

ROADS AND TRANSPORT

POLICY FOR BRINGING UNADOPTED ROADS UP TO ADOPTIVE STANDARD

The Council's general policy on Bringing Unadopted Roads up to Adoptive Standard was agreed at the meeting of the Transport Services Committee on 5th June 1996.

1. Legal Framework, Roads (Scotland) Act 1984

- 1.1 Section 1 of the Act places a duty on a roads authority to maintain all roads entered in their "list of public roads". In this context a "public road" means a road maintained at public expense. A road can be a right of way without being publicly maintained. The same section permits a roads authority to add roads to the list.
- 1.2 Section 13 of the Act gives roads authorities the power to require the frontagers of a private road to make the road up to a reasonable standard, and may apportion the cost between them.
- 1.3 Section 14 of the Act permits the roads authority to pay "the whole or part of any expenditure" incurred in making up the road and this power has been used in the past to enable the authority to pay for making up roads. It must be explained that there is no duty on the authority to do this, it is a permissive power.
- 1.4 Section 16 requires the authority to add a road to its list of roads (i.e. to "adopt" it) once it has been made up to the required standard the authority has specified. Once on the list, the authority has a duty to maintain it.

2. Increase in Road Mileage

- 2.1 The adoption of roads over the years has increased the authority's liability for maintenance. The increase in road mileage does have a marginal positive effect on the GAE calculation by Central Government. As Members will be aware, the revenue budget has seen substantial cuts since 1991 whilst at the same time the Roads Authority's liabilities are increasing.
- 2.2 There is a legal requirement to adopt roads built in accordance with "Construction Consent" procedures if required to do so by the developer.

3. Proposed Criteria for Bringing Unadopted Roads up to Adoptive Standard

- 3.1 The adoption of the road must be in the public interest.
- 3.2 The existing unadopted road should meet the following criteria:-
 - i) The road must serve a long established community having not less than two occupied properties in different ownership erected before 1972, with the provision that properties erected since 1972 as direct replacements for pre-1972 properties can be regarded as qualifying properties. Where properties are let on a short assured or life rent basis the Area Committee can recommend on a case by case basis that the criteria are met.
 - ii) The road would require to be directly linked to the existing network of roads already on the List of Roads.
 - iii) Land necessary for the provision of turning area, passing places, drainage works, etc. would be provided free of charge to the Highland Council.

3.3 Contributions to the Cost of the Works

- i) For properties built prior to the Town and Country Planning Act 1959 and occupied since that date, no contribution would normally be expected.
- ii) For properties built between 1959 and 1972, the contribution per property would be 15%, or a proportion of 50% of the cost of the works, whichever was the lesser.
- iii) Properties built since 1972 and served by a road which meets the criteria in (2) above would require a proportionate contribution of 100% of the cost of the works.

Where contributions fall to be made, adoption would not proceed until contributions have been lodged with the Highland Council. In the event of adoption not being confirmed, contributions would be returned with interest.

3.4 Roads not Eligible

Roads serving housing developments constructed since 1972 and subject to planning approval under the Town and Country Planning (Scotland) Act 1972 unless specifically agreed otherwise by the Roads and Transport Committee would not qualify for improvement.

N.B. Where the Council is involved in making a contribution to upgrading a road this will have resource implications on the Council's budget. As such it will be necessary for the Council to consider any financial implications of funding towards upgrading of unadopted roads along with other funding priorities that the Council has to address.