



**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE
SERVICES COMMITTEE ON 2 MAY 2023**

SUBJECT: LOSSIEMOUTH TO HOPEMAN ACTIVE TRAVEL ROUTE

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee of the activity being undertaken by the Laich of Moray Active Travel Routes group (LoMATR), who are part of the Lossiemouth Community Development Trust (LCDT) to secure a new Active Travel Route (ATR) between Lossiemouth and Hopeman.
- 1.2 This report is submitted to Committee in terms of Section III (F) (17) of the Council's Scheme of Administration relating to traffic management functions.

2. RECOMMENDATION

2.1 It is recommended that the Committee:

- i. **note the activity undertaken by the Laich of Moray Active Travel Routes group to develop and seek funding for an Active Travel Route between Lossiemouth and Hopeman;**
- ii. **agree criteria set out in para 6.2 that must be met by the group if Moray Council is to pursue a Compulsory Purchase Order (CPO) or use path designation powers; and**
- iii. **agree that until the criteria identified in para 6.2 has been met, support for this project by Council officers be limited to the on-going provision of advice and information, in keeping with the current level of support.**

3. BACKGROUND

- 3.1 Officers receive regular requests from members of the public and through Elected Members for active travel infrastructure to support every day journeys. Officers have also actively sought suggestions through consultation on the Active Travel Strategy and more recently as part of consultation on the Local Development Plan review (which is ongoing) and have a list of road safety

and active travel interventions identified through studies commissioned and their own knowledge and observations.

- 3.2 The team delivering active travel and road safety interventions is limited to 2 Engineers and 1 Technician, with input from the Senior Engineer. The capacity of this delivery team is limited as they also cover a number of other duties and activities within Transportation. The majority of interventions delivered are small/medium scale and within a single financial year.
- 3.3 Not all active travel interventions are viable or offer best value for money. Therefore proposed active travel and road safety interventions are reviewed in terms of:
- Demand;
 - Usage;
 - Benefits;
 - Deliverability; and
 - Cost/Funding Sources.
- 3.4 Schemes identified to be delivered or further developed during 2023/24 are outlined in the Transportation Capital and Revenue Budgets report for consideration on this agenda.

4. CONSIDERATION OF THE PROPOSED LOSSIEMOUTH TO HOPEMAN ACTIVE TRAVEL ROUTE

- 4.1 The Lossiemouth to Hopeman project is a community led scheme currently being funded through the Sustrans Places for Everyone grant. The community group, the Laich of Moray Active Travel Routes (LoMATR)/Lossiemouth Community Development Trust (LCDT) have been working on the project since 2013. Moray Council officers have provided support to the group through assistance in completing grant application forms and the commissioning of studies.
- 4.2 The LoMATR have secured funding from Sustrans for Stage 2 Concept Design of the project. Stage 1 of the project, Preparation and Brief included a Feasibility Study undertaken by a consultant on behalf of the LoMATR during 2018. A copy of this study has been published on the LoMATR website and has been uploaded to CMIS along with the agenda for this meeting as an additional meeting document.
- 4.3 The 2018 Feasibility Study determined preliminary cost estimates for three options for the route as between £2.184m and £3.29m (2018 prices). The LoMATR are pursuing a preferred option, which connects Lossiemouth to Duffus (a section of the route some 6.6 kilometres in length). It is understood that further investigation and design work on this section of the route has been commissioned. However, the work currently underway has not been shared with Council officers and an updated cost estimate for the preferred option has not been shared.
- 4.4 The Sustrans funding process seeks a Full Business Case as part of Stage 2 to support a project along with the identification of Match Funding sources.

For community groups Match Funding is a percentage of the project costs (usually 30%). For Local Authorities Match Funding can be provided 'in kind' for some elements of a project through demonstrating construction of active travel infrastructure to the same value as the project (i.e. 100% match), during the same financial year.

- 4.5 For Financial Year 2022/23, the Council received a grant of £614k from the Scottish Government for Active Travel Infrastructure. The value of the works completed using this grant are considerably lower than the amount which would be required to Match Fund the Lossiemouth to Hopeman Active Travel route. It is unclear as to how much match funding could be demonstrated for this project, even if it was to be undertaken by the Council.
- 4.6 Finally, as with all new infrastructure, identification of the annual and long term maintenance costs of the infrastructure is required. Based on current costs for maintaining Council cycle tracks it is anticipated that an annual contribution to maintenance would be in the region of £2,000. This could be an annual payment or an agreed lump sum. Whilst the route would be built to adoptable standard, even new infrastructure requires vegetation management and some level of surface repair it is
- 4.7 Any cycle path built in line with Sustrans funding requirements would need to be of adoptable standard, which would result in the path automatically being added to the List of Public Roads, and the ongoing responsibility for the path throughout its lifespan would fall to the Council, including repair and maintenance. The path would need roads construction consent as roads infrastructure.

