

## **WEST DUNBARTONSHIRE COUNCIL**

### **Report by the Executive Director of Housing, Environment and Economic Development**

**Planning Committee: 7 June 2011**

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**Subject: Scottish Government Consultation on improving choice in verification of Building Standards**

#### **1. Purpose**

- 1.1** The Committee is requested to consider this consultation paper and to agree a response.

#### **2. Background**

- 2.1** The Planning Committee was advised in March 2011 that the Council, like other Councils throughout Scotland, had been reappointed as verifier in relation to the building standards system for a further period of six years; ending 30 April 2017. At the same time of the reappointment, the Scottish Government advised that they intended to consult on the possible introduction of limited private sector verification to be carried out by the National House Building Council (NHBC) in relation to housing developments.

#### **3. Main Issues**

- 3.1** The Scottish Government consultation paper seeks the views of the Council of increasing choice in the verification of building standards and proposes that NHBC are appointed as verifier for particular types of development - new build houses, flats and maisonettes. It contains 8 questions on which the views of the Council are sought. The recommended responses are attached in Appendix A to this report.
- 3.2** The consultation document includes a background to the Building Standards system that currently operates in Scotland, together with background information on the current NHBC services delivered throughout the United Kingdom.
- 3.3** NHBC state that more than 80% of new homes built in the UK are registered with them and benefit from their 10 year warranty and insurance policy. It is also stated that within England and Wales 60% of these new homes are verified for building standards purposes through NHBC Building Control Services. If this is replicated in West Dunbartonshire there is likely to be a reduction in both application numbers and fee income.
- 3.4** The following table provides information on the estimated cost of erecting new build housing within the Council area and the fee income received in respect of these Building Warrant Applications over the last 4 financial years.

<b>Financial Year</b>	<b>Estimated Cost of Erecting New Build Housing</b>	<b>Fee income to Council</b>
2010/11	£33,085,000	£111,502
2009/10	£9,083,000	£33,699
2008/9	£4,040,000	£14,907
2007/8	£80,212,000	£238,547

It should be noted that during year 2007/08 a disproportionately high number of new build housing applications were received in order that house builders could avoid changes to the building regulations that were implemented part way through that year. The following year showed a marked reduction in applications for new build housing. 2009/10 showed some increase in applications received, however these were limited by the economic situation being faced by main stream house builders. 2010/11 shows a further increase towards normal level of house building applications; mainly due to proposed developments at Lomondgate, Dumbarton and various Housing Association developments throughout the Council area.

- 3.5** All Scottish Councils in conjunction with the Scottish Association of Building Standards Managers (SABSM) have been working along with the Scottish Government over previous years to develop, implement and improve the building standards service available to all applicants. The Council each year prepares a Balanced Scorecard to provide a rounded business approach and performance framework to the various aspects of the building standards sections work. This approach has been acknowledged as improving building standards nationally and we are committed to continue to do so.

#### **4. People Implications**

- 4.1** Should the NHBC be appointed as verifier, there may be a reduction in the submission of building warrant applications for new build housing which would impact on the workload of existing staff. This would require be monitored and reviewed.

#### **5. Financial Implications**

- 5.1** Should the NHBC be appointed as verifier there may be a reduction in the submission of building warrants to the Council, which would have as a consequence a reduction in fee income.

## **6. Risk Analysis**

**6.1** No risk analysis is required in relation to this report.

## **7. Equalities, Health & Human Rights Impact Assessment (EIA)**

**7.1** There are no equalities issues in relation to this report.

## **8. Conclusions and Recommendations**

**8.1** The consultation document considers the merits of introducing the NHBC as a verifier for new build housing throughout Scotland. If appointed, the NHBC are likely to undertake a proportion of work that is currently done by the Council and thus result in a reduction of Building Warrant Applications and fee income made to the Council which will also have consequence for the services provided by the Building Standards Section. The recommended Council response to the consultation paper as shown in Appendix A supports the view that the NHBC should not be appointed as a verifier in relation to building standards in Scotland.

