during the project as the Esplanade toilets would remain in service until completion.

The Harbour House site is in the ownership of the LPA and no additional land is required.

This option has been progressed in partnership with the LPA and who have been consulted on the contents of this report.

5 Robustness of Costings

- 5.1 A works cost comparison exercise was conducted to test whether the estimates were in line with industry (Shetland and Mainland) norms for this type of building. It suggested that the estimates for the potential proposals were in line with industry norms.

6 Capital Programme Management Team Recommendations

- 6.1 The Capital Programme Management Team (CPMT) considered the provision of new or upgraded toilet facilities on The Esplanade, either at Harbour House (in partnership with the Lerwick Port Authority) or at the existing site, at its meeting on 19 September 2005. It concluded that it should recommend the refurbishment of the existing facilities.
- 6.2 However, since that meeting further information has been obtained on this option and a number of additional risks have been identified as stated in paragraph 4.4.1 above and the last column of Table 1 below, in particular the condition of the existing structure / floor slab which cannot be determined until some destructive investigation takes place on the building.

7 Financial Implications

- 7.1 Probable cost estimates suggest that the refurbishment of the existing Esplanade ~~toilets~~ Toilets may be in line the £270,000 budget previously approved for the redevelopment of Harbour House.
- 7.2 Probable cost estimates suggest that the demolition and new build on the site of the existing toilets to be £308,000. This would require £38,000 over the existing £270,000 budget.
- 7.3 Probable cost estimates suggest that the SIC element of the Harbour House Redevelopment to be £422,000. This would require £152,000 over the existing £270,000 budget (or £109,000 if the bus waiting room was omitted).

8 Policy and Delegated Authority

- 8.1 The Infrastructure Committee has delegated authority to implement decisions relating to matters within its remit, (SIC Minute References 19/03 and 70/03) for which overall objectives have been approved by Council, in addition to appropriate budget provision.

- 8.2 However, matters relating to the Capital Programme stand addressed to the Council (Minute Reference 122/03).

9 Conclusion

- 9.1 The probable cost to redevelop Harbour House exceeds that previously approved and a decision is now sought on whether to continue with this option or change to another option.

10 Recommendations

- 10.1 I recommend that the Infrastructure Committee considers the revised feasibility options and decides which of the following options to recommend to the Council, either :

10.1.1 Refurbish the existing Esplanade ~~I~~toilets; or |

10.1.2 Build a new facility on the site of the existing toilets; or

10.1.3 Provide a new facility as part of the redevelopment of Harbour House and give delegated authority to the Executive Director - Infrastructure Services (or his nominee), in consultation with the ~~A~~asset and Property Services Manager, to negotiate with the Lerwick Port Authority for and to conclude a lease based on a suitable rental and/or payment of a capital sum for the facilities. The capital cost of these facilities will not exceed £422,000.

Report Number : ES-24-05-F

Infrastructure Committee - Tuesday 29 November 2005

OPTION	SPACE PROVIDED (Internal, m ²)	CAPITAL COST £1000s	SERVICE PROVIDED	LAND REQ	PLANNING ASPECTS	Estimated TIMESCALE for completion	SERVICE PROVISION DURING CONSTRUCTION	RISK
Refurbish existing Esplanade Toilets.	83	270+ land purchase costs	<ul style="list-style-type: none"> Rear entrance - compromised layout to accommodate access requirements Controlled access Toilet & shower facility No bus waiting room 	<p>Permanent: Yes: would need to acquire land for rear ramp access – may not be compatible with LPA plans</p> <p>Temporary: Working space/space for temp. facility during refurb.</p>	<p>Improved appearance via pitched roof/re-rendering</p> <p>Still blocks visual connection between town and harbour</p>	2 years	Provide temporary facility during works.	<ul style="list-style-type: none"> Constrained site Tender pressures/cost Land requirement may not be possible 'Unknowns' associated with refurbishment
Rebuild on Esplanade site.	79	308	<ul style="list-style-type: none"> Front access, level with footway Toilet & shower facility Controlled access No bus waiting room 	<p>Permanent: NONE</p> <p>Temporary: Working space/space for temp. facility during refurb.</p>	<p><i>Improved building more in keeping with area.</i></p> <p>Still blocks visual connection between town and harbour</p>	2 years	Provide temporary facility during works.	<ul style="list-style-type: none"> Planning/Conservation Approvals Unknown existing floor slab Constrained site Tender pressures/cost
Redevelop Harbour House	118	422 (379* if bus waiting room omitted)	<ul style="list-style-type: none"> Toilet & shower facility Controlled access Bus waiting & left luggage room * Convenient for users and reduced street crossings 	LPA own Harbour House & Site. Partnership project with LPA.	<p>Use & viable future for prominent site.</p> <p>Removal of existing toilets is a major benefit opening up views to harbour.</p> <p>Rural Shopper bus services rerouted to drop off/pick up on street side of Esplanade</p>	2 ½ + years	Current Esplanade toilets remain until after completion.	<ul style="list-style-type: none"> Approvals to demolish listed building Tender pressures/cost Uncertain timescales Joint project – subject to LPA approval



