



**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE
SERVICES COMMITTEE ON 19 FEBRUARY 2019**

**SUBJECT: MORAY CORE PATHS PLAN REVIEW –PROPOSED
MODIFICATIONS AND OUTSTANDING OBJECTIONS**

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

1. REASON FOR REPORT

- 1.1 To ask that the Committee approve the submission of the Draft Amended Moray Core Paths Plan 2018, inclusive of a list of proposed modifications, as the Modified Amended Plan for adoption along with the Council's statements in response to the 17 outstanding objections to the Plan, to the Scottish Government.
- 1.2 This report is submitted to Committee in terms of Section III (F) (7) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council under the Land Reform (Scotland) Act 2003.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee agree that the:
- i. **Draft Amended Moray Core Paths Plan 2018, together with the list of modifications in Appendix 1, be submitted to the Scottish Government as the Modified Amended Plan for adoption; and**
 - ii. **seventeen outstanding formal objections and the Council's statements of response also be submitted to the Scottish Government.**

3. BACKGROUND

The Review – Public Consultation Process

- 3.1 At a previous meeting of this Committee dated 23 January 2018, it was agreed to approve the Draft Amended Moray Core Paths Plan 2018 and to carry out a 12 week public consultation exercise (paragraph 5 of the Minute refers). The public consultation finished on 23 April 2018 and 43 comments and 33 objections were received in relation to the Draft Plan. For reference purposes, a copy of the Draft Amended Moray Core Paths Plan 2018 that

went out to public consultation is available for viewing at:
http://www.moray.gov.uk/moray_standard/page_117501.html

- 3.2 Subsequently Council Officials entered into a negotiation period to explore what changes to the Draft Amended Plan would be required to address issues raised in comments received and with a view to seeking withdrawal of objections. As a result of negotiations, 16 of these objections have now been formally withdrawn, mostly subject to agreed modifications being carried out to the Plan. A list of the proposed modifications and illustrative maps, where related to a specific route, is contained in **APPENDIX 1**. Committee will note that as the proposed modifications involve changing the original draft Amended Plan, further consultations were carried out with known interested parties in the interests of transparency and the responses are also included in **APPENDIX 1**.

Outstanding Objections LM01 and CCP21

- 3.3 There are still 17 outstanding objections remaining that were not resolved through negotiation which are detailed in **APPENDIX 2**. Fourteen of these relate to the proposed amendments to Core Path LM01 at Roseisle and three to the proposed new path CCP21 at Rafford. The Draft Amended Moray Core Paths Plan was agreed at this Committee on 23 January 2018 inclusive of the proposed new Core Path designation CCP21 and the amendment to Core Path LM01 (paragraph 5 of the Minute refers).
- 3.4 **CCP 21** - Council Officials have given serious consideration to the substance of the 3 outstanding objections raised as detailed in **APPENDIX 2** but on balance consider that the track maintenance, vehicle access/parking and privacy concerns raised by the objectors do not outweigh the arguments for reinforcing public access through the Core Path proposal given that the route is currently a wide forestry vehicle track suitable for easy use by all non-vehicle access users. Any additional maintenance requirements from extra non vehicle access users will be negligible on this wide aggregate vehicle track. Most wear and tear on the track will result from vehicle use; public access rights under the Land Reform (Scotland) Act 2003 do not extend to use by motorised vehicles which is therefore not a material consideration to any Core Path designation which relates only to non-vehicle users. Additionally it is considered that detrimental effects on privacy will be negligible given that the track does not go through or immediately adjacent to private residential space without there being a garden boundary separation.
- 3.5 It is not considered that the Core Path designation will in itself generate a huge increase in non-vehicle users beyond that currently experienced along the route mostly used by locals. It is also considered that CCP21 is the best way to provide a safe Core Path link from Rafford village to the Dava Way; part of the Plan review strategy to create a Core Paths networks for smaller settlements such as Rafford which are currently deficient. Currently the only Core Path link from Rafford to the Dava Way is along a country road with no pavement. For these reasons no modification to the proposal is being promoted.
- 3.6 **LM01** – A map showing the LM01 amendment proposal is contained as part of **APPENDIX 2**. The amendment proposed in the Plan involves re alignment of the path to resolve a graphic error in the original adopted Plan and to address

the longstanding issue of Core Path LM01 being blocked at the rear of Charlann Cottage at Roseisle previously reported to this Committee on 20 June 2017 (paragraph 13 of the minute refers). The owners, during Spring 2016 enclosed the original path line within their garden boundary by erecting a new fence resulting in the path being blocked. The meeting of this Committee on 20 June 2017 (paragraph 13 of the Minute refers) looked at a range of options were explored to resolve the dispute including alternative routes for the Core Path such as along the nearby bridle path. All alternative options were ruled out and the Committee recommended enforcement action to unblock the existing path. Unfortunately the Council was subsequently unsuccessful in implementing enforcement action due to unforeseen legal technicalities which arose.

