

Finance and Resources Committee

10.00am, Thursday, 10 November 2022

Response to motion by Councillor Davidson – Support for Roseburn Businesses

Executive/routine Wards Council Commitments	Executive All
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1. Recommendations

1.1 Finance and Resources Committee is asked to note the contents of this report.

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Response to motion by Councillor Davidson – Support for Roseburn Businesses

2. Executive Summary

- 2.1 This report responds to the motion on Support for Roseburn Businesses, which was approved by the Council on [22 September 2022](#).

3. Background

- 3.1 On 22 September 2022, the Council approved a motion by Councillor Davidson on Support for Roseburn Businesses including addendums from the SNP and Green Groups. The approved motion is set out below. Council:
- 1) Notes that the Council Leader recently met with the owners and operators of businesses on Roseburn Terrace and heard about the negative impact that the ongoing CCWEL works had on their operations;
 - 2) Further notes that many businesses have seen a sharp decrease in their takings throughout the programme of works and recognises the legitimate concerns that the resumption of construction activity will damage takings even further in the run up to the vital festive period;
 - 3) Believes that these businesses represent the heart of the Roseburn community, and that the council should do everything within its powers to make sure they are able to survive the disruption caused by these works;
 - 4) Recognises that infrastructure projects that take a significant period of time to complete often have a more acute impact on business than roadworks generally;
 - 5) Understands that measures undertaken to help these businesses so far have proven to be insufficient and that more needs to be done to support them;
 - 6) As such agrees to look into the possibility of setting up a compensation scheme for those businesses who have been adversely affected by the works to ensure they continue to operate over the coming months that the roadworks are in place;

- 7) Agrees that the source of funding for any such scheme is made clear and that no other projects should lose funding as a result. If funding is being reallocated from existing budgets, affected workstreams and projects should be explicitly identified;
- 8) Agrees that the report will establish the principles by which all potential future schemes to compensate businesses for disruption from infrastructure projects could operate;
- 9) Notes the information provided by the council to elected members and businesses on support for businesses during roadworks;
- 10) Notes the documented benefits to businesses of improved walking, wheeling and cycling infrastructure through increased footfall and spend; and
- 11) Calls for businesses along the route to continue their engagement with the project team to ensure all issues are picked up and the council supports businesses throughout project delivery

City Centre West to East Cycle Link and Street Improvement Project (CCWEL)

- 3.2 The project that is referred to in the motion is the City Centre West to East Cycle Link and Street Improvement Project (CCWEL), which seeks to deliver cycling and pedestrian infrastructure improvements from Roseburn Terrace in the west to York Place in the city centre. The project is being delivered in three sections with a budget of approximately £20m.

4. Main report

- 4.1 The Council's infrastructure programmes principally fall into two general categories:
 - 4.1.1 The Active Travel Programme (of which CCWEL is part); and
 - 4.1.2 The capital investment programme.
- 4.2 The latest current and committed projects within each category were reported to Transport and Environment Committee on [14 October 2021](#) and [18 August 2022](#) respectively.

Statutory Roads Authority

- 4.3 The Council, as Statutory Roads Authority, is not under any obligation to provide compensation or business support for any businesses impacted by road or infrastructure works and, while there have been numerous requests over the years for this kind of measure, these have been rejected. For example, on [6 October 2022](#), the Transport and Environment Committee noted that there were no options available to consider financial support for businesses impacted by the current works on North Bridge. This is consistent with other decisions not to do so (e.g. during recent Royal Mile stone resetting works).

- 4.4 The rationale on this issue is well summarised in a research note for the House of Commons Library, 'Roads: Compensation for loss of business from road works', available here: [SN00200.pdf \(parliament.uk\)](#) . To quote:

"The general rule is that there is no compensation if a business is affected by road works. Successive governments have taken the view that businesses should not have the right in law to any particular given level of passing trade, and that traders must take the risk of loss due to temporary disruption of traffic flows along with all the other various risks of running a business. There is no statutory provision for compensation by the highway authority ... if a business is affected by road works."