Shetland Islands Council

REPORT

To: Infrastructure Committee

29 November 2005

From: Service Manager Environmental Health
Environmental Services
Infrastructure Services Department

LEGISLATION FOR SMOKE FREE PUBLIC PLACES

1 Introduction

~~1.1~~ On 26th March 2006, at 6am, sections 1 to 10 and Schedule 1 of the Smoking, Health and Social Care (Scotland) Act 2005 will come into force. These provisions of the Act will prohibit smoking in certain wholly or substantially enclosed public places. This report informs the Infrastructure Committee of the requirements of the new legislation and seeks approval for the arrangements proposed to implement and enforce the Regulations.

2 Link to Council Priorities

~~2.1~~ The effective delivery of the licensing function ensures delivery of a key Corporate Plan objective: Health Improvement.

3 Background

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- 3.1 The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 (which are in draft form and are yet to be formally approved by Parliament) set out the details of which premises will be prescribed as no smoking, the exemptions from the regulations, requirements for signage and the fixed penalties which will be applied where the regulations are breached.
- 3.2 The draft Regulations state that premises which are wholly or substantially enclosed will be no smoking if they are:
 - 3.2.1 Restaurants;
 - 3.2.2 Bars and Public Houses;
 - 3.2.3 Shops and Shopping Centres;
 - 3.2.4 Hotels;
 - 3.2.5 Libraries, archives, museums and galleries;
 - 3.2.6 Cinemas, concert halls, theatres, bingo halls, gaming and amusement arcades; casinos; dance halls, discotheques and other premises used for the entertainment of members of the public;
 - 3.2.7 Premises used as a broadcasting studio or film studio or for the recording of a performance with a view to its use in a programme service or in a film intended for public exhibition;
 - 3.2.8 Halls and any other premises used for the assembly of members of the public for social or recreational purposes;
 - 3.2.9 Conference centres, public halls and exhibition halls;
 - 3.2.10 Public toilets;
 - 3.2.11 Club premises;
 - 3.2.12 Offices, factories and other premises that are non-domestic premises in which one or more people work;
 - 3.2.13 Offshore Installations;
 - 3.2.14 Educational institution premises;
 - 3.2.15 Premises providing care home services, sheltered housing or secure accommodation services and premises that are non-domestic premises which provide offender accommodation services;
 - 3.2.16 Hospitals, hospices psychiatric hospitals, psychiatric units and health care premises;
 - 3.2.17 Crèches, day nurseries, day centres and other premises used for the day care of children or adults;
 - 3.2.18 Premises used for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body;
 - 3.2.19 Sports centres;
 - 3.2.20 Airport passenger terminals and any other public transportation facilities;
 - 3.2.21 Public transportation vehicles;

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3.2.22 Vehicles which one or more people use for work;

3.2.23 Public telephone kiosks.

3.3 Premises that will be exempt from the requirements in the regulations will be:

3.3.1 Residential accommodation;

3.3.2 Designated rooms in adult care homes;

3.3.3 Adult hospices;

3.3.4 Designated rooms in Psychiatric hospitals and psychiatric units;

3.3.5 Designated hotel bedrooms;

3.3.6 Detention or interview rooms which are designated rooms;

3.3.7 Designated rooms in offshore installations;

3.3.8 Private vehicles.

3.4 The 2005 Act provides for four main offences:

- permitting others to smoke in no-smoking premises;
- smoking in no-smoking premises;
- failing to display warning notices in no-smoking premises; and
- failing, without reasonable cause, to give one's name and address on request by an enforcement officer.

3.5 The regulations are enforceable by Police Constables and officers from Environmental Health. Where offences occur a Fixed Penalty Notice may be served. The amounts for each offence are detailed below, including the reduced amount where payment is made within 15 days. Where there are substantial, or repeat breaches of the legislation a report can be prepared for prosecution by the Procurator Fiscal. The fine levels if found guilty are also detailed in the table below.

Offence for which Fixed Penalty Notice is issued	Full Amount	Discounted amount	Maximum Fine if Found Guilty
Section 1 offence - person having management or control of no-smoking premises fails to prevent	£200	£150	£2,500

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others from smoking in those premises.			
Section 2 offence - smoking in no-smoking premises.	£50	£30	£1,000
Section 3 offence - person having management or control of no-smoking premises fails to conspicuously display warning notices in those premises.	£200	£150	£1,000
Section 7 (3) offence of failure to supply name and address when required by an enforcement officer			£1,000

- 3.6 Environmental Health has a history of working with businesses and building compliance with legislation through education, advice and persuasion. Enforcement action is a last resort where these approaches fail. Enforcement is applied in a fair, proportional and consistent manner to ensure workers and the public are protected. It is proposed that implementation of this new legislation will use the same approach to raise awareness and ensure compliance.
- 3.7 The Council will receive funding for two additional enforcement officers to enable the Council to ensure businesses and the public are in compliance with the new legislation. It is also proposed to train existing Environmental Health staff to enforce the new legislation as part of their normal duties. It should be recognised that compliance will be built through education and advice initially to ensure both the public and businesses are aware of the new legislation in advance of the implementation date. Once the legislation comes into force in March, enforcement action through Fixed Penalty Notices and reports to the Procurator Fiscal will be used where appropriate. A further report will be submitted regarding the establishment of two additional enforcement officers once the level of funding is confirmed.

4 Financial Implications

- 4.1 Environmental Health will receive additional resources from the Scottish Executive to enforce the new legislation. There is no confirmation as to the exact level of funding, however the Scottish Executive has announced all Councils will receive funding to appoint a minimum of two additional enforcement officers.

5 Policy and Delegated Authority

- 5.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit (Min Refs SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

6 Conclusions

- 6.1 The new regulations prohibiting smoking in certain public places are to be welcomed for the significant step they make in reducing exposure to passive smoking. It is estimated that these regulations will result in a reduction of 400 premature deaths per annum in Scotland. The legislation will have a huge impact on public health and protect the welfare of workers. It is essential therefore that the correct approach to implementing and enforcing the legislation is applied to maximise the health impacts. Adequately staffing and resourcing Environmental Health to educate, advise and support businesses to compliance is crucial to the success of the new legislation.

7 Recommendations

- 7.1 I recommend that the Infrastructure Committee approve the approach to implementing the new legislation identified in paragraphs 3.6 and 3.7.

Report Number: ES-23-05-D1



Shetland Islands Council

REPORT

To: Infrastructure Committee _____ ~~Date:~~ 29 November 2005

From: Head of Planning
Infrastructure Services Department

SCOTTISH EXECUTIVE CONSULTATION - DRAFT SPP4 - MINERAL WORKING

3. 1 Introduction

~~4.4~~ 1.1 This report introduces the above consultation document published by the Scottish Executive on 31st August 2005. Copies of this document are available in the Members' Room, the reception at Infrastructure Services or online at www.scotland.gov.uk/Publications/2005/08/31125632/56332. The Scottish Executive requested that responses to this consultation be submitted to them by Friday 25th November 2005. However, they have agreed to an extension to allow for any amendments that the Infrastructure Committee wishes to make to our response. The draft response is attached as Appendix 1 of this report and we seek Members' endorsement of its contents.

2 Link to Council Priorities

~~2.4~~ 2.1 Respecting Our Unique Landscape (Priority 7), Protecting Natural Resources (Priority 8) and Strengthening Rural Communities (Priority 19) contained in the Corporate Improvement Plan 2004-2008 are key corporate objectives. The implementation of

policies contained within the Local Plan and the processing of planning applications that accord with the policies of the Local Plan ensure that the corporate objectives are achieved.

