

WEST DUNBARTONSHIRE COUNCIL

Report by Acting Director of Housing, Regeneration and Environmental Services (Housing & Regeneration Services)

Planning Committee: 8 August 2007

Subject: Proposed Partial Removal of Building Standards Verification Function

1. Purpose

- 1.1** This report informs the Committee of the intention of Scottish Ministers to remove from Councils from 30 April 2008, the verification function in respect of buildings in which Councils have an interest. The Scottish Building Standards Agency (SBSA) is seeking early views from Councils on the procedures and mechanisms whereby Councils can verify each other's work.

2. Background

- 2.1** At present the Building Standards section of the Council will verify building warrant applications for properties in which the Council has an interest. However it is the intention of the SBSA to make the verification function completely independent of the design and construction process within Councils and this is identified in the Building (Scotland) Act 2003.

3. Main Issues

- 3.1** The position since the Act came into force on 1 May 2005, is that all Councils have been given a three year dispensation (by way of a Direction) to allow them to exercise the functions of verifier in respect of buildings in which they have an interest. This has meant that a Council can issue warrants and accept completion certificates in respect of its own buildings.
- 3.2** On 28 March 2007, the SBSA wrote to Councils stating that the Direction will not be continued beyond 30 April 2008. However Scottish Ministers still believe that the verification function should be undertaken by public bodies, and they wish to establish a mechanism whereby buildings in which a local authority has an interest can be verified by a different local authority. This is intended to ensure independence of view and action without removing work from the local authority sector.
- 3.3** The SBSA letter acknowledges that there is work to be done on the precise details of the proposed arrangements.

- 3.4** Within the senior management of the profession (Scottish Association of Building Standards Managers or SABSM), initial reaction to the SBSA letter has been one of concern, as the proposal is considered to raise substantial practical and resource issues for all Councils. There is a consensus that COSLA should be asked to become involved on behalf of Councils in making representations to Ministers, with a view to the proposal being reviewed.

SABSM Concerns

- 3.5** Further to recent discussions with SABSM, the Agency has confirmed that it has no evidence that there has been or is a conflict of interest involving the Building Standards verification service provided by any Scottish local authority in respect of buildings in which it has an interest. It would therefore seem that the Ministers' intention not to extend the Direction is designed to address a hypothetical conflict of interest.
- 3.6** The proposed sharing of the function between Councils raises a number of implications regarding work practices and resources. There are also issues related to the fee income involved.
- 3.7** SABSM has raised queries as to the appropriateness of diverting limited resources from hard-pressed local authorities because of a hypothetical concern. It would seem wasteful and unsustainable to ask a Council to share the verification function with another, when this would involve Building Standards Surveyors travelling substantial distances to and within another Council area for all site inspections.
- 3.8** SABSM noted that Councils had been given no opportunity to express views on the Ministers' proposals prior to the SBSA letter of 28 March 2007. During the SABSM discussions the option of approaching COSLA was raised. It was considered that there would be merit in local authorities making joint representations to the Scottish Ministers seeking a review of the proposal.

Other concerns

- 3.9** The SBSA has given no indication as to how the practical issues involved in the proposed "sharing" of the verification function might be addressed.
- 3.10** Assuming that Councils will be expected to "share" the function with adjoining Councils, the options for West Dunbartonshire Council would seem to involve working with one or more of the three nearest Councils – Argyll & Bute, East Dunbartonshire and Glasgow.
- 3.11** The option of working with Glasgow would seem to raise particular difficulties arising from the mismatch in the sizes of the two Councils and would raise major staffing issues. The geography of Argyll and Bute also presents difficulties and inefficiencies in covering such a large area.

- 3.12 Of the adjacent Councils, East Dunbartonshire has the closest fit in terms size and accessibility
- 3.13 The fee income deriving from buildings in which a Council has an interest is also likely to vary widely between authorities. Fee income in any authority will also vary from year to year. If two authorities agreed to “share” the verification service and there was a mismatch in fee income in any year, it is not clear as to whether the Scottish Executive would fund any shortfall or apply some equalisation formula.
- 3.14 The definition of the term “interest” in a building can be far reaching and will include where the Council is owner, tenant or occupier, or if there is a financial interest.
- 3.15 There would be further practical problems associated with two Councils “sharing” the verification function. An application would be submitted and entered on the Building Standards Register for the Council area, only for the application/plans to be then redirected to another Council. This would seem to be bureaucratic, and confusing to the public. Local knowledge would not be able to be utilised in handling the application.

4. Personnel Issues

- 4.1 There will be staffing implications and efficiency issues which cannot yet be quantified.

5. Financial Implications

- 5.1 Financial implications cannot yet be quantified as clarification is still required on issues such as fees.

6. Risk Analysis

- 6.1 If the Council were not to comply with the proposals, there would be a risk that the SBSA would review whether the verification function should be retained within the local authority sector.

7. Conclusion

- 7.1 The proposal from the Scottish Building Standards Agency has raised concern amongst Local Authority Building Standards staff. There has not been a problem with Local Authorities verifying their own work in the past and the proposed change is likely to lead to operational and organisational difficulties and potential inefficiencies.

8. Recommendation

- 8.1 That the Committee notes the content of this report, that the SBSA is made aware of this Council's concerns and agrees to ask CoSLA to make representations to the SBSA on behalf of all Local Authorities.**

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Date: 30 July 2007

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Appendices: None

Background Papers: Letter from SBSA dated 28 March 2007

Wards Affected: All