**8.2** It is recommended that the Committee notes the content of this report and agrees that that Appendix A forms the Council's response to the consultation paper.

**Elaine Melrose**

**Executive Director of Housing, Environmental and Economic Development**

**Date: 23 May 2011**

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### **Appendices:**

Appendix A: Response to the Consultation Paper

- Background Papers:**
1. Building Standards Verification – improving choice in verification of Building Standards, The Scottish Government Consultation Paper.
  2. Report to Planning Committee of 1 March 2011: Re-appointment of Council as a Building Standards Verifier.
  3. Research Project to Support the Appointment of Verifiers, Final Report, The Scottish Government/Optimal Economics, June 2010.

**Wards Affected:** All

## **Appendix A**

### **Response to Scottish Government Consultation on Improving Choice in Verification of Building Standards**

#### **Q 1: Do you think verification of building standards would be improved by introducing choice on who provides the service?**

No, verification would not necessarily be improved. Verifiers may in an attempt to retain or attract new business move importance from the ultimate requirement to protect the wider public interest, towards meeting the immediate demands of a building warrant applicant for a faster service. Applicants may also seek the path of least resistance should there be a choice of verifier towards one that is less exacting in the application of standards and/or is not as thorough in undertaking site inspection work. In attempting to be more competitive, a verifier may relax its requirements, interpretations and increase scope for error due to demands of applicants for speed of decision making. Verification would not be improved under such circumstances and it can be envisaged that verification would be inferior under such circumstances.

While applicants may desire a faster and more flexible service, this is being increasingly provided by local authorities; as recognised by recent research undertaken by Optimal Economics on behalf of the Scottish Government. The ultimate beneficiary of the building standards system is usually not the applicant for Building Warrant, but the person who occupies, lives in or visits the building/house and those who use the area around the building.

The Optimal Economics Report states 'The current system of verification as operated by the local authorities in Scotland is acknowledged to achieve fully the objective of serving the public interest and buildings erected in Scotland are generally considered to be safe and comply with building regulations.' This is further evidence that clearly the current system works and there is therefore no need for general change in any specific building type sector; despite pressure from within those sectors to bring about change.

It is our understanding that all of Scotland's local authorities, as building standards verifiers, are committed to working together along with the Scottish Government to achieve continued improvements in the building standards system that will deal with the issues being faced by the private house building sector in relation to verification and approval of Building Warrant Applications.

#### **Q 2 Do you think that NHBC should be appointed as a verifier?**

No. Consistency is already being addressed nationwide with local authorities committed to a building type approval scheme and a national customer charter including performance targets, all aimed at providing a predictable service to the customer. The demand for speed is driven largely by one sector of the development industry and aimed solely for the benefit of house builders. The wider public interest is best served by the verification role being

retained exclusively by local authorities, and by both developers and local authorities working together in partnership agreements providing an integrated local authority response to major development projects. This Council is committed to doing so and has already commenced work in relation to providing an integrated approach to major development projects.

**Q 3: Do you think there would be benefits in introducing NHBC as a verifier?**

No. From the perspective of the wider public interest, there would not be a benefit in appointing the NHBC as a verifier. It is considered that local authorities can deliver a non-discriminatory service well in excess of any service provided by the private sector.

Local authority building standards services are driven by “public service”, have no conflict of interest or commercial interest/pressure, and are both publicly and politically accountable. They are linked and integrated with other regulatory services integral to the development process, can link verification with enforcement and, significantly, can provide a local service with local knowledge linked into a national network of experience and good practice.

It is however recognised that there may be some benefit to specific groups (i.e. house builders) from the introduction of the NHBC as a verifier. However given that Scotland’s existing local authority verifiers are committed to working together along with the Scottish Government to achieve continued improvements in the building standards system that will deal with the issues being faced by the private house building sector in relation to verification and approval of Building Warrant Applications, it is submitted that there is no need to alter the present arrangements in relation to verification.