- 3.7 The Council still have a statutory duty to resolve the blocked Core Path which is an obstruction of public access rights. The re alignment of the path as a diversion running parallel to the fence obstruction on land owned by Forest Enterprise Scotland (FES) is now the most reasonable, practical and achievable way of resolving the issue. FES have agreed to this new route being designated as the Core Path which was included as an amendment in the Draft Amended Plan which went out for public consultation. Whilst 14 objections were received as contained in **APPENDIX 2**, there were 25 responses received in support of the proposed amendment and these are contained in **APPENDIX 3**. For the reasons detailed no modification to the proposals is being promoted.

Statutory Consultees

- 3.8 Scottish Natural Heritage (S.N.H) and the Moray Local Outdoor Access Forum (M.L.O.A.F.) have been consulted as Statutory Consultees. SNH responded in support of the Draft Amended Plan as proposed inclusive of LM01 and CCP21.
- 3.9 The Draft Amended Plan was devised jointly by Moray Council and the Moray Local Outdoor Access Forum (MLOAF) through a Forum sub group. MLOAF represent the wide range of interests in outdoor access so were well placed to represent multiple interests and give meaningful and informed input to the review. It is a statutory requirement for each Local Authority area to have at least one Local Outdoor Access Forum to advise the Council when exercising its access duties; that advice is not however binding on the Council. The Access Forum at their meeting of 27 November 2018 discussed the comments and objections received on the Draft Amended Plan and support the proposed amendments to the Plan contained in **APPENDIX 1**. At the meeting, the Forum specifically discussed the objections for LM01 and CCP21 as contained in **APPENDIX 2** but agreed to advise the Council that they did not agree with the issues raised by objectors and supported the original proposals.

4. SUMMARY OF IMPLICATIONS

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

Ensuring people can enjoy their access rights, unimpeded and free from obstruction, accommodating active leisure opportunities contributing to achieving the aim of healthier citizens.

(a) Policy and Legal

The review of the Moray Core Paths Plan is in accordance with Section 17 of the Land Reform (Scotland) Act 2003 and the Land Reform (Scotland) Act 2016 (part 9). In accordance with this legislation the review is subject to a formal consultation process of no less than 12 weeks. The plan format and public consultation exercise is in accordance with government guidance for Local Authorities and the SNH publication, 'Core Paths Plans: A Guide to Good Practice'.

(b) Financial implications and risks

The process of reviewing the Moray Core Paths Plan inclusive of the related public consultation exercise and any resultant Local Inquiry have been designed to minimise costs and to be achievable through limited departmental budgets. Savings are further facilitated through joint working with the Planning Service.

The 17 unwithdrawn objections should trigger a Local Inquiry which will likely be based on written submissions to an appointed Scottish Government Reporter. This will involve considerable Council staff time but will not incur additional costs as the costs of providing the reporter are borne by the Scottish Government.

The designation or amendment of a Core Path places no obligation on the Council to develop or maintain the route.

(c) Staffing Implications

The production and implementation of the Amended Plan is solely the responsibility of the Moray Access Manager who is working at full capacity in this regard.

(d) Property

None.

(e) Equalities/Socio Economic Impact

The Core Paths Plan has the overall ambition of collectively providing for all non-motorised users....people of all genders, ages and backgrounds. All Core Paths are free to use for everyone.

(f) Consultations

Legal Services Manager (Property and Contracts), Paul Connor, Principal Accountant, the Equal Opportunities Officer, the Senior Engineer (Traffic), Gary Templeton, Principal Planning Officer, Alex Burrell, Estates Surveyor and Lissa Rowan, Committee Services Officer have been consulted and their comments integrated into the report.

5. CONCLUSION

- 5.1 The proposed modifications to the Plan contained in APPENDIX 1 should be agreed in response to public comment suggestions and as a resolution to 16 of the objections received from the public consultation exercise for the Draft Amended Moray Core Paths Plan.**
- 5.2 The draft Amended Moray Core paths Plan inclusive of the modifications contained in APPENDIX 1 should be submitted to the Scottish Government as the Modified Draft Plan for adoption. The remaining 17 unresolved objections should also be submitted along with the Council's statement of response for consideration at a Local Inquiry convened by the Directorate for Planning and Environmental Appeals (DPEA).**

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Background Papers: Economic Development and Infrastructure Services
Committee Report of 23 January 2018