
From:

[REDACTED]

[REDACTED]

To:

Housebuilding

Subject:

The Private Management of Public Amenities on Housing Estates

[REDACTED]

[REDACTED]

Hi,

Please find below Robertson's response to your recently issued working paper on The Private Management of Public Amenities on Housing Estates.

General Comments :-

- POS not adopted by Local Authorities in Scotland thus requires factor to be appointed to manage at cost of property owners. Community Interests Companies could be set up per development when at the appropriate scale thus giving title to and control of these to home purchasers.
- NHQB procedure will address information provided to homeowners includes factoring arrangements, especially if lenders require the developer to be registered
- Mortgage Advisors / IFA's should be commenting on lenders criteria in relation to management charges. We do already advise purchasers at point of reservation re fees.
- Purchasers solicitors should advise on legal implications referred to on behalf of their clients as they represent their interests in Scotland.
- I don't believe there is a real issue on road adoption and we are incentivised by the road bond to hand-over. Sewer adoptions are incentivised by the rebates on vesting. Should be noted that adoptions are taking longer to achieve due to local authorities in the main seeking to delay adoption and therefore maintenance of roads from their budgets.
- Local Authorities do not want any POS as they don't have the finance to manage
- POS are becoming more complex under NPF4 and costs for maintaining may increase

Answers to Questions :-

- Q1 – N/A
- Q2 – N/A
- Q3 – a) Adoption of roads in Scotland is a straightforward process understood by most people
b) Key barriers to adoption relate resources within local authorities to process adoptions and appetite of them to take maintenance responsibility on and release road bonds. There are barriers at the front end in obtaining the initial RCC approval and differing bond calculations and fees
c) The process seems to work better in Scotland in that there is a general presumption of adoption of the roads on the completion of a development.
- Q4 – a) Within Scotland the adoption process can be lengthy and complex and involves legal agreements being in place to conclude. SUDS are further complicated given the different responsibilities of Scottish Water and the Local Authority in relation to drainage. This should be addressed via Section 7 agreements, however, a lot of LA's do not sign up to these.
- Q5 – a) The current Property Factors legislation in Scotland looks to cover the concerns for other parts of the UK.
b) Road adoption should be mandatory for a Local Authorities, acting reasonably, in the UK provided infrastructure is complete to the standard agreed at approval stage

- Q6 – Similar to responses for question 5. Scotland’s approach seems to be better in all aspects than the rest of the UK
- Q7 – a) Yes
 - b) Scottish Water standards seem to be robust. A nationwide roads standard, that LA’s cannot depart from, would be hugely beneficial as this provides certainty on all fronts.
 - c) The adopting authority need to be satisfied however if b was implemented this would provide a greater chance of adoptions proceeding quicker
 - d) Retrospective would be difficult to implement, and it may be that the adopting authority would have to review on a case-by-case basis. Developers cannot be held responsible for any issues that arise from those reviews.
- Q8 – a) Central Government would need to fund
 - b) Bonds should be put in place at approval stage which could be called in within a reasonable timescale following site completion should adoption not take place due to developer failings.
 - c) As b
- Q9 – a) Roads, drainage, water and POS should become mandatory
 - b) Yes, based on all the views above
 - c) No, provided nationwide standards are applied
 - d) Only where it can be demonstrated that there is not a general public use on POS
- Q10 – a) Water infrastructure
- Q11 – a) The only mechanism that would offer a catch all would be via Council Tax, ie Home owner should not pay full council tax until such time as the likes of roads and sewers are adopted by the relevant authority. This would encourage early adoption and protect homeowners.

Regards,

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