

Agenda Item	22
Report No	EDI/58/18

HIGHLAND COUNCIL

Committee: Environment, Development and Infrastructure

Date: 16 August 2018

Report Title: Review of Road Construction Consent Inspection Fees

Report By: Director of Community Services

1 Purpose/Executive Summary

- 1.1 This report provides details of the revision to the Road Construction Consent Inspection fee that the Council sets for inspecting roads which are constructed by developers under Section 21 of the Roads (Scotland) Act 1984.
- 1.2 The details of the revised fees are provided, along with the requirement to undertake a validation trial to determine if further amendments are required.

2 Recommendations

- 2.1 Members are invited to:
 - i. approve the proposed revised scale of fees for Road Construction Consent Inspections, which will be applied retrospectively from 1 April 2017; and
 - ii. note that a 12 month validation trial will be undertaken to assess the appropriateness of the new fees and that a subsequent report will be presented to this committee in November 2019.

3 Background

- 3.1 Under Section 21 of The Roads (Scotland) Act 1984, any person other than a Roads Authority, who wishes to construct a new road or extend an existing road, must, before commencing construction, obtain Road Construction Consent (RCC).
- 3.2 Under Section 140(6) of the Roads (Scotland) Act 1984, the Council is entitled to recover expenses from the person to whom Road Construction Consent or authorisation has been granted. There are costs related to inspecting the Road Construction Consent works. It is reasonable that these costs should be borne by those parties wishing to construct a new road(s) or extension(s) of any existing road.
- 3.3 On 27 May 2004 report TEC39/04 was approved by the Transport, Environmental and Community Services Committee. The report recommended that an annual increase to the charges in Appendix 3, including RCC's, be applied in line with the rate of inflation. All these charges except RCC's were a monetary sum. RCC's were a percentage fee based on the cost of the construction works, the percentage fee has therefore been increased annually.
- 3.4 Inspection fees are administered under the requirements of the Roads (Scotland) Act 1984 Section 21 and Highland Council currently have them set at the following rates:
 - 6.9% (works > £100k)
 - 9.6% (works £20k - £100k)
 - 10.6% (works < £20k)
- 3.5 There are two methods available to recover the cost of undertaking inspections. Either a set fee based upon the agreed cost of the works, or to charge the actual costs incurred ('time and line').
- 3.6 A set fee is considered a fair and reasonable approach but it is accepted requires an explanation to justify how the fee is calculated. Such an approach is endorsed by the Society of Chief Officers of Transportation in Scotland (SCOTS).
- 3.7 The fee process used for RCC inspections is to apply a percentage based upon an agreed road construction works value.
- 3.8 The number of inspections undertaken is derived from the Key Construction Stages (site visits) identified in the Road Construction Consent Compliance and Notification Plan (**Appendix 1**).
- 3.9 The size and complexity of a scheme also affects the number of inspections required along with the time required for each inspection (pre-visit preparation, site inspection work and post-site follow up would be included).
- 3.10 Historically and at present, RCC inspections are undertaken by the Roads Service Area-based technical staff. Discussions are underway to also use the Council's Project Design Unit (PDU) to ensure sufficient technical resources are available for inspections of increasing numbers of new developments.

3.11 If sufficient resources are not available to undertake the required number of site inspections, there is a risk that the quality of works adopted cannot always be guaranteed. This results in an increased risk for the Roads Authority, which becomes responsible for the cost of any corrective works where defects occur after the defect or maintenance correction period of a road scheme which is adopted.

3.12 The entire Road Construction Consent process has been redesigned using LEAN principles. This has involved a significant amount of work by officers in Development and Infrastructure and Community Services. Systems have been developed to record information and a pilot option for applicants with major or large developments to have a Street Engineering Review is available. The Council's website has also been updated to reflect the changes and provide developers with more information regarding the whole process:

https://www.highland.gov.uk/info/20005/roads_and_pavements/767/road_construction_consent

4 Challenge to Council's RCC Inspection Fee

4.1 In 2016 a developer delivering infrastructure and housing questioned the level of HC's RCC Inspection fee when compared with the rest of Scotland.

4.2 A bench marking assessment was undertaken with other Scottish Roads Authorities which resulted in a review of the fee being undertaken. The inspection fee banding used was out of date since its inception due to rises in construction costs.

4.3 Agreement with the developer who challenged the fee structure includes that Highland Council will secure formal approval of the revised RCC Inspection fees and that a 12 month validation trial would be undertaken from September 2018.

4.4 Following the validation process, if amendments to the fees are required a subsequent report will be presented to a future EDI committee.

5 Proposed RCC Inspection Fee Structure

5.1 From the key stages identified in **Appendix 1**, the staff resource requirement has been estimated for four different sizes of RCC construction costs:

Small	Up to £100,000	Inspection fee of 5.0%
Average	£100,001 to £400,000	Inspection fee of 4.5%
Large	£400,001 to £800,000	Inspection fee of 4.0%
Very Large	Over £800,000	Inspection fee of 3.5%

5.2 Fees at band interfaces would never be less than that due under the lower band, e.g. Works cost £100,000, RCC Inspection fee at 5% is £5,000. Works cost £108,000, RCC Inspection fee percentage is 4.5%, sum would be £4,860, and therefore the RCC Inspection fee would be £5,000. The existing and revised tables of RCC Inspection fees are shown in **Appendix 2**.

5.3 Several other developers have been awaiting resolution of the challenge and have entered into RCC agreements but made part payment knowing that changes were probable. To prevent further challenges it is intended that the revised fees would be introduced retrospectively from the point at which the Council became aware of the nature of the issue with the level of its RCC Inspection fees. This was during the spring of 2017 and therefore a commencement date of 1 April 2017 is proposed.

