

**REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE
29 MARCH 2004**

**REPORT ON: DEVELOPERS FAILING TO COMPLY WITH ROAD CONSTRUCTION
CONSENT CONDITIONS**

REPORT BY: DIRECTOR OF PLANING AND TRANSPORTATION

REPORT NO: 109-2004

1 PURPOSE OF REPORT

1.1 To advise Committee on difficulties being encountered with developers failing to comply with Road Construction Consent conditions on various sites and to approve the course of action for dealing with such non-compliance.

2 RECOMMENDATIONS

2.1 It is recommended that Committee:

- a authorise the Director of Planning and Transportation to serve an order on the three developments identified as having failed to comply with the conditions contained within the Road Construction Consent;
- b where a bond is in place, authorise the Director of Planning and Transportation to arrange to have the necessary works carried out in the event that the terms of the notice are not fulfilled; and
- c where a bond is not in place, remit the Director of Planning and Transportation to report back on the available options and likely costs of the necessary works.

3 FINANCIAL IMPLICATIONS

3.1 There are no direct financial implications associated with this report. In the case of developments with a Bond in place, any costs incurred by the Council due to the developer failing to comply with a Notice will be recovered from the Bond. In the case of developments where no Bond is in place, a further report will be brought back to Committee outlining the issues and identifying the available options and the likely cost of implications for the Council in undertaking the works directly and seeking reimbursement from the developer.

4 LOCAL AGENDA 21 IMPLICATIONS

4.1 Uncompleted or poorly completed new development works can have an adverse impact on the amenity of residents, creating problems with safety and accessibility.

5 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 Uncompleted or poorly completed new development works can have an adverse impact on the appearance of the new developments and can adversely impact on the amenity of residents.

6 BACKGROUND

6.1 Reference is made to the meeting of the Planning and Transportation Committee of 30 June 2003 when the Council resolved to exercise its powers under the Roads (Scotland) Act 1984 and serve notice on developers who fail to comply with the terms of the Road Construction Consent (RCC). A review has been undertaken of all outstanding developments where the terms of the RCC have not yet been complied with and three developments have been identified where enforcement action should be initiated.

6.2 The three developments identified are as follows:

Development	Developer	Date	Bond
City Quay	Forth Properties Ltd	1999	No
Dalmahoy Drive (Clattowoods – 3 phases)	Bett Homes	1996-1999	Yes
Ambleside Terrace	Barratt East (Scotland) Ltd	1999	Yes

6.3 It is recommended that the Council exercises its powers under the Roads (Scotland) Act 1984 and serves notice on the above developers.

6.4 Should the terms of the notice not be complied with, it is recommended that, in the case of residential developments where a Bond is in place, the Director of Planning and Transportation be authorised to instruct the works and to recover the costs incurred from the bond. In the case of developments where no bond is in place, a further report will be brought back to committee outlining the issue and identifying the available options and the likely cost implications for the Council in undertaking the works directly and seeking reimbursement from the developer.

6.5 It should be noted that a bond can only be required in the case of residential developments. In addition, residential developments by Local Authorities and Housing Associations do not require a bond to be secured.

7 CONSULTATIONS

7.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

8.1 Roads Scotland Act 1984.

8.2 The Security for Private Road Works (Scotland) Regulations 1985 (as amended).

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