3 Background

- 3.1 Scottish Planning Policies (SPPs) provide statements of Scottish Executive policy on nationally important land use and other planning matters, supported where appropriate by a locational framework. Statements of Scottish Executive policy contained in SPPs are *material considerations* to be taken into account in development plan preparation and development management. Members are asked to note that development management is the Scottish Executive's new terminology for the Development Control process.
- 3.2 This SPP provides a statement of Scottish Executive policy for mineral working and replaces *NPPG 4 Land for Mineral Working* (amended May 2001). The SPP takes account of developments in policy, legislation etc. and also draws on practical experience of implementing earlier policies. The result is an up to date policy statement for mineral working.

4.4 Mineral Working

- 4.1 The SPP states that minerals are vital to the Scottish economy, providing essential raw primary materials for industry, construction aggregates and secondary aggregates for the built environment. It highlights that mineral working may have impacts on local communities and the environment and that all mineral proposals should be fully assessed so that extraction only takes place where those impacts can be made acceptable.

~~4.2.1~~ 4.2 The SPP outlines the following objectives for mineral working that will ensure a sustainable approach to mineral extraction:

- Safeguarding minerals as far as possible for future use;
- Ensuring a steady and adequate supply is maintained to meet the needs of society and the economy;
- Encouraging sensitive working practices during mineral extraction that minimise the environmental and transport impacts and once extraction has ceased ensure that sites are reclaimed to a high standard or enhance the quality of the wider environment;
- Promoting the use and recycling of secondary materials in development plan policies in addition to those for the release of sites for primary materials;

- Protecting international, national and locally designated areas of acknowledged natural or built heritage from damage;
- Minimising the potential adverse impact of minerals extraction on communities.

~~4.2.2~~ 4.3 When assessed alongside the previous 2001 guidance, this SPP contains new statements on working with communities, cumulative impacts and development management. Such statements are particularly relevant when assessing applications in Shetland and this has been covered in our response to the executive (see Appendix 1).

~~4.2.3~~ 4.4 Impacts on the rural economy are also covered in this SPP. Again, this is particularly important when assessing applications for mineral extraction in Shetland. For example, the SPP states that, whilst mineral working can play an important role in supporting the economy of rural areas through the provision of employment, there are many areas where tourism and recreation support local economies. This, to varying degrees, depends on the quality of the environment. The SPP states that where this is the case, the likely or long-term impact or cumulative impact of mineral extraction on other local economic activity, such as tourism, will be a relevant material consideration.

~~4.2.4~~ 4.5 The SPP poses two topics for discussion. The first is related to whether a 500m buffer zone is appropriate from the site boundary of a mineral working to the nearest settlement. The Shetland Local Plan Policy LP MIN4 recommends a presumption against new, or extensions to existing, quarries within 800m of settlements. We have therefore stated in our consultation response that the proposed 500m buffer zone would not be acceptable for all applications in Shetland due to evidence of dust being deposited 800m in high winds. This 800m limit originates from a report by consultants Montague Evans in 1991 that was submitted as part of the Haggrister planning application. It stated, "From empirical evidence, most of the dust generated will be deposited within 200-400 metres from the source (800m in strong winds)". While Policy LP MIN4 mentions that this limit may be relaxed under certain circumstances we would wish it to remain in place unless it can be demonstrated otherwise.

~~4.2.5~~ 4.6 The second topic relates to the Executive's plans to proceed with a new statutory charging regime to recover the costs of monitoring and enforcing minerals permissions from operators. Whilst further consultation is still required, our view is that this could be seen to be another layer of administration that will make local authority/operator relations increasingly tense. We have suggested that by increasing the cost of permissions, related to the degree of operations, enforcement and monitoring costs could be covered at the application stage.

~~4.2.6~~ 4.7 When the statements within SPP4 are assessed alongside the mineral policies contained within the Shetland Structure Plan and the Shetland Local Plan, I am confident that our policies are well up-to-date, thorough and inclusive enough to assess all types of mineral extraction applications.

