Private Streets/Unadopted Backlog Sites Presentation

Derry City & Strabane District Council

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Speakers: Darren Campbell & Lorraine McWilliams

DRD Transportni

Western Division
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Legislation

• The Planning (Northern Ireland) Order 1991
  • The Planning Act (NI) 2011
  • The Private Streets (NI) Order 1980

• The Private Streets (Construction) Regulations Northern Ireland 1994
Private Streets Determination

Private Streets Order NI 1980

• Article 3

– Where the development of land for which planning permission is required, which includes the laying out or construction of streets, the Planning Authority shall determine the width, position and arrangement of the streets.

– Transportni advise on the suitability of the proposed streets for determination for the purposes of adoption.
Determination of Streets (to be adopted)

- Article 32 works – within private land.
- Article 3(4c) – within public land attached to Art 32 works.
- Licensed (remote) Works (Roads Order).
Typical example of Private Streets Determination Drawing (PSD)
Bonds & Agreements

• PSO includes for prior provision to be made to meet street work expenses.
• Guarantee bond – Two types
  – Provided through a Surety
  – Cash bond
• The Developer also enters into an agreement which includes his obligations in delivering the streets to the agreed prescribed standards.
Bonds

- Bond pre 1\textsuperscript{st} April 2007 – Departmental bond for Roads and Water administered by Roads Service (now Transportni).

- Bond post 31\textsuperscript{st} March 2007 – Departmental bond for Roads only and administered by Roads Service/Transportni. Separate bond with NI Water – Article 161 agreement.
The Purpose of a Road Bond

• Private Streets legislation is designed to protect homeowners and ensure that streets are completed to a proper standard by a developer.

• The Road Bond is the mechanism / safeguard required to deliver a private road into the public network.
Inspection & Construction

- Transportni personnel inspect the construction of Private Streets.
- Developer must construct the Private Street in accordance with the Private Streets Construction Regulations.
- Bond reductions are given when work is completely satisfactorily.
Adoption

• Preliminary Certificate issued when the streets have been provided in accordance with the PSD and constructed to the prescribed standards
• Maintenance period of one year
• Private Street then adopted into the public network if no issues have arisen during maintenance period.
Potential Obstructions to Adoption

• Sightlines are subject to Planning Conditions.

• Enforcement of Conditions is a Council Planning function.

• Does not constitute “work” under the Private Streets Order.
Obstructed Visibility Splay
Obstructed Forward Sightlines
Service Strips

Type 5 roads – shared surface. Difficulties of access to add/maintain utility equipment. Obstruction prevents adoption.
Existing Private Streets/Lanes

• Requests to adopt into the public network.

• Provision within the Private Streets Order to adopt such streets that have not been determined as part of a planning application.

• The Department needs to be satisfied that it the street is right and proper to become a public road.
Existing Private Streets/Lanes cont’d

The following conditions need to be met in order for the Department to declare a street to become a public road.

• The majority of landowners or occupiers of the land in or adjoining the street consent, and request in writing that the street should become a public road.

• The Department is satisfied that the street in all respects is fit and proper to become a public road.

• That the majority of the frontage of the road is developed.

• That the street adjoins an existing public road.

• Where the street requires upgrading to a standard suitable for adoption it be subject to an application through the Planning Authority.

• That any costs incurred to bring the street up to a standard deemed suitable for adoption, including design costs, are borne by the frontagers and not the Department.
Unadopted Private Streets Sites

An unadopted street is defined as a street that has been Determined under the Private Streets Order; is joined to a public road; with a Private Streets Order Agreement and an associated Bond in place.

• Developments can contain more than one bonded phase/site.

• 110 developments in the Derry City & Strabane District Council area are considered to have been started but not completed/adopted.

