



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 JUNE 2018**

SUBJECT: ALIGNING PLANNING AND ROADS CONSTRUCTION CONSENT

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee of a proposal to seek to align Planning Consent and Roads Construction Consent (RCC) in circumstances where the applicant/developer agrees to this approach.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to the functions of the Council as Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that Committee:

- (i) notes that Designing Streets is Scotland's policy statement on street design;**
- (ii) agrees that aligning the design principles of Planning and RCC should be promoted as best practice by Moray Council in circumstances where the applicant/developer agrees to this approach and signs a Processing Agreement;**
- (iii) notes that existing procedures will be reviewed to enable the consenting processes to be aligned as proposed in Appendix 1;**
- (iv) agrees to the proposed financial incentives to be offered to assist developers with the additional upfront costs of aligning consents;**
- (v) notes that regardless of an aligned process as set out above, the roads authority consultation response will state if insufficient detail is received to fix the street layout and enable a proper assessment of a planning application, allowing for a quicker turnaround time in complex planning applications;**

- (vi) **instructs officers to consult with developers for a period of six weeks on the proposal and report back the responses to the next available Planning & Regulatory Services Committee; and**
- (vii) **arrange a training session for Members on Designing Streets, the use of Street Engineering Reviews and Quality Audit as material planning considerations.**

3. BACKGROUND

- 3.1 In January 2016 the Chief Planner wrote to all Heads of Planning to encourage all authorities to agree to align two separate consenting procedures Planning Consent (PC) and Roads Construction Consent (RCC) for housing developments. A framework was designed and tested which involved several local authorities and this demonstrated that by following this approach in practice it can help to achieve the following:
- To improve certainty for developers and applicants through earlier and more productive engagement; and
 - To provide consistency across local authorities by following a structured streamlined approach to processes, both before and during consideration of applications.
- 3.2 Aberdeenshire Council have introduced procedures for aligning consents and have highlighted this way of working in their Planning Performance Framework for 2016/17. The experiences of Aberdeenshire have been shared with Moray and these have been a useful insight into the benefits of aligning the design principles of the street layout in both planning and RCC processes at an early stage. This is a key area of alignment as the level of detail required for the RCC is unlikely to be available at the planning stage for the larger developments in Moray.
- 3.3 Current practice in Moray is that planning applications for housing developments are carried out in advance of RCC and the reasons identified for this are that developers are reluctant to commit to investing significant resources in detailed design drawings until they have the certainty that planning permission has been granted. This includes sites which are allocated for housing in the Moray Local Development Plan where the principle of development has been established.
- 3.4 There are a large number of both national and local material policy considerations that have to be taken into account when determining planning applications and for ease of reference these are summarised in **Appendix 2**.

4. EXISTING ROADS CONSTRUCTION & PLANNING CONSENT PROCESS

- 4.1 There are a wide range of material considerations for planning applications to be assessed against, many of which can impact on street layout and design of a development. The RCC process has more detailed requirements for design and technical specification than are required for the planning process. Both consenting regimes are covered by different sets of legislation and have different statutory processing times. Local planning applications have a statutory timescale of eight weeks and major planning applications 16 weeks. There is no statutory determination period for RCC. However the process is subject to a 28 day neighbour notification period. There is no statutory right of appeal against non-determination to an RCC as there is in the planning process. RCC cannot be issued until a Planning Consent is issued. Similar to planning consent, RCC is issued subject to conditions. These conditions are required to ensure that construction takes place to roads adoption standards and specifications.
- 4.2 Currently planning applications for housing developments are generally submitted as detailed planning applications (many of which have not been the subject of any formal Pre-application advice process). The majority of applications submitted are recommended for approval after a series of negotiations have taken place, taking into account the responses from a number of internal and external consultees, including the findings of the Quality Audit. Once a planning consent is issued, (which can take several months due to the signing and registration of a S.75 agreement covering developer obligations if required) the RCC application is generally received.
- 4.3 Where there are suspensive planning conditions relating to the street layout in the development, detailed drawings are forwarded to the Development Management Planning Officers from the developer to enable these planning conditions to be discharged, in consultation with the Transportation Section. The suspensive planning conditions have been imposed due to a lack of detailed information accompanying the planning application and the developer wishing to secure a planning consent at this stage of the process with minimal investment in detailed site investigation and drawings. The risk at this stage is the potential for the drawings produced for the RCC application to differ from those submitted to meet the suspensive planning conditions. There have been a number of recent applications where this has been the case, which has led to a significant amount of officer time being spent seeking the revisions to the submitted information to ensure that both planning and RCC requirements are satisfied. By aligning the processes the conflicts that occur that can result in the loss of green space to drainage arrangements and trees not being able to be located on streets will be avoided.