~~4.2.7~~ 4.8 Notwithstanding the above, and in order to lead to continuous improvement, I believe that when the Shetland Local Plan is reviewed in the future we shall need to consider including policies that place more emphasis on community views, identifying sensitive communities and the recycling of materials. Prior to this, we will need to undertake an up to date review of minerals to identify land banks and preferred areas for development. The commencement of this review will depend upon time and cost constraints (financial and staffing), as we do not have the resources to undertake the review at present.

5 Financial implications

5.1 There are no direct financial implications arising from this report.

6 Policy and Delegated Authority

6.1 The Infrastructure Committee has full delegated authority to act on all matters within its remit (Min Refs SIC 19/03 and 70/03) and for which the overall objectives have been approved by the Council, in addition to appropriate budget provision.

7 Conclusion

7.1 The consultation paper seeks comments on the new Draft SPP4 Mineral Working.

4. 8 Recommendation

8.1 I recommend that members of the Committee note the content of this report and approve (with amendments, if felt appropriate) the response to The Scottish Executive contained in Appendix 1.

Infrastructure Committee - Tuesday 29 November 2005
Agenda Item No. 09 - Public Report

Report Number : PL-25-05-F

Graham Marchbank
Scottish Executive Development Department
Planning Division
2-H
Victoria Quay
EDINBURGH
EH6 6QQ

Dear Mr Marchbank

Consultation on Draft Scottish Planning Policy 4 – Mineral Working

Shetland Islands Council broadly welcomes this draft SPP. The Council is particularly encouraged to see reference and guidance given to working with communities. Community acceptance can be one of the most contentious issues related to mineral extraction applications and we believe that the information contained on this subject is an improvement on the previous NPPG4. The same can be said for the advice given on the assessment of ‘Cumulative Impacts’ and ‘Development Management’.

The policy advice given in this SPP on the ‘Rural Economy’ is particularly relevant to assessing mineral applications in Shetland. Shetland prides itself on its high quality environment and must balance the economic benefits that extraction can bring against the impact that it may have upon rural communities and the local environment, which may in turn detrimentally affect tourism markets and inward investment.

With reference to after-use, such as nature conservation or environmental improvement schemes, it would be beneficial to make reference to PAN64. – Reclamation of Surface Mineral Workings. It may also be helpful to make reference to the role that geology and possibly archaeology can play during the operation and restoration of mineral sites as these aspects may be developed to benefit tourism.

In response to your question on whether a 500m buffer zone is appropriate for SPP4, the Shetland Islands Council Local Plan Policy LP MIN4 recommends a presumption against new mineral workings, or extensions to existing workings, within 800m of occupied schools or permanently occupied houses. This distance was devised during the formulation of our 1994 Aggregate Working Paper, to take account of the potential for strong winds to deposit materials up to 800m from source. Due to our topography and higher than average wind speeds we believe a buffer zone of no less than 800m is required in Shetland. Please note that our policy does allow for relaxations under certain circumstances but we believe that the proposed 500m buffer zone is not sufficient.

In response to the Executive's proposal to proceed with a statutory charging regime to cover enforcement and monitoring costs, and understanding that further consultation is needed, we query whether it would not be a better solution to increase the costs of mineral permissions and thereby incorporate enforcement and monitoring costs at the outset. This would be an alternative to forcing costs upon operators once applications are live and thus damaging local authority/operator relations further.

Finally, SPP16 'Opencast Coal' contained a paragraph on the Appraisal of Proposals, which included a non-exhaustive list of disbenefits and benefits that may arise from a proposal for applications. Would you consider including such a list within SPP4 for mineral applications?

Yours sincerely

Head of Planning



Shetland Islands Council

REPORT

To: Infrastructure Committee

**From: Head of Planning
Infrastructure Services Department**

29 November 2005

5TH BIENNIAL FLOOD REPORT TO SCOTTISH EXECUTIVE

1. Introduction

1.1 Under the provisions of the Flood Prevention and Land Drainage (Scotland) Act 1997 Local Authorities are obliged to publish Biennial reports detailing flooding incidents and measures taken to alleviate them. The 5th Biennial Flood report has been placed in the Members' Room and a summary is attached as appendix 1 of this report.

2. Link to Council Priorities

2.1 Respecting Our Unique Landscape (Priority 7), Protecting Natural Resources (Priority 8) contained in the Corporate Improvement Plan 2004-2008 are key corporate objectives.

3. Background

3.1 The Act places certain duties on the Council including a requirement to prepare and publish a biennial flood report.

- To assess watercourses from time to time and ascertain whether or not they are likely to cause flooding of non-agricultural land
- To carry out works to reduce the likelihood of flooding of non-agricultural land
- To prepare an initial report specifying the measures Shetland Islands Council proposes to take to prevent or mitigate the likelihood of flooding non-agricultural land (this was published on 9th December 1997)
- To prepare and publish biennial reports thereafter.

3.2 This 5th Biennial flood report not only addresses the statutory requirements of the Act but also details the reported instances of flooding. It also describes the work which has been undertaken since the last report and looks to the future.

3.3 The 5th Biennial Flood report details over 30 instances of flooding which have been reported to the Planning Service since September 2003. It should be noted that increasing numbers of these reported incidents of flooding are caused due to heavy rainfall events. It is assumed that the increase in these incidents is a result of our changing climate.

3.4 The report also provides some information on the work which has been undertaken by the Council to try to minimise the damage caused by future extreme rainfall events such as those which happened in September 2003 and August 2004.

4. Financial Implications

4.1 This report has no direct financial implications

5. Policy and Delegated Authority

5.1 The Infrastructure Committee has full delegated authority to act within its remit (Min Ref: 19/03 and 07/03). However, this report is for information and there are no policy and delegated authority issues to be addressed.

6. Conclusion

6.1 The 5th Biennial flood report provides information on the current situation in Shetland with regard to flood prevention and mitigation and the Committee is asked to take note of its contents.

7. Recommendation

7.1 I recommend that the Committee

- (a) notes the contents of this report and its attached appendix
- (b) agrees that the 5th Biennial Flooding report be submitted to the Scottish Executive

Report Number : PL-26-05-~~FD1~~

Appendix 1

5th Biennial Flood Report - A Summary

The 5th Biennial report not only addresses the statutory requirements of the Act but also details the reported instances of flooding occurring in Shetland since the publication of the 4th Biennial report in November 2003. The Development Plans Service has noted 37 reported incidents of flooding in the past two years. These flooding incidents have occurred throughout Shetland but a significant number of them have occurred in the South Mainland, mostly around Cunningsburgh, during the heavy rain 18th of August 2004.

Several mitigation measures have been undertaken by the Local Authority in the past 2 years in light of the Flooding events of 19th September 2003 and 18th August 2004. The SICRoads Services commissioned Halcrow Group Ltd to investigate the causes of the landslide event associated with the 19th September flood. Halcrow Group Ltd were also commissioned to investigate monitoring of the 2 burns in the South Mainland most affected by the flooding incident, Burn of Laxdale and burn of Mail at Cunningsburgh and Channerwick Burn. In late summer 2005 a rain gauge was installed in the Burn of Laxdale and initial flow data has been received. The Roads Service has also undertaken some improvements to roads culverts in the South Mainland over the past 2 years.

The Development Plans Service is continuing with its survey of watercourses that are likely to be affected by pressures for future development. This work will ensure that a co-ordinated and planned approach is undertaken when considering the disposal of surface water run off associated with planned development.

The Planning Service has continued to administer the Coast Protection and Flooding Grant Scheme, 11 Grants have been paid out over the past two years with more applications currently being processed. It is becoming increasingly apparent that the works required to mitigate coastal flooding are becoming much larger and more technically demanding operations. Consequently we are receiving grant requests for works which are well in excess of the £4,800 maximum grant aid available.

The Planning Service, on behalf of the Council, continues to seek proper representation of Shetland circumstances by those in the Scottish Executive and academics undertaking research on their behalf.



Shetland Islands Council

REPORT

To: Infrastructure Committee

29 November 2005

**From: Acting Head of Transport
Infrastructure Services Department**

PROGRESS REPORT ON DEVELOPMENT OF SHETLAND TRANSPORT STRATEGY

1. Introduction

1.1. The purpose of this report is to inform Members of the progress of the Shetland Transport Strategy.

2. Link to Council Priorities

2.1 This report meets the objectives of the corporate plan by contributing to the aim of sustainability and easy to use systems for transporting freight and people.

