

To: COMMUNITIES, HOUSING & PLANNING POLICY BOARD

On: 22 MAY 2018

**Report by: DIRECTOR OF DEVELOPMENT & HOUSING SERVICES AND
DIRECTOR OF ENVIRONMENT & COMMUNITIES**

**Heading: DEAFHILLOCK ROUNDABOUT – MERCHISTON HOSPITAL
DEVELOPMENT**

1. Summary

- 1.1 The site of the former Merchiston Hospital was identified in the Adopted Renfrewshire Local Development Plan in 2014 as a suitable residential opportunity. The site had previously been marketed by NHS Scotland and was purchased by Barratt Homes. Planning permission was granted in January 2016 for the development of 267 houses subject to a Condition requiring that roads works be completed before the houses were occupied.
 - 1.2 The road construction works to build the Deafhillock roundabout commenced in February 2017 and took around 10 months to complete causing traffic congestion problems for communities and commuters. The planned works should only have taken 4-5 months. There are further works to create an additional lane/ slip road at the Barrochan interchange; these works were delayed to provide communities and commuters impacted with a break in congestion. The work restarted on the 30th of April for 10 weeks.
 - 1.3 Council at its meeting on the 21 December 2017 approved a Notice of Motion which asked that the Council reviews current planning procedures. There are lessons to learn from this planned development and associated roads construction work and the report sets out in section 7 what can be done from planning, roads and communication perspectives going forward.
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2. Recommendations

It is recommended that the Communities, Housing and Planning Policy Board:

- 2.1 Notes the lessons learnt and future activities the Council will undertake when the development of land in Renfrewshire involves significant road infrastructure on key arterial routes;
 - 2.2 Notes that a policy will be developed to support the the issuing of Fixed Penalty Notices when road works authorities and statutory undertakers overrun the agreed time period for undertaking works on the road network.
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3. Planning & Road Consents

3.1 Planning Consent

- 3.1.1 Planning consent was granted for 267 Houses subject to a Condition requiring that road works be completed before the houses were occupied. The conditions relating to roads construction were for the developer to mitigate the impact of development traffic on the transport network. In this case, primarily the provision of an enlarged roundabout at the junction of Bridge of Weir Road and Barrochan Road (Deafhillock).

3.2 Road Construction Consent

- 3.2.1 The Council approved the developer's design of the roundabout and issued Roads Construction Consent under Section 21 of the Roads (Scotland) Act 1984 as part of the wider planning approval process.
- 3.2.2 In order to excavate the road to build the roundabout and make connections to utilities buried under the road, the developer applied to the Council for a Road Opening Permit under Section 109 of the New Roads and Street Works Act 1991.
- 3.2.3 No one, other than a statutory undertaker or Council, may excavate the road without the Council's consent. An assessment of the programme of works and the traffic management arrangements submitted for the road opening permit to build the roundabout was undertaken.
- 3.2.4 When the Council has agreed to the principles and method set out in the road opening permit an application must then be made to the Scottish Road Works Register for a time slot. The Scottish Road Works Register takes applications from contractors wishing to work in the road in order to manage their timing and to make sure such works do not clash with others, to the detriment of the travelling public.

4. Deafhillock Roundabout Build

- 4.1 The developer requested approximately a 4 month period to build the roundabout and undertake necessary utility works in January 2017. It is in the interest of Developers to complete the works as quickly as possible from an economic point of view. The developer's programme is dependent on the availability of the utility companies and their workloads. It is the developer's duty to make sure the utility companies are booked in good time so the developer's programme is adhered to.
- 4.2 The Council was satisfied the 4 month time period was reasonable and in this case the Scottish Road Works Register accepted the time slot for the works and a Road Opening Permit was issued, for a period of 4 months, February to June 2017.
- 4.3 The roundabout construction & management of the construction by the Developer resulted in congestion for the commuters to and from Renfrewshire's villages. Communities experienced significantly higher traffic volumes travelling through by drivers avoiding the road works.
- 4.4 The original programme of road works fell behind the anticipated timescales as the Developer's subcontractor encountered below ground services which were not expected and could not have been addressed until works were underway.
- 4.5 When these services were encountered the developer's subcontractor required to liaise with Scottish Water and could not complete their aspects of the works until Scottish Water were satisfied with the works required to their apparatus.
- 4.6 This was not communicated to Council during the first 3 months of the 4 months of construction work, despite regular dialogue with the developer.
- 4.7 At that point the Council did not take any formal action, key reasons:
 - a. The over-running of road works on the public roads are not subject to any form of planning control nor is there a planning remit to intervene as such it would not have been appropriate to take formal action against the developer.
 - b. There are legislative powers available to Council's to issue a fixed penalty notice where works continue beyond the permitted road opening permit. In this instance the construction of the roundabout was completed in the timescale, although the utilities were not done. A single fixed penalty notice of £80 was not applied as the Council has historically not taken the position to issue fixed penalty notices as an Authority. The fixed penalty notice would not have altered the requirement for a further road opening permit to complete the utility works that were not done within the original planned timescales.
- 4.8 The developer applied for a further Road Opening Permit which was granted in July which ran from August through to the end of December 2017. The road opening permit allowed the delayed utility works to be completed, plus the completion of the roundabout's road markings and road signs.

