PROJECT SCOTLAND

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Scots courts to provide Carillion payment cheer?

Solicitor urges supply chain to consider raising proceedings "without delay"

CARILLION'S supply chain might have a better chance of being paid in Scotland rather than in England, according to a construction dispute resolution specialist.

Ross Taylor, a director at Dunfermline-headquartered business lawyers, Young & Partners, has highlighted implications for payment in the construction sector, as relevant legislation to help the supply chain has been interpreted differently by the Scottish Courts.

Payments to the supply chain in the UK are covered by the Housing Grants, Construction and Regeneration Act 1996 and its 2009 amendments. Under this legislation, Mr Taylor said English courts have required a clear intention to issue unambiguous payment notifications, to establish the right to payment.

In January 2017, however, the Scottish Appeal Court held that two lawyers' letters demanding payment accompanied by copies of their client's invoice constituted the required notice. This ruling was then followed by the Sheriff Court, even though there was no suggestion that the contractor had intended to give such notice.

These decisions found in favour of the payee rather than the payer, as did a further decision. Mr Taylor observed that in October last year, the Scottish Court of Session decided that a document served by the payer was not valid because it and accompanying documents did not provide sufficient detail about the basis upon which they claimed no sum was due. That was even although, it appears, the payer had intended to serve a valid notice.

Mr Taylor said that while English courts have emphasised their requirement for clear intention, the Scottish Appeal Court has said that intention is not required in every case.

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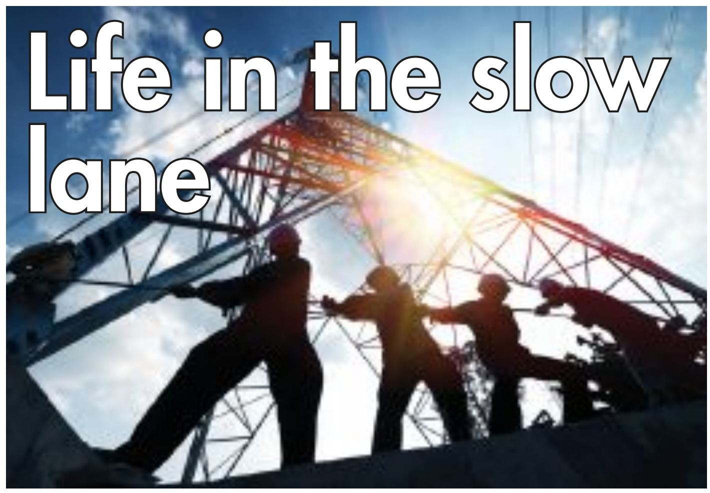
Life in the slow lane



THE UK construction sector's challenging start to the year has been highlighted by "subdued" growth, according to new research.

The IHS Markit/CIPS UK Construction Purchasing Managers' Index (PMI) increased to 51.4 in February from a four-month low of 50.2 in January.

There was a marginal rise in total business activity but new work declined for the second successive month.

Civil engineering was the worst performing category of construction work, while the "main bright spot" was that commercial construction expanded at its fastest rate since May 2017.

Residential work is said to be on track to experience its weakest quarter since Q3 2016.

Tim Moore, associate director at IHS Markit and author of the IHS Markit/CIPS Construction PMI said, "The construction sector endured another difficult month during February, with fragile business confidence, entrenched political uncertainty and softer housing market conditions all factors keeping growth in the slow lane."

Business confidence will boost Aberdeen's struggling housing market


Addi Spiers

Addi Spiers, partner in business support and restructuring at legal firm, Addleshaw Goddard, explores Aberdeen's tentative steps towards recovery and the impact upon the housing industry

SCOTTISH housebuilders are cautiously optimistic, with the construction industry predicted to grow at a rate of 0.1 per cent over the next four years, in part due to the government's target to build 50,000 new homes by 2021.

In spite of this, housebuilders were among the worst performing stocks on the FTSE 100 in the first few weeks of the year.

Indeed, the industry is estimating that costs, including materials and labour, will rise by three to four per cent in the next year.

These factors, coupled with fluctuating local economies, mean that businesses remain cautious.

As a whole, the UK housebuilding industry remains positive, but for certain regions/cities, recovery is slower.

This is true for Aberdeen.

Hit by the oil and gas downturn in 2014, house prices have fallen by more than 10% in the last three years. And yet the city is taking its first tentative steps towards recovery, as crude prices hit a three-year high.

Oil has been a vital aspect of Aberdeen's economy for a relatively short period of time – since the mid-70s – which some critics say has led to the over-reliance and under-development of other sectors.

This is no longer the case, as the city is currently benefitting from the backing of the government and city council to diversify its economy and achieve sustainable development for the long term.

Although Aberdeen proved a lucrative market in the predownturn years, it has been challenging for housebuilders over the last couple of years.

Businesses must evaluate the risk and reward offered by a recovering market, to maximise opportunities while operating in a manner that doesn't put their businesses under threat.

Traditionally, the Aberdeen market has been underpinned by high quality housing, well performing schools and universities and a gradually diversifying local economy.

At its peak in 2007, the average house price in Aberdeen hit £202,479, compared to £163,489 at the end of 2017.

As demand has dipped, some housebuilders have reduced how far in advance they take orders. While this helps to ensure project delivery on agreed dates and reduces the risk of underperformance, the precaution has also led to share prices falling as forecasts shrink.

In addition, the majority of housebuilders' debt is held by just five banks, and without alternative sources of finance, the industry will inevitably suffer if low confidence continues. This is compounded by the fact businesses in the industry do not have credit ratings and therefore no access to the bond market, where participants can issue new debt or buy and sell debt securities.

This is a concern for the government's housebuilding targets, as businesses naturally look to mitigate risk and maximise return on investment. To ensure delivery, a government-led inquiry into 'land banking' has been launched, so housebuilders do not restrict the number of properties built on a piece of land to increase house prices.

This is more likely to occur in lucrative areas and those with changing economies, such as Aberdeen.

It is a difficult balance for housebuilders to strike: between profitability and achieving external build targets, but it is imperative that businesses operate in a responsible manner – one which ensures the long-term viability of the housing market.

The recovery of the housing market in Aberdeen requires careful planning, particularly when it comes to purchasing land.

Just as the economy in Aberdeen is diversifying and working towards long term sustainability, so too must the housing market. This will build confidence once again, creating the right environment for the market to flourish.

Moveable wall adds 'wow factor' to Engine Shed

STIRLING'S recently opened Engine Shed had benefited from the installation of a Skyfold operable wall to quickly separate the exhibition space from the auditorium, allowing educational seminars to be conducted in privacy whilst the rest of the space remains open to the public.

The Engine Shed is Scotland's dedicated building conservation centre, built by Esh and designed by Reiach & Hall. The facility has been developed to encourage a greater understanding of traditional building materials and skills among the public and construction professionals.

Described by Style Scotland as a "hugely innovative partitioning solution", Skyfold is a vertical-rising moveable wall that retracts into the ceiling cavity at the turn of a key, creating an acoustic barrier of up to 59dB Rw.

"We were thrilled to be involved on this project," said David Louden, Style's director for Scotland. "As a company based in the hillfoot town of Tillicoultry, we are well aware of how special and unique this visitor centre is for the Scottish people and visiting tourists.

"Skyfold adds 'wow factor' to the Engine Shed when visitors see it descend into position, forming the front wall of the auditorium and creating an acoustically private space for audio visual presentations.

"Once inside, the background noise disappears allowing emersion in the presentation of Scotland's built heritage."

Style Scotland, the regional arm of UK partitioning specialist Style, recently celebrated ten years of trading.