3. Background

3.1 Members will be aware that on 6 October 2005 the Scottish Executive confirmed the proposed boundaries for the new regional transport partnerships (RTPs). On 19 October 2005 a draft Order was laid before the Scottish Parliament to establish the RTPs in Scotland, including one for Shetland.

3.2 This brings Shetland a step closer to achieving Regional Transport Partnership status.

3.3 Although at this stage the boundaries are proposals and the Order is still in draft subject to approval by the Scottish Parliament, the Shetland Transport Strategy is being developed on the basis that the proposals are likely to become reality. Once it is established the RTP for Shetland will have the responsibility for the drawing up of the Shetland Transport Strategy and its submission to the Scottish Ministers for approval by 31 March 2007.

4. Progress

4.1 A progress report on the development of the transport strategy is attached as Appendix 1. This updates Members on the work carried out by FaberMaunsell and the programme for moving the strategy forward. Progress is monitored by a Member / Officer Working Group and the update was considered by them on 23 November 2005.

5. Financial Implications

5.1 There are no financial implications associated with this report. Costs for the consultation exercise are within budget

6. Policy and Delegated Authority

6.1 The Infrastructure Committee has full delegated authority to act on all matters for which the overall objectives have been approved by Council, in addition to appropriate budget provision. SIC Min Ref 19/03 and 70/03.

7. Recommendations

7.1 I recommend that the Committee note the contents of this report.

Report Number : TR-34-05-F

Progress Report on the Development of Shetland Transport Strategy

1. Introduction

This note has been prepared to inform Councillors of the Member Officer Working Group of the progress to date on the development of the Shetland Transport Strategy.

Over the course of October and November, efforts have also been focussed on organising and undertaking the consultation programme for the Shetland Transport Strategy, and planning the Key Issues and Objectives Report to be submitted to SIC in the New Year.

2. Consultation

Consultation has taken place with SIC departments, businesses, and wider community groups. Public meetings have also taken place within specific communities. The list below provides an up-to-date list of consultees that have been interviewed as part of the consultation process thus far.

Shetland Islands Council

- Infrastructure Services – Roads, Public Transport, Ferries, Economic Development, Planning
- Community Services – Education, Housing

Businesses

- Stream Line
- Shetland Catch
- Northwards
- Jim Brackenridge Transport
- Shetland Transport
- GB and AM Anderson
- John Leask and Son
- Northlink Ferries

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- Highlands and Islands Airports

Other Organisations/Community Groups

- “Flu Fair” Consultation
- NHS Shetland
- Shetland Enterprise
- Disability Shetland
- Shetland Child Care Partnership
- WRVS
- Fire Brigade
- Shetland Youth Voice Executive
- English as an Additional Language “drop-in”
- Shetland College
- Tourist Information
- Retailers Association
- Shetland Seafood and Shetland Aquaculture

Communities

- Skerries
- Foula
- Fair Isle
- Fetlar
- Delting
- Yell
- North Isles – Initiative at the Edge combined North Isles meeting

Consultation in each of the above communities has been undertaken both through well attended evening workshops, and also through face to face discussions with various local stakeholders and residents. On Fair Isle this also included the group of secondary school pupils attending Anderson High.

3. Summary of Initial Findings

It has been found that different Council services have a strong commitment to the principles of sustainability and best value, and are keen to ensure that the final strategy is balanced and realistic with respect to community needs and available resources. There is a common realisation that transport touches all aspects of life in Shetland, and that the strategy will have to build upon the foundations already laid in the Corporate Plan and Community Plans.

The majority of consultees consider that existing transport links to UK Mainland are too expensive, and at peak times can suffer from lack of capacity.

Within Shetland, the majority of car users interviewed suggest that they have little difficulty in getting about. Roads on the Westside were the most frequently mentioned as being to a lower standard.

Those within Lerwick also reflect this view, even those without access to a car, as the bus service and pedestrian facilities are considered to be good. Those with specific mobility problems in Lerwick often benefit from lifts from friends, or community organisations. However, shopping and general activity has hampered by elements other than transport, such as steps, a lack of chairs in shops, and a perceived lack of awareness/training by others.

Outwith Lerwick, it was recognised that public transport principally serves commuters and shoppers, and does not necessarily respond to those with other trip patterns. This caused problems for youngsters. It also was an issue for the elderly, particularly those living some distance from a bus route, and could constrain various trip purposes, including accessing health.

