



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 26 MARCH 2019

SUBJECT: CONFIRMATION OF STOPPING-UP OF SECTION OF FOOTWAY ON BURDSHAUGH, FORRES

BY: HEAD OF LEGAL AND DEMOCRATIC SERVICES

1. REASON FOR REPORT

- 1.1 The Committee is asked to confirm, as an unopposed Order, “The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018.
- 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 **The Committee is asked to confirm as an unopposed Order, “The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018” and instruct the Head of Legal and Democratic Services to make the Order.**

3. BACKGROUND

- 3.1 Following an appeal against refusal of Planning Application 07/02414/FUL, planning permission was granted to the developer by the Directorate for Planning and Environmental Appeals (DPEA) on 16 September 2009, to carry out the development of Forty-six dwelling houses and Forty-eight flats with associated parking at Site R2, Grantown Road, Forres, Moray. Part of the development is to construct a replacement foot/cycle bridge over Mosset Burn and a new footway. The replacement bridge has now been completed. A Stopping-Up Order is required bringing to an end all rights subsisting in the existing section of footway on Burdshaugh which will become redundant. The section of footway on Burdshaugh which is affected by the Order, is more particularly detailed on the plan shown as **Appendix 1** to this Report.
- 3.2 In terms of the procedure under the relevant Act, the proposed Stopping-Up Order was advertised in the appropriate publications on 26th October 2018 and 31st October, 2018 and relevant notices were served on statutory undertakers. One observation was received from Scottish and Southern

Energy during that period relating to apparatus lying within the area covered by the Order. The information was passed to the developer to ensure that the infrastructure will not be affected by the Stopping-Up of the section of footway on Burdshaugh, Forres at the locations identified.

- 3.3 In terms of Section 207 and Schedule 16 of the Town and Country Planning (Scotland) Act 1997, as amended, the Planning Authority may confirm the Stopping-Up Order themselves without submitting the Order to the Scottish Government if there are no unresolved objections at the end of the statutory period. The observation referred to in para 3.2 above has been considered and addressed and there are no outstanding issues from the consultation process.

4. SUMMARY OF IMPLICATIONS

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

This report assists with the aim of having a growing and diverse economy in terms of the provision of infrastructure .

(b) Policy and Legal

The stopping up of sections of road is required to ensure proper implementation of the Planning Consent which has been granted. The proposal complies with the Town and Country Planning (Scotland) Act 1997 as amended.

(c) Financial Implications

The costs involved in promoting and making the Order and implementing the works will be met in full by the developer as agreed by the Council and the developer.

(d) Risk Implications

Failure to complete the statutory process to stop up the section of footway on Burdshaugh, Forres will lead to the Planning Consent which has previously been granted not being suitably implemented with related risks in respect of transport and infrastructure.

(e) Staffing Implications

There are no specific staffing implications arising from the proposal.

(f) Property

There are no specific property implications arising from the proposal.

(g) Equalities/Socio Economic Impact

There are no issues in this case.

(h) Consultations

The Transportation Manager, Richard Adam (Network Asset Engineer - Environmental Services), Iain Robertson (Senior Technician – Environmental Services) , Richard Smith, (Principal Planning Officer – Development Management) and Lissa Rowan (Committee Services

Officer) have been consulted and any comment incorporated into the report.

Colin Matheson Traffic Sergeant, Police Scotland has been consulted and is in agreement with the report.

Further consultation will be carried out through newspaper advertisement which will finalise the advertising process.

The relevant Ward Members have been consulted and any views they may have can be made known at the meeting.

5. CONCLUSION

The Committee is asked to consider the recommendations set out in Section 2 of the Report and confirm, as an unopposed Order, “The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018”

Author of Report: Emma Dawson, Paralegal (Property and Contracts)

Background Papers: (a) Planning Consent in respect of Application
07/02414/FUL.

Ref: EDOC-229-6525