5. LAND OWNERSHIP CONSTRAINTS TO DELIVERY OF THE ACTIVE TRAVEL ROUTE

- 5.1 The preferred route is under multiple land ownership. The LoMATR/LCDT have had discussions with these landowners from the inception of the project in 2013. However to date there remains barriers to reaching agreement with the various landowners. The LoMATR/LCDT has requested that the Council take on the project, in full or part, so that their Compulsory Purchase (CPO) or Path Designation powers can be utilised.
- 5.2 The compulsory purchase process requires demonstration that the project is required and that funds are available to build the project. If the Council did choose to pursue a compulsory purchase order, sufficient funding to purchase the land and cover all legal costs (including costs to cover an Inquiry should the order be objected to) would need to be identified. Before any CPO could be pursued the Council would need to be able to show it had tried to secure the land through negotiation.
- 5.3 An alternative which has been suggested is that the Council uses its powers under the Land Reform Act to designate the route as a path. This may be done even where the land is in third party ownership. As with the compulsory purchase process there are costs to the Council associated with utilising those powers, including preliminary work to establish the case to use these powers.

6. **NEXT STEPS**

- 6.1 There are a number of outstanding issues/queries, which would need to be answered. These answers would need to demonstrate that the project offered value for money and was the best use of the Council's limited resources. Further information is needed to demonstrate that any financial risk to the Council is minimised and that there is a long term plan for the maintenance of the route.
- 6.2 Through correspondence during Autumn 2022 and at a meeting in January 2023, officers highlighted to the LoMATR the need for a positive Business Case, the identification of match funding sources along with the need for a long-term maintenance plan for the route. To date these queries remain unanswered. The following table sets out the issues/information sought by officers and what would need to be provided by the LoMATR to address them:

Issue	Information sought to address Issue
Does the project offer best value for money/use of resources?	A copy of a Full Business Case undertaken as part of the Sustrans grant application process.
Up to date cost of scheme (2023 Prices) is not in public domain.	Full Business Case would provide up to date cost of scheme, including contingencies.
Sources of Match Funding are unknown and will require to be significant.	List of identified sources of match funding and steps to be taken to secure match funding.
Deliverability – including Land Ownership	Plan for delivering the project, including project management and steps undertaken to date to secure third party land.
Costs of Compulsory Purchase Order / Path Designation Order and how they will be met, including any need for a CPO Inquiry.	Confirmation that the funding body meets all costs of the process, not just the cost associated with any purchase of the land.
Limited staffing resources within the Council to work on a large-scale project.	Plan for managing the project including roles and responsibilities and how these will be filled. Confirmation that the LoMATR will manage the project through to conclusion of construction
Plans for on-going maintenance	Details of how contributions to the annual and long-term maintenance of the scheme will be funded and delivered by LoMATR or LCDDT.

- 6.3 Finally, it should be noted that Scottish Government is awarding increasing levels of grants for active traffic infrastructure but also acknowledges that there is a skills gap to deliver these projects within Local Authorities and the construction industry as a whole.

- 6.4 Directing officer time/resources towards one large-scale project will have consequences on the delivery of other projects. Any decision made to re-direct these limited resources away from priorities determined according to accepted methodologies as set out at paragraph 3.3 above.

7. SUMMARY OF IMPLICATIONS

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

Active Travel infrastructure supports Moray's 2026 priorities for healthier citizens as well as for older people to sustain active lives in their community. As well as supporting economic development targets by providing greater choice for travel within and between communities.

(b) Policy and Legal

Should the Committee decide that the Council will promote, develop and implement the Lossiemouth to Hopeman Active Travel Route then there is likely to be a requirement for a Compulsory Purchase Order to secure the land required to deliver the route.

Planning Permission will be required for some sections of the preferred route as they are not contiguous to the Public Road.

(c) Financial implications

Corporate Management Team Additional Expenditure Warning
When the Council approved the budget for 2023/24 on 1 March 2023 (paragraph 5 of the Minute refers) it balanced only by using reserves and one-off financial flexibilities. The indicative 3-year budget showed a likely requirement to continue to make savings in the order of £20 million in the next two years. All financial decisions must be made in this context and only essential additional expenditure should be agreed in the course of the year. In making this determination, the committee should consider whether the financial risk to the Council of incurring additional expenditure outweighs the risk to the Council of not incurring that expenditure, as set out in the risk section below and whether a decision on funding could reasonably be deferred until the budget for future years is approved.