5. REVISED PLANNING & RCC PROCEDURES

- 5.1 **Appendix 1** sets out the revised process to be put out for consultation with developers setting out how Moray Council wishes to better align the detailed

street design requirements of the RCC process with the planning process. The revised processes seek to reduce the delay and loss of design quality where, for example, detailed information is not available at the planning stage for RCC engineers to have an informed input during the planning process, which can lead to significant changes to the design at a later stage. A collaborative process of partnership and cooperation is required from the outset between all parties.

- 5.2 It is acknowledged that developers will have to invest in detailed site surveys/investigation and drawings at a much earlier stage than they currently do but it is considered that there will be savings in the time taken to deal with suspensive planning conditions by doing so and it will reduce the potential for conflict between the planning and RCC drawings/requirements further down the line. To assist and encourage developers to align consents it is proposed to introduce a Design Workshop to run alongside the Pre-application process and remove the fee associated with this service.
- 5.3 The draft policies published with the Main Issues Report set out Placemaking as the first primary policy (PP1) of the new plan, recognising the important role that good quality design has for health, well-being, crime, etc (i.e. delivering the aspirations of the Community Planning Partnership (CPP) and the Moray 2027 Local Outcomes Improvement Plan (LIOP)). A revised version of the Quality Audit will be reported to Committee as part of the proposed Plan in December 2018. The role of the Street Engineering Review (SER) is already embedded in PP1 and other new/emerging policies and specific reference will be made to the SER in the final policies.
- 5.4 To ensure that planning performance is not impacted upon, processing agreements will be required to be entered into by the applicant/developer which would set out the timescales for issuing of planning consent and fixing the street layout prior to any application for RCC. It should be noted that RCC cannot be issued until a planning consent has been issued.
- 5.5 As part of the revised procedures it is envisaged that the number of suspensive planning conditions that are currently imposed on a planning consent will be reduced. Again this will save both officer and developer resources post consent as well as reducing the potential for conflict and giving more certainty to the overall delivery of development.
- 5.6 It should also be noted that in a similar vein, the consultation responses from Transportation, as the Roads Authority, would be expected to have a shorter turn around time, due to the provision of detailed information during the Pre-application process. Planning applications which do not have a sufficient level of detail to 'fix' the street layout and where initial discussions with the applicant indicate that the detail is unlikely to be received quickly, will elicit a response that there is insufficient detail to assess the application. This should also encourage developers to engage to create better alignment, and reduce time and uncertainty.

- 5.7 The consultation responses that are received from developers in relation to these proposals will be reviewed and reported back to the next available Committee along with an implementation plan setting out timescales for revised procedures to be put in place.

6. **SUMMARY OF IMPLICATIONS**

(a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The planning system plays an important role in supporting the delivery of the Council's aspirations for economic development, as well as providing land for private and affordable housing, safeguarding the environment and promoting opportunities for health. The changing planning system has a greater emphasis upon delivery, more engagement, quality outcomes and co-ordination of infrastructure to support development, which all support Moray 2026.

(b) **Policy and Legal**

Development Management Regulations 2013 for dealing with planning applications. Section 21 of the Roads (Scotland) Act 1984. Moray Local Development Plan 2015.

(c) **Financial implications**

There will be financial implications incurred through the contents of this report as a result of the financial incentives offered to developers/applicants to go through the process. However, as no income has been received for the major Pre-application service, any loss of potential income is considered to not be in excess of £5,000. There will also be an additional burden placed on developers/applicants as a result of this report.

(d) **Risk Implications**

The risks of not aligning the design principles of consents may result in the integrity of the planning system being impacted upon along with delays to developments, which may have an adverse economic impact.

(e) **Staffing Implications**

No staffing implications are currently proposed as a result of this proposed aligning of procedures.

(f) **Property**

There are no property implications incurred through the contents of this report.

(g) **Equalities/Socio Economic Impact**

There are no equalities implications incurred through the contents of this report.

(h) Consultations

The Corporate Director (Economic Development, Planning and Infrastructure), the Head of Development Services, the Legal Services Manager (Property and Contracts), Paul Connor (Principal Accountant), Lissa Rowan (Committee Services Officer), the Senior Engineer Transport Development, Gary Templeton (Principal Planning Officer), Neal MacPherson (Principal Planning Officer), the Acting Consultancy Manager, the Building Standards Manager and the Equalities Officer have been consulted and their comments taken into consideration in this report.

7. CONCLUSION

7.1 Designing Streets is Scotland's policy statement on street design and highlights the importance of Planning Consent and RCC being more aligned. Aligning the design principles of Planning and RCC sent should be promoted as best practice by Moray Council.

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Background Papers: