

REPORT TO: DEVELOPMENT QUALITY COMMITTEE – 29 OCTOBER 2001

REPORT ON: REFORM OF THE BUILDING CONTROL SYSTEM IN SCOTLAND

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 630-2001

1 PURPOSE OF REPORT

1.1 To make the Elected Members aware of the consultation (green paper).

2 RECOMMENDATIONS

2.1 That the Committee authorise the sending of attached response (Appendix 1) on behalf of the Council to the Scottish Executive by the deadline of 31 October 2001.

3 FINANCIAL IMPLICATIONS

3.1 There are no financial implications associated with this report.

4 LOCAL AGENDA 21 IMPLICATIONS

4.1 There are no Local Agenda 21 implications.

5 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 There are no Equal Opportunities implications.

6 BACKGROUND

6.1 Improving building standards

6.2 The consultation document invites comments on the Scottish Executive's proposals to reform the Building Control System in Scotland which has been in existence since 1964.

6.3 The origins of the existing Building Control system are outlined in the Guest report of 1957. The Guest report recommended the establishment of a comprehensive Building Code which should be set up in the form of National Regulations. The report indicated that the purpose of a Building Control system was to protect the public interest with regard to Health and Safety in and around buildings. The recommendations were accepted and as a direct result the first set of Building Regulations called The Building Standards Scotland Regulations were made in 1963 and came into force in 1964.

6.4 Since that date there have been major reviews of the Technical requirements in 1970, 1971 (due to metrication) and 1990 Building Standards (Scotland) Regulations.

6.5 There was also a new Act, the Building (Scotland) Act 1970 which amended the 1959 Act. The responsibility for making the regulations was devolved to Scottish

Ministers in 1999, and the Scottish Executive is responsible for preparing and issuing the Technical Standards for compliance with the regulations.

6.6 This review recommends that the purpose of building standards would remain the protection of the public interest in and around buildings and that the standards would be set nationally. The issues currently covered by the standards would remain. These are:

- The health, safety and welfare of the occupants and the general public.
- The conservation of fuel and power.
- The accessibility and visibility of buildings by everyone irrespective of their abilities or disabilities.

Any decision on the inclusion of additional issues of public interest should be taken by the Scottish Parliament and might include sustainability, crime prevention, the alleviation of fuel poverty and flood prevention measures.

The standards will be applied to all new buildings and to existing buildings when building work is being undertaken.

7 CONSULTATIONS

7.1 The Chief Executive, Director of Finance, Director of Support Services, Director of Corporate Planning, Building Quality Manager (Team Leader Building Control), have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

8.1 Improving building standards dated July 2001 (A consultation Green paper from the Scottish Executive inviting responses on the reform of the Building Control System in Scotland.

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APPENDIX 1: DUNDEE CITY COUNCIL RESPONSE

The following Questions have been highlighted by the Scottish Executive for comment:

Questions

Purpose and Scope of Building Standards Legislation (Chapter 2)

- 1 *Should the building standards continue to exclude issues related to the quality of construction, except in so far as the quality control is necessary for the effective functioning of the building in respect of the building standards?*

Comment: Agree that The Building Standards should relate to quality for the effective functioning of the building in respect of the Building Standards only.

- 2 *Should the building standards be the benchmark for all other legislation or guidance related to buildings?*

Comment: Agree that the Building Standards should set minimum standards for New Buildings, alterations, extensions, changes of purpose group and where work is required under the legislation. They should not apply to existing buildings where there is no work or change of use taking place.

The Building Standards (Chapter 3)

- 3 *Should the mandatory building standards be written in the form of the expanded functional standards?*

Comment: Agree that the Building Standards should be written in the form of the expanded functional standards and that the expanded functional standards should be made mandatory.

- 4 *If expanded functional standards are made mandatory, should they be accompanied by:*

a *A set of advisory performance requirements which will have been developed from the existing Technical Standards; and/or*

b *Advisory prescriptive specifications for the most common building works?*

Comment: The expanded functional standards should be accompanied by a set of advisory performances, requirements and advisory prescriptive specifications. This will give greater flexibility to designers and greatly reduce the requirements for relaxations.

New Buildings and Building Work (Chapter 4)

- 5 *Should the building owner continue to be the dutyholder?*

Comment: Agree that the dutyholder should continue to be the owner.

6 *Should the owner be able to begin work even before a building warrant is granted, provided the local authority has no reason to believe that they will not comply with expanded functional standards?*

Comment: Agree that in some circumstances the owners should be able to begin work at his/her own risk before a building warrant is granted provided that the local authority is satisfied that the expanded functional standards are met. This should assist businesses etc to commence work earlier and remove the tensions between local authorities, its stakeholders and customers with regard to the rigid structure that is laid out in the present system.