**Q 4: Do you think that all appointed verifiers whether public or private should operate within the same legislative, fees, performance and scrutiny framework?**

Yes, all appointed verifiers should operate within the same legislative, performance and procedural frameworks. If the Scottish Government is minded to introduce competition in the verification of building standards and the provision of building standard services is to be acknowledged as free from commercial ‘cherry-picking’, then verifiers must be required to guarantee a non-discriminatory service where full cost recovery is achievable and accept any warrants submitted no matter how large or small. Only this will allow potential customers to make a decision based on equal comparisons. Any proposals for a dual system of verification must be comparative by working to one set of common rules; including procedures and fee frameworks.

It should also be noted that all existing local authority verifiers undertake many duties in relation to verification which does not attract fee income; including providing a free verification service in relation to applications involving alterations, adaptations and extensions to dwellings to meet the needs of disabled persons, and providing advice and assistance to persons unfamiliar

with the building standards system and its various regulations and statutory procedures.

Many local authorities, including West Dunbartonshire Council, also offer and encourage uptake of free pre-application technical advice from their building standards staff on compliance with building regulations.

**Q 5: If NHBC are appointed as verifiers do you think the scope of work should be limited to newly constructed houses, flats and maisonettes?**

No. If the Government is minded to appoint NHBC, then it should be on the basis of providing a full verification service. New house building is the “soft” end of building standards and attracts fee income equitable to the cost of service delivery. There is an expectation that most warrants are submitted by professionals, in an appropriately competent manner, and includes self certification of aspects of design and construction. By comparison, a significant amount other verification work currently undertaken by local authorities includes low fee submissions and enquiries by non professionals, with many submitting one off applications and requiring regular professional guidance and assistance through the process. Should the Scottish Government see choice as improvement, this should not be limited to a particular type of applicant, but be open to all. Failure to do so would see existing local authority verifiers disadvantaged.

There must be a level playing field for all verifiers. To not have this would exacerbate the current situation of larger projects, including house building, in some ways subsidising smaller construction projects that are received by local authority verifiers; including those that are currently done which attract no fee income, such as alterations, adaptations and extensions to dwellings to meet the needs of a disabled person.

**Q 6: If NHBC are appointed as verifiers do you think the scope of work should include conversion of existing buildings to form new houses, flats and maisonettes?**

Yes – see comments in relation to Question 5.

**Q 7: If NHBC are appointed as verifiers do you think they should be allowed, on a mixed use development of mainly housing, to verify the commercial building aspect?**

Yes. If Scottish Ministers are minded to appoint NHBC as a verifier it is fundamental that NHBC offer a complete verification service for all application types if real ‘choice’ is to be provided to applicants for building warrant approval. If this is not the case then choice is not being offered to all sectors, with choice instead only being given to the house building industry.

**Q 8: Do you have any other comments on the proposals?**

Yes. The Scottish Association of Building Standards Managers (SABSM) submitted a detailed report to Scottish Ministers in support for the case for the appointment of local authority verifiers. In addition to highlighting the notable success of local authority building standard verifiers, this report emphasised further improvements to service delivery. It is clear that local authorities are best placed to meet the demands of the full range of customers and to deliver a complete building standards service in the public interest. Continued retention of the present sole verifier role will provide this Council with the confidence to fully support and participate in a programme of continuous improvement agreed between SABSM and the Building Standards Division of the Scottish Government, as well as meet the requirements of the development industry in challenging economic times.

All Scottish Councils in conjunction with SABSM have been working along with the Scottish Government over previous years to develop, implement and improve the building standards service that is made available to all applicants; regardless of how large or small they or their projects are. The Council each year prepares a Balanced Scorecard to provide a rounded business approach and performance framework to the various aspects of the building standards sections work. This approach has been acknowledged as improving building standards nationally and we are committed to continue to do so.