6 Implications

- 6.1 Resource – It is intended to utilise the Project Design Unit’s site supervision team to undertake the validation exercise. The cost is to be funded from the fees secured. The revised fee structure will have an impact on income levels for the service.
- 6.2 There are future legal implications if the recommended RCC Inspection fees are not approved and associated validation exercise is not undertaken.
- 6.3 There are no community (equality, poverty and rural) implications.
- 6.4 There are no climate change or carbon clever implications.
- 6.5 There is a risk of legal challenge if the validation exercise is not completed and reported to a future EDI committee.
- 6.6 There are no Gaelic implications.

Designation: Director of Community Services

Date: 24 July 2018

Author: Robin Pope, Policy and Programmes Manager
Elizabeth Maciver, Senior Engineer (Asset Management)

Background Papers: TEC39/04 Local Roads Functions – Charges and Permissions
Highland Council – [Roads & Transport Guidelines](#) for New Developments

ROAD CONSTRUCTION CONSENT COMPLIANCE AND NOTIFICATION PLAN

PROJECT PLAN

RCC Reference:	
Location of development (including stage/ phase details if applicable):	
Applicant details:	
Agent details:	
Contractor details:	
Type of development:	
Residential <input type="checkbox"/>	Commercial <input type="checkbox"/>
Other <input type="checkbox"/>	Industrial <input type="checkbox"/>
Please Specify:	
Council's Representative Details:	
Name:	
Office Tel. No.:	
Mobile No.:	
E-mail:	

Key Construction Stages (Site visit)	Status*	Road Authority Notes for Applicant (See notes 1 and 2)	Appropriate Alternative Evidence (Non-site visit)	Fulfilled Y/N
Pre-commencement Meeting	M	Developer to arrange with relevant parties and provide construction programme at meeting.		
Start of Works	M	Developer to notify Council Representative (min 4 weeks' notice).		
Completion of Formation	M			
Laying of Road Drainage	M			
SuDS	M			
Final Road Drainage	M	CCTV survey report required.		

Key Construction Stages (Site visit)	Status*	Road Authority Notes for Applicant (See notes 1 and 2)	Appropriate Alternative Evidence (Non-site visit)	Fulfilled Y/N
Covering of Kerb Log	M			
Carriageway Layers				
Sub-base commencement	M			
Base Course commencement	M			
Binder Course commencement	M			
Surface Course (Modular Blocks only) commencement	M			
Footway/ path Layers				
Sub-base commencement	M			
Base Course commencement	M			
Binder Course commencement	M			
Surface Course (Modular Blocks only) commencement	M			
Cycle Track Layers				
Sub-base Commencement	M			
Base Course Commencement	M			
Binder Course Commencement	M			
Surface Course (Modular Blocks only) Commencement	M			
Street Lighting				
Setting out Plant Positions (cable, columns, boxes, etc.)	M			
Backfilling of Cable Trenches	M			
Painting of Plant (if applicable)	M			
Structures				

Key Construction Stages (Site visit)	Status*	Road Authority Notes for Applicant (See notes 1 and 2)	Appropriate Alternative Evidence (Non-site visit)	Fulfilled Y/N
Commencement of Steel fixing	M			
Each Concrete Pour (incl. blinding)	M			
Formwork Striking	M			
Partial Completion	M			
Street Lighting (commissioning)	M			
Carriageway Layers				
Surface Course Commencement	M			
Footway/ path Layers				
Surface Course Commencement	M			
Cycle Track Layers				
Surface Course Commencement	M			
Road markings Commencement	M			
Substantial Completion	M	Submit substantial completion application and relevant supporting documentation.		
Stage 3 Road Safety Audit				
Landscaping/ planting complete and established				
Full Completion	M	Submit relevant supporting documentation. (All defects are rectified and the Health and Safety File has been accepted by the Roads Authority.)		
Request for adoption (if required)				

Key Construction Stages (Site visit)	Status*	Road Authority Notes for Applicant (See notes 1 and 2)	Appropriate Alternative Evidence (Non-site visit)	Fulfilled Y/N

Status *

- M Mandatory
- N Notify

Notes to Applicant/Developer:

1. The Owner or Developer should notify the Council's Representative at the target key construction stages listed above, to allow the Council's Representative to check compliance with Road Construction Consent.
2. Notification should allow sufficient time for the Council's Representative to respond. The Applicant/ Developer should discuss notification with the Representative as early as possible to allow for other work commitments, annual leave, etc. A minimum of 48 hours' notice is required unless otherwise stated.
3. Failure to notify and ensure a response is received can result in the Council's Representative requiring that work is exposed for inspection at the Developer's cost. It may also result in delays to adoption or the Roads Authority refusing to adopt.
4. Once the applicant or developer is satisfied the project is fully complete and complies with the approved Road Construction Consent, they should apply for Full Completion. When Full Completion is granted, if required, the Developer must also apply to have the road adopted.

Existing Inspection Fee as at 1st April 2018

LEGISLATION	CHARGE	
Roads (Scotland) Act 1984 Sections 21 (1) and 21(2)	ROAD CONSTRUCTION CONSENTS	
	Estimated Construction Cost	Charge per £1000 of construction cost or part thereof
	Up to £20,000	£106
	£20,001 - £100,000	£96 (Min £2120)
	Over £100,000	£69 (Min £9600)

Proposed Inspection Fee

LEGISLATION	CHARGE	
Roads (Scotland) Act 1984 Sections 21(1) and 21(2)	ROAD CONSTRUCTION CONSENTS	
	Estimated Construction Cost	Percentage of construction cost or minimum amount
	Up to £100,000	5% (Min £1,250)
	£100,001 - £400,000	4.5% (Min £5,000)
	£400,001 - £800,000	4.0% (Min £18,000)
> £800,000	3.5% (Min £32,000)	