On the islands visited to date, the main concern was the continued provision of reliable transport links by both air and sea. The second over-riding theme was to ensure that the transport links and infrastructure had the principal objective of supporting the economic and social vitality of each island community.

4. Future Consultation

The evening community consultation programme has also been largely confirmed, as set out in Appendix 2. Whilst there are still some Community Councils to confirm dates, it is envisaged that the majority of the initial round of consultation will be concluded during December 2005.

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Further meetings with individual businesses, organisations, schools, etc will continue to be fitted around the public consultation programme. The list below confirms some of the meetings already planned.

- Loganair
- Highlands and Islands Enterprise
- Local schools, nurseries and playgroups
- Shetland Youth Information Service
- The ambulance service
- Northern Constabulary

In addition, draft letters have been issued to the constituency MSP for Shetland, the MP for Shetland and Orkney, the seven list MSPs, and the seven list MEPs for Scotland.

Following discussion, it has been agreed that the previously considered idea of staging a ‘Transport Strategy Bus’ at various locations to publicise the Shetland Transport Strategy will be adopted for subsequent stages of consultation. It is envisaged that the bus will provide details of some of the specific projects and options that the RTS may seek to develop and consultees will be encouraged to enter the bus and discuss their views on some of the potential options.

5. Key Issues Report

Throughout the process of the consultation phase, consultants have also been working on, and will continue to analyse background data for the preparation of a “Key Issues and Objectives Paper”.

This has included socio-economic reviews using census and other data sources, transport trends review including NorthLink data review etc, and analysis of the other background report such as the NHS Shetland 2020 Vision, and the Shetland Local and Structure Plans amongst others. In addition, this report will detail the main issues established from the consultation event.

An outline of the Key Issues Report and Objectives Paper is provided as Appendix 3.

Appendix 2: Schedule of Consultation Meetings (as at 15/11/05)

1. North Isles

- Fetlar 14th November ✓
- Unst
- Yell 21st November ✓
- Combined at IATE conference 19th November ✓

2. North Mainland

- Northmavine
- Delting 17th November ✓
- Nesting and Lunnasting 30th November

3. Whalsay and Skerries

- Whalsay
- Skerries 31st October ✓

4. Westside

- Foula 7th November ✓
- Papa Stour 7th December
- Sandness and Walls
- Sandsting and Aithsting 30th November (provisional)

5. Central

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- Scalloway 01st December (provisional)
- Burra and Trondra
- Tingwall, Whiteness & Weisdale 22nd November✓

6. Lerwick / Bressay

- Bressay
- Lerwick

7. South

- Fair Isle 10th November ✓
- Dunrossness
- Gulberwick, Quarrff and Cunningsburgh
- Sandwick

Appendix 2: Proposed Outline for Key Issues and Objectives Paper

1. Introduction

2. Methodology

The methodology undertaken to develop the report will be discussed.

3. Context

The transport situation in Shetland will be discussed with reference to population, economic and transport trends.

4. Review of Transport Issues

Issues that have arisen through the background analysis and initial consultation process will be discussed. Issues will be categorised into the following four main themes:

- Issues related to external links and passengers;
- Issues related to external links and freight;
- Issues related to internal links; and
- Issues related to inter-island links.

5. Impacts/Significance of the Issues

Having outlined what the main issues are, this section will explore the main impacts of these issues and what they mean in the context of Shetland. For example, the economic impacts and social impacts of transport will be focussed on to stress that the transport strategy should be about more than just improving transport links. Rather the transport strategy should set out how transport can affect and complement Shetland's housing, development, economic, and education strategies.

6. Vision and Objectives

In light of the main findings from the report, a vision for the Shetland Transport Strategy will be outlined and justified. Following on from this, appropriate objectives that complement those outlined by the National Transport Strategy, and the objectives of other Shetland Island Council Strategies will then be outlined. It is anticipated that there will be an emphasis on:

- a) a long term approach;
- b) best use of available resources and

c) fair and balanced distribution of resources

In addition, an appendix providing fully minuted reports on each of the Community Consultation events and a summary of the findings from each of the meetings with individuals, organisations and businesses will be provided.