- 4.5 Furthermore, the Council has an obligation under the Roads (Scotland) Act to maintain and improve the city's roads and footways, but as above, no obligation to recompense businesses for any loss arising from the undertaking of such works. Ultimately, the nature of the work carried out benefits the whole community and cannot be undertaken without some disruption.

Trams to Newhaven Business Support Scheme

- 4.6 During the development of the business case for the construction of the tram to Newhaven and taking into account the impact of the infrastructure works for the original tram line and the programmed length of the works for the project, the team were asked to create a business support scheme for businesses along the route of the tram. This was not established as compensation for loss of business but rather as a business continuity fund.
- 4.6 The Council (and contractor) committed £2.4m to support local businesses via a series of measures developed in consultation with businesses along the route to maintain the accessibility, vibrancy and desirability of affected streets. One aspect of the support package is a Business Continuity Fund which provides direct financial support to businesses suffering short-term cash flow challenges during construction. There are several criteria established to regulate payments such as: who can qualify for assistance; what details are required to make a claim; what qualifies for funding; and the level of contribution available.
- 4.7 Also included in the Business Support Scheme is a voucher scheme whereby consumers can purchase vouchers to spend in businesses in the area from the deal site 'Itison'. The Council funds 50% of the voucher value.
- 4.8 A summary of the above scheme is set out in Appendix 1. The costs of the scheme are met from the Trams to Newhaven approved budget.

Request to Support Roseburn Businesses

- 4.9 The approved motion asks that the possibility of setting up a compensation scheme for businesses in the Roseburn area be investigated, to identify how this would be funded and to set principles by which future infrastructure schemes could be assessed for future infrastructure projects.
- 4.10 The works at Roseburn Terrace, directly adjacent to retail premises, are programmed to take seven months (four months during Spring 2022 and three

during Autumn 2022) with a programmed completion, at this location, by the end of November 2022.

- 4.11 In total, 33 businesses have been identified in the Roseburn area which are potentially affected by these infrastructure works.
- 4.12 A number of measures have already been taken to mitigate the impact of works including:
 - 4.12.1 The introduction of short stay parking spaces at numerous locations throughout Roseburn on surrounding streets;
 - 4.12.2 A Business and Community Forum meeting on 16 August to talk interested parties through the plans and answer questions;
 - 4.12.3 Attending Murrayfield Community Council Meetings to provide updates and respond to questions and concerns;
 - 4.12.4 Weekly meetings between the traders and contractor to talk through any issues;
 - 4.12.5 A comprehensive package of promotional materials for an 'Open for Business Campaign' have been developed, covering social and print media and on street promotion; and
 - 4.12.6 Separately, businesses can appeal the rateable value of their property on the grounds of a material change of circumstances. While the Council has no involvement, the Assessor is obliged to consider each case on its own merits.
- 4.13 However, the project does not just affect the Roseburn area, with future phases of the programme is expected to pass along Haymarket Terrace, Randolph Place, Queensferry Street, St David Street and York Place.
- 4.14 Therefore, the number of businesses potentially affected by the project extends well into the hundreds.

Support for Businesses affected by Infrastructure Works

- 4.15 As noted in paragraphs 4.3 – 4.5, there is no obligation for the Council to offer compensation for businesses who may be affected by infrastructure improvements. Further, any decision by The City of Edinburgh Council to do so could potentially set a precedent for the future.
- 4.16 While the motion requested that the possibility of offering compensation to businesses in the Roseburn area, it is not possible to consider this in isolation. However, as recognised within the business case for the tram extension, there may be circumstances where support for businesses could be offered while infrastructure works are being progressed.
- 4.17 As requested in the approved motion, the source of funding for any such scheme should be made clear.

Funding

- 4.18 There are two sources of funding available to provide support for business – through the Council's capital or revenue budgets.
- 4.19 The Council's capital programme is fully committed and is currently being realigned to reflect the current significant price increases in construction costs due to inflation and supply chain issues. Reference is made to a separate report on the Committee agenda, Sustainable Capital Budget Strategy 2022-2032, that provides further detail on the financial challenges facing the capital budget. The