- 4.9 As a result of the issues that arose during the first road opening permit between February and June 2017, weekly meetings were held with the developers and Council officers (Roads) to ensure this programme did not slip further between July and December. The outstanding works were completed by December 2017.

5. Legislative Powers, Fixed Penalty Notices

- 5.1 The Transport (Scotland) Act 2005 created new duties for roads authorities. They are required to record input information about all road management and maintenance works undertaken and permissions granted under the Roads (Scotland) Act 1984 such as permits for skips, road openings etc. The information includes the extent, start date, and duration of all works with some minor exceptions. Any changes due to bad weather, plant breakdowns etc. must also be reported.
- 5.2 The fundamental purpose of the legislation was to improve planning, co-ordination and quality of road works in Scotland by both road works authorities (Councils for local roads and Transport Scotland for trunk roads) and statutory undertakers (utilities). The legislation requires road works authorities to use their best endeavours to co-ordinate the execution of works of all kinds in the roads for which they are responsible:
- a. In the interests of safety
 - b. To minimise the inconvenience to persons using the road (having regard in particular to the needs of people with disability); and
 - c. To protect the structure of the road and the integrity of apparatus within it.
- 5.3 A Fixed Penalty Notice (FPN) scheme was introduced as part of the Transport (Scotland) Act 2005 for those authorities or undertakers who fail to provide or give incorrect information. If a FPN is agreed and is not paid within the period for payment then it remains open to the road works authority to report the offence to the Procurator Fiscal.
- 5.4 Renfrewshire Council has historically not issued fines, taking the approach to work with utilities to undertake works in the shortest possible time. While this is effective, it is recognised an enforcement approach is also required to support compliance going forward.

6. Lessons Learnt & Future Actions

- 6.1 Following the issues that arose from the building of the roundabout as part of the Deafhillock development, it has been recognised that a more stringent approach is taken by the Council, with developers to improve timeous road construction works on strategic and busy road stretches which are likely to impact upon communities and businesses.
- 6.2 The Council will look to include such requirements in the planning and/ or Road Opening Permit conditions for granting access to the road network.

- 6.3 Where Road Opening Permit applications are submitted for key arterial and key sections of Renfrewshire's road network the Council will seek to take a more robust approach where it is felt the work could impact negatively for a prolonged period of time on the road network. Developers and utility companies will be encouraged to undertake the work in the shortest possible time period through 7 day and 24/7 working. When roads works are also subject to a planning condition the condition will include provision around minimal disruption.
- 6.4 Improved communications, including sufficient signage such as variable message boards and regular updates to communities and elected members shall be undertaken. Information shall be provided direct by the Council to all Councillors and Community Councils in affected wards, as well as being promoted on social media, the Council's website and in local press.
- 6.5 The Council will also develop a policy to support for the issuing of Fixed Penalty Notices when Road Opening Permits overrun and when statutory undertakers are not compliant with the legislation.
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Implications of the Report

1. **Financial** - None
2. **HR & Organisational Development** – None
3. **Community Planning**

Working Together to Improve Outcomes – Across Council services with developers and utility companies to minimise disruption to the road network and communities during infrastructure construction.
4. **Legal** - None
5. **Property/Assets** – None
6. **Information Technology** - None
7. **Equality & Human Rights** - The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website
8. **Health & Safety** – None

- 9. **Procurement** – None
 - 10. **Risk** – None
 - 11. **Privacy Impact** – None
 - 12. **Cosla Policy Position** – None
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