Whilst the funding body Sustrans has indicated that monies can be made available to employ technical support to deliver the project, there would still be a requirement for Council staff to act in governance roles and in the pursuit of any legal orders. There is no revenue grant available to cover these costs.

There are significant costs implications should a Compulsory Purchase Order be objected to.

There has been no sight of a Business Case undertaken for the project and the estimated costs (2022 Prices) of the preferred route have not been shared with Council officers.

With increased infrastructure, a bigger proportion of the maintenance budget will be needed to be spent in the future on Active Travel Routes, including winter maintenance and gritting. Roads Maintenance are currently responsible for 25 miles of cycle tracks. The Lossiemouth to Hopeman Active Travel Route is some 6.6 kilometres long and will increase the council's maintenance requirements by some 16.4%. Expenditure on cycle track maintenance in 22/23 was £45k. Hence the request for an up-front commitment to contribute to maintenance costs.

(d) Risk Implications

Limited resources mean that directing officer time to the Lossiemouth to Hopeman ATR will result in other Active Travel and Road Safety projects being delayed or not delivered, and the annual CWSR and Road Safety Grants from Scottish Government not being fully utilised.

The project is at Stage 2 in the Sustrans Places for Everyone funding programme and still has 2 Stages to go through before full funding for implementation is secured and a further 3 Stages before the project is completed. The Spaces for Everyone programme is a competitive fund with a number of projects across Scotland seeking to secure funding from a limited 'pot'. There is no guarantee that the project will secure funding at the subsequent stages.

The Financial Risk for this project cannot be quantified at this time, as officers have not had sight of a Business Case.

If the CPO or Path Designation Order is unsuccessful then the project would not be progressed and any benefits from the projects not realised.

The Planning Permissions will be required for certain sections of the route, which are remote from the public road, which may not be granted.

(e) Staffing Implications

Additional resource will be required to deliver the Lossiemouth to Hopeman Active Travel Route including officers from Legal and Property Services, along with Transportation officers. The Governance of a project of this scale will require significant input from senior members of Council staff.

Directing staff towards a large-scale project would have an adverse impact on the delivery of other committed projects funded through the annual Cycling Walking and Safer Routes grant. There would also be an impact on the development of future projects to be delivered through applications to the Scottish Government's Active Travel Transformation Fund and any Active Travel projects, which may form part of any future application to the UK Government's Levelling Up Fund.

There will also be staffing implications for Property and Legal Services associated with the pursuit of any Compulsory Purchase or Path Designation Order, which would impact on the ability of these services to support other Council priorities.

(f) Property

If the Council was to take on this project it would require to use compulsory purchase powers to secure the necessary property rights from third parties.

(g) Equalities/Socio Economic Impact

An Equalities Impact Assessment (EIA) for the project is a condition of the Sustrans grant funding. An initial assessment has identified a range of positive impacts, particularly on the grounds of sex, disability and age (elderly and children), in tackling rural isolation. It is expected that the EQIA will be developed in more detail throughout the various stages of the application.

(h) Climate Change and Biodiversity Impacts

Promoting Active Travel is one of the key actions in the Council's Climate Change Strategy. The Lossiemouth to Hopeman ATR could provide a positive impact on the climate through enabling and encouraging alternative modes of travel through Moray. Reduced emissions supports nature recovery and the overall improvement of environments.

(i) Consultations

Depute Chief Executive (Economy, Environment and Finance), Head of Environmental and Commercial Services, Legal Services Manager, Committee Services Officer (L Rowan), Asset Manager (Commercial Buildings) and Equalities Officer have been consulted and any comments made are included within the report,

8. CONCLUSION

8.1 The Lossiemouth Community Development Trust (LCDT)/Laich of Moray Active Travel Routes (LoMATR) have been developing and promoting an Active Travel Route(ATR) between Lossiemouth and Hopeman but have been unable to progress due to resourcing and third party land issues. The LoMATR have requested that the Council take on the project to enable the use of their CPO powers to secure the necessary land.

8.2 If staff resources are directed to the Lossiemouth to Hopeman ATR then other Council projects will be delayed or not delivered (due to missed funding opportunities).

8.3 Officers currently review Active Travel and Road Safety interventions against the following criteria to ensure that limited resources (funding and officer time) are directed appropriately:

- Demand;
- Usage;
- Benefits;
- Deliverability; and
- Cost/Funding Sources.

8.4 There is insufficient information provided by the LoMATR to enable such a review to take place and for a decision to be made to ensure the best use of reduced capacity for such work within the Transportation team.

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Background Papers:

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