• This is made up of 172 bonded phases/sites of this 74 are considered to be backlog sites
Unadopted Backlog Sites

An unadopted backlog site is defined as a site where:

• A Preliminary Certificate (90% Bond Reduction) has not been issued within 1 year of 80% of the houses being occupied, and/or;

• A Final Certificate has not been issued within 18 months of the Preliminary Certificate being issued.
Prioritisation

• Policy - DEM 144 Criteria for Prioritising the Backlog of Un-adopted Private Streets Sites

  Priority 1 backlog sites where:
  A Preliminary Certificate (90% Bond Reduction) has not been issued within 5 or more years of 80% of the houses being occupied, or;

  Priority 2 backlog sites where:
  A Preliminary Certificate (90% Bond Reduction) has not been issued within 3 years of 80% of the houses being occupied, or;

  Other backlog sites where:
  A Preliminary Certificate (90% Bond Reduction) has not been issued within 1 year of 80% of the houses being occupied, and/ or; A Final Certificate has not been issued within 18 months of the Preliminary Certificate being issued.
Prioritisation cont’d

- Strabane District has 39 backlog unadopted private streets sites which are contained within 34 developments
  - 27 Priority 1
  - 11 Priority 2
  - 1 backlog site (hasn’t met the criteria for Priority 2)
- Derry City has 44 backlog unadopted private streets sites which are contained within 26 developments
  - 30 Priority 1
  - 6 Priority 2
  - 8 backlog sites (haven’t meet criteria for Priority 2)
Enforcement under The Private Streets Order

Article 11 Enforcement

• Failure of developer to complete the works as per the Article 32 Road Bond Agreement and as per the agreed PSD.

• Served to the Developer.

• Copied to the acting Surety.

• Warrants the Department to take hold of the site if the Developer does not comply.

• Last resort – Developer is given the opportunity to complete at his expense before any enforcement action is taken.
Enforcement under The Private Streets Order cont’d

• Enforcement is resource intensive and can take some time to complete.

• Complex issues often arise and we only enter a site when we are content that adoption can take place upon completion of all works.

• The work required to bring a site up to an adoptable standard has to be procured through a contract and then programmed for completion.
Failure to complete the works.

- Article 11 Site

Before

After
Issues that prevent Enforcement

• No bond in place

• Work not covered by the bond - i.e. Road bond doesn’t cover works to NIW Infrastructure.

• Defects outside the bonded area.
Recent Enforcement in Derry City & Strabane District Council Area

- Drumlegagh Road, Drumquin
- Meadowhill, Drumquin
- Linen Green, Sion Mills
- Clanna Rury, Straidarran
- Sevenoaks, Londonderry
June 2015 Council Report Update

• Melvin Court, Strabane
• Sandville Court, Strabane
• Castletown Court, Strabane
• Urney Court, Strabane
• Victoria Gate, Londonderry
• Ardan Road, Londonderry
Property Certificates

- Conveyance in the process of buying and selling a property.
- It requires a legal contract between the seller and the buyer usually arranged by solicitors appointed by the buyers and seller.
- The seller is obligated to disclose all known information to the buyer.
- This includes undertaking various legal searches including applying for a Property Certificate.
- The enquiry form for a Property Certificates ask 13 questions 5 of which are answered by TransportNI
- Question 3 advises a prospective buyer if the Developer has entered an Article 32 agreement with the Department
Property Certificates

• ROADS SERVICE

• 1. Is the road adjoining the property maintainable by the Department within the meaning of the Roads (NI) Order 1993? (Note: "road" includes the carriageway and any associated footway.)
• 2. Are there any proposals for road works which may affect the property?
• 3. If the road is not maintained by the Department:
   – (i) has it been determined for adoption under the provisions of the Private Streets (NI) Order 1993? and,
   – (ii) if so, has a bond been obtained from the Developer?

• GENERAL

• 12. Is there any present proposal by the Department to acquire all or any part of the property for any of its statutory functions?
• 13. Has any notice or counter-notice been served on or by the Department under Part 1 of the Planning & Land Compensation Act (Northern Ireland) 1971, the Planning Blight (Compensation) (NI) Order 1981 or the Planning (NI) Order 1991?
Thank you.
Any Questions?