
**REQUEST FOR ROAD WORKS TO BE INCLUDED IN THE COUNCIL'S
CAPITAL FINANCIAL PLAN 2015-16**

Report by Service Director Regulatory Services

EXECUTIVE COMMITTEE - (FINANCE)

24 FEBRUARY 2015

1 PURPOSE AND SUMMARY

- 1.1 This report seeks approval for the inclusion of the works associated with the completion of the roads within part of the housing development at Dingleton Road, Melrose in the Council's Capital Financial Plan 2015-16**
- 1.2 The Council have a duty under the Roads (Scotland) Act 1984 and associated regulations to complete the road works to an adoptable standard in a development where construction consent has been issued and the conditions have not been adhered to or the developer ceases trading.
- 1.3 In this instance, the Council hold security to a value of approximately £55,000, in the form of a cash deposit, which was lodged as a requirement of the construction consent issued for Phase 2 of the housing development at Dingleton Road, Melrose. Due to the non-compliance of conditions within the consent and the developer going into voluntary liquidation, the Council now have to progress the road works required to complete the roads to an adoptable standard.
- 1.4 All steps have been taken to minimise the required expenditure and funding will be met primarily by security currently lodged with the Council as part of the original approvals for this development with additional funding from the Council.

2 RECOMMENDATIONS

- 2.1 I recommend that the Executive Committee agrees to the inclusion of the road works in the Council's Capital Financial Plan 2015-16 with a budget of £85,000.00, funded using security (£55,000) currently held by the Council under the relevant regulations with the remaining costs being met from the Council's Roads (including RAMP and winter damage) budget 2015-16.**

3 BACKGROUND

- 3.1 It is a legal requirement via the Roads (Scotland) Act 1984 and the Security for Private Road Works (Scotland) Regulations 1985 and subsequent 1998 amendment, that the relevant security is lodged with the Council prior to any house building associated with a construction consent commencing on site.
- 3.2 Where a developer has not completed road works in accordance with construction consent within the specified time limit, Regulation 13 of the Security for Private Road Works (Scotland) Regulations 1985 and subsequent 1998 amendment, clearly states that it is the duty of the local Roads Authority to complete the works in accordance with the construction consent.
- 3.3 Construction Consent reference CC/05/05 for Phase 2 of the development at Dingleton Road, Melrose was issued on 16 September 2005 to Pinecraven Construction Limited. Since then, development within Phase 2 has been substantially completed. Road Construction Consent has subsequently been issued to another developer for Phase 3 of the development. Phases 2 and 3 share the same access road.
- 3.4 Through the requirements of the Roads (Scotland) Act 1984 and the Security of Private Road Works (Scotland) Regulations 1985 and subsequent 1998 amendment, security for the development to the value of £50,000 (fifty thousand pounds) was lodged on 22 September 2006 in the form of a cash deposit. This security was for the part of the development covered by CC/05/05 and its purpose is to ensure the completion of the roads to an adoptable standard by the Council should the developer cease trading or fail to comply with the conditions of their construction consent.
- 3.5 The Council has received a number of representations from the residents of Harleyburn Court, Melrose (the main part of Phase 2) intimating that the developer had gone into voluntary liquidation and requesting that the Council complete the roads within that phase of the development.
- 3.6 The original security was placed in a bank account and taking interest into consideration, the current value is approximately £55,000 (fifty five thousand pounds.)
- 3.7 Taking into account the outstanding works required on-site and an increase in material costs since the original deposit, an estimate for the outstanding works is £85,000.

4 IMPLICATIONS

4.1 Financial

- (a) A pre-tender estimate has been drawn up and the value of the works will exceed the £55,000 security currently held.
- (b) Should the additional funding for the works be met from the Council's Roads (including RAMP and winter damage) Budget 2015-16, this will result in other identified works being deferred to another financial year.

- (c) The revenue consequences of maintaining this additional section of public road would be met by this department.

4.2 Risk and Mitigations

- (a) The situation which has arisen on this site highlighted some concerns in respect of the Council’s security for private road works process. Measures have now been put in place to ensure tighter control of this process in the future. The Society of Chief Officers of Transportation in Scotland (SCOTS) are currently seeking changes to legislation which will give Councils more power when seeking to pursue legal action against any developer who does not continuously provide the relevant security for a housing development.
- (b) There is a risk that, due to contractors being on-site in association with the subsequent phases of the development, the Council may have to delay a start date for these works, or put appropriate measures in place, so as to ensure there is no conflict between the contractors on-site.

4.3 Equalities

An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

4.4 Acting Sustainably

There will be no economic, social or environmental effects of carrying out this proposal.

4.5 Carbon Management

There are no effects on carbon emissions as a result of this proposal.

4.6 Rural Proofing

There are no rural proofing implications arising from this proposal.

5 CONSULTATION

- 5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Service Director Strategy and Policy, the Chief Officer Audit and Risk, the Chief Officer HR, and the Clerk to the Council have been consulted and their comments incorporated into this report.

Approved by

Service Director Regulatory Services

Signature

Author(s)

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Background Papers:

Previous Minute Reference:

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