

THE CITY OF EDINBURGH COUNCIL

MEETING 4

17 SEPTEMBER 2015

QUESTIONS AND ANSWERS

Item no 5.1

QUESTION NO 1

**By Councillor Bagshaw for answer
by the Convener of the Planning
Committee at a meeting of the
Council on 17 September 2015**

On 26 August 2015 the Development Management Sub-Committee considered an application for a site 80 Metres West of 4 Ferrymuir, South Queensferry (Application No 14/04172/FUL).

In the relevant report the Director of Children and Families assessed the impact of the proposed development on the existing school estate and calculated the financial contribution required to support the provision of essential infrastructure to accommodate the additional pupils at £845,480.00.

The developer stated that the requirement to commit to the full £845,480.00 contribution being sought would seriously prejudice its ability to provide a community facility for the residents of South Queensferry and a reduced financial contribution of £495,480.00 to the provision of education infrastructure was agreed, leaving the Council to make up the £350,000 shortfall.

Question

- (1) Please list all cases since 2009 of shortfalls between the cost of additional education requirements caused by developments and the amount provided by developers to meet those requirements.

Answer

- (1) **Background:** The circumstances behind the recommendation of the Acting Head of Planning & Building Standards to the DM sub-co to accept a reduced level of contribution towards the provision of education infrastructure in South Queensferry were exceptional and justified in planning terms. The landowner had previously entered into a legal agreement with the Queensferry & District Community Council (QDCC) to provide land and build a community facility at Ferrymuir estimated at a cost of circa £350,000. The landowner indicated that payment of the full contribution sought by the Director of Children and Families would render the delivery of the community facility unviable.

The proposal to offset the level of education contribution by the cost of providing the community facility was discussed with the relevant officers of Children and Families department and QDCC.

Developer Contributions: the application at Ferrymuir South Queensferry is only one of three applications out of a total of 78 considered since 2009 that a sum less than that sought by the Director of Children and Families (or where agreement on the basis on which a contribution should be calculated) has been requested and secured through a Section 75 Agreement; the others being a mixed use development proposed by EDI at 199 Fountainbridge (application ref: 14/02814/PPP) and a residential development of 81 dwellings on the site of the former Trinity Park House, South Trinity Road (Application ref: 11/00387/FUL).

Question (2) How much has that shortfall amounted to in each case?

Answer (2) The position in respect of each site is:

a) **Ferrymuir:** the legal agreement in respect of residential development has yet to be concluded. The sum specified in the draft legal agreement is £350,000 less than that sought by the Director of Children and Families. However it is £495,480 more than would have been secured under the extant PPP application for the site;

b) **199 Fountainbridge:** there is not a shortfall as such in this instance as the advice of the Director of Children and Families in December 2014 was that a suitable level of contribution should be determined by establishing a Fountainbridge education contribution zone, as promoted in the Proposed Local Development Plan Action Programme for other parts of the city. At the time of the application's assessment this approach was not considered to be appropriate at Fountainbridge and a suitable level of contribution was determined by using a formula based on a contribution per unit with sums uprated in line with the relevant construction price index. The agreement has yet to be concluded. The sum to be secured is £356,116 – a sum that is likely to be less than that which might have been secured through a contribution zone approach. A

Fountainbridge contribution zone is not a feature of the Proposed LDP Action Programme;

c) **South Trinity Road:** in May 2011 the Director of Children and Families sought the sum of £329,290 towards the improvement of education infrastructure at Wardie Primary School and Trinity Academy, £179,000 and £150,290 respectively. The sum specified in the legal agreement is £175,587 i.e. £154,603 less than that originally sought and is to be used in respect of improvements at Wardie Primary School only. The agreement was concluded in March this year, almost 4 years after the advice of the Director was received. The reduced sum was determined through a recalculation of the impact of the development on the school estate.

On 8 June 2011 the Asset Planning Manager in Children and Families instructed the Senior Solicitor to waive the contribution to Trinity Academy on the basis that any works there were quite far off in terms of time-scales.

Question

(3) What measures are being taken to ensure that in future the Council secures the complete and necessary financial contribution towards education arising from new developments?

Answer

(3) Through the preparation of the Local Development Plan (LDP), its associated Action Programme and revised Developer Contribution guidelines the Council, as planning authority, will have in place an up-to-date suite of development plan policies, known and costed actions described in an Action Programme (which will be kept under review) and guidance that will form a strong basis on which to secure an appropriate level of contribution towards the provision of essential infrastructure, including that required for education purposes. The LDP is presently the subject of Examination by Scottish Ministers, An Action Programme has been prepared and will be agreed following the adoption of the LDP sometime in 2016 and the developer contribution guideline has been approved, made available for consultation purposes and will be presented to the Planning Committee in final form in December for approval.

Item no 5.2

QUESTION NO 2

**By Councillor Rust for answer by the
Convener of the Transport and
Environment Committee at a meeting
of the Council on 17 September 2015**

Question (1) Please advise if there is a penalty clause in any contracts in relation to waste collection between the Council and private contractors.

Answer (1) No. Penalty clauses are not enforceable under Scots Law. However, clauses relating to liquidated damages (i.e. reimbursement of costs actually incurred by the Council in remedying any deficiency) are included in the Council's contract regarding third-party waste collection.

Question (2) If there is such a clause has it ever been invoked?

Answer (2) Please see Answer (1) above.

Question (3) How are complaints of failure in service regarding waste collection by private contractors monitored and reviewed?

Answer (3) Complaints are logged electronically and where these relate to collections undertaken by a contractor on the Council's behalf, they are passed to the contractor for remedial action to be taken. Complaint numbers are collated on a weekly basis.

Performance is reviewed at fortnightly operational review meetings with the contractor.

Any examples of under-performance from our contractors are challenged robustly and in a timely manner. Such issues are also discussed at the operational review meetings as and when required.