

REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE – 30 JUNE 2003

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

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 428-2003

1 PURPOSE OF REPORT

1.1 To advise Committee on difficulties being encountered with developers failing to comply with Road Construction Consent conditions and to note the intention to vigorously pursue any future non-compliance.

2 RECOMMENDATIONS

2.1 It is recommended that the Committee note the contents of this report and agree to the proposals to exercise its full powers under the Road (Scotland) Act 1984, against any developer failing to comply with the conditions contained within a Road Construction Consent.

3 FINANCIAL IMPLICATIONS

3.1 There are no direct financial implications associated with this report. Any site-specific financial implications arising from the Council exercising its powers under the Road (Scotland) Act 1984 in the future will be reported to committee for approval.

4 LOCAL AGENDA 21 IMPLICATIONS

4.1 Uncompleted or poorly completed new development works can have an adverse impact on the 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 Under the terms of the Roads (Scotland) Act 1984, Section 21 there is a requirement on anyone, other than the roads authority, who wishes to construct a new road or extend an existing road, to obtain consent from the local roads authority before commencing the construction.

6.2 Section 21(3) of the Roads (Scotland) Act 1984 states that the local roads authority shall consider any application made to them and approve the application subject to any conditions they see fit. Applications for Road Construction Consent are regularly reported to the Planning & Transportation Committee where the conditions attached to the consent are on display along with a drawing detailing the areas of new road covered in the application.

6.3 Section 21(4) of the Roads (Scotland) Act 1984 states that it shall be a condition of a construction consent that the works shall be completed within a period of not less than three years from the date on which the consent is given.

- 6.4 Section 21(5) of the Roads (Scotland) Act 1984 states that where a condition imposed by a construction consent has not been fulfilled, the local roads authority may serve a notice requiring the new road to be brought into conformity with the construction consent. In serving such a notice, the developer must be given a reasonable time within which to comply with the notice.
- 6.5 In the past, the Council has been reluctant to exercise its powers under the Road (Scotland) Act 1984 as the Council may be obligated to step in and carry out the actions identified within any such notice. This could result in the Council incurring significant additional costs that it may not be able to recover.
- 6.6 Over the past few years, there has been a growing problem with developers failing to comply with the terms of a construction consent. This has been a particular issue with street lighting. There are presently a total of 33 developments which are not yet complete and which are in excess of the three year period. Some of these developments date as far back as 1986.
- 6.7 In order to combat this growing problem, it is recommended that the Council resolves to exercise its powers in future under the Roads (Scotland) Act 1984 and serve notice on developers who fail to comply with the terms of the construction consent. In all such cases, a report will be brought to committee outlining the issue and identifying the likely cost implications for the council.
- 6.8 In the case of residential developments where a bond or security is required in accordance with The Security for Private Road Works (Scotland) Regulations 1985 (As Amended), the road bond or security may be used to cover the cost of the works. In any other such case or where a Bond has not been secured the Council may stop up the Road and/or report the matter to the Procurator Fiscal.

7 CONSULTATIONS

- 7.1 The Chief Executive, Director of Finance, Director of Support Services and Director of Corporate 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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