7 *Should the responsibility for the completion certificate lie with the owner, and the local authority only be given responsibility to check the accuracy of the completion certificate?*

Comment: Broadly agree that the responsibility for the completion certificate should lie with the owner. However, a final inspection should be required to reasonably establish compliance.

8 *Should it be an offence to occupy a new building before the acceptance of the completion certificate?*

Comment: Agree that it should be an offence to occupy a building before the local authority's acceptance of a completion certificate. However, temporary certificates should still be considered in special circumstances.

Verifiers and Certifiers (Chapter 5)

9 *Should verification continue to be undertaken only by local authorities?*

Comment: We agree that verification should continue to be undertaken by local authorities.

10 *Should competent individuals be allowed to register as Approved Certifiers of Design for parts or all of the design process?*

Comment: Agree that competent individuals should be allowed to register for specific parts of the design process only.

11 *Should competent installers and contractors be allowed to register as Approved Certifiers of Installations for parts or all of the construction process?*

Comment: Agree that competent installers and contractors be allowed to register as approved certifiers of installations for specified parts of the building only.

12 *Should the fee scale reflect the different methods of showing compliance and the amount of verification required from the local authority?*

Comment: Agree that fees should be set at national level. However, we strongly feel that the full amount should still be paid at the warrant submission stage. A two stage fee system would be confusing and difficult to administrate.

Buildings in Use (Chapter 6)

13 *Should a local authority be able to serve a stop notice where work is ongoing and no building warrant has been applied for?*

Comment: Agree that the local authority should be able to serve a stop notice for Unauthorised work, and that there should be an appeal system in place.

14 *Should it be possible to apply for a building warrant at any stage even after the completion of works?*

Comment: Broadly agree with the possibility of applying for a Building Warrant any stage and after work is complete. However, this process requires further consideration regarding the certification of unseen work ie there is a risk in accepting unseen work without certification.

15 *Should a public building standards register be established by each local authority on which would be recorded all building warrants, accepted completion certificates, unaccepted completion certificates, and unauthorised works?*

Comment: Strongly agree with the recommendation of establishing by each local authority a building standards register which will record all building warrants, accepted completion certificates, unaccepted completion certificates, and unauthorised works. Everyone should have access to the register. This should assist people in the buying and selling of a property with regard to its status.

16 *Should a local authority have the power to conduct non-disruptive superficial surveys of a building where they have reason to believe that work has been done without a building warrant?*

Comment: Agree that the local authority should have the power to conduct non-disruptive superficial surveys of buildings where they have reason to believe unauthorised work has taken place.

17 *Should a local authority have the duty to provide a building standards assessment, prepared to a consistent national format, when requested to do so by an owner?*

Comment: Agree that the local authority should have the duty to provide a building standards assessment to a consistent national format when requested to do so by a dutyholder. A national system will be more transparent than the existing letter of comfort system used by local authorities. Fees should be set at the National level.

National Roles (Chapter 7)

18 *Should a national building standards body be created?*

Comment: Agree that a national standards body is created and that it should be a stand alone agency for Building Control. However, the national body will have to be easily accessible and transparent in the role of its duties. We believe that the National Body should be an integral part of the Scottish Executive accountable to the Scottish Ministers.

19 *If a national body is created, which of the following roles should it undertake:*

- a Preparation of the guidance in support of the expanded functional standards;*
- b Provision of adjudication on technical issues under dispute between the duty holder and the local authority;*
- c Maintenance of a register of Approved Certifiers of Design;*
- d Approval of contracting and trade organisations that wish to gain recognition for their members as approved Certifiers of Installation;*
- e Auditing and monitoring of the competence of local authorities in fulfilling their building standards functions;*
- f Production of the fee scales and other procedural documents;*
- g Responding to requests for assistance from local authorities on complex projects;*
- h Verification of crown buildings*

Comment: Agree that the national body should undertake all of the duties listed in a to h.

20 *If a national body is created, what other roles should it undertake?*

Comment: The national body should support local authorities with regard to clarification of any matters relating to its defined function through a fast track questions and answering system.

Relationship with Planning and other requirements (Chapter 8)

21 *For small, simple projects, where the owner wishes to make use of the prescriptive specifications, should local authorities be encouraged to develop joint planning/building warrant applications?*

Comment: Broadly agree with this recommendation. However, harmonisation between Planning and Building Control legislation needs to be addressed eg Duration of Warrant and planning approvals. Floor areas for exemptions etc.

22 *Should the building standards system cover the certification of water installations within buildings?*

Comment: Agree that certification of water installation should come under the umbrella of the building standards.

Other comments and views

23 *Do you have views on any other issues or proposals in the report?*

Comment: The report is clear and comprehensive. However, we feel that the recommendations for Certified designers and installers requires a great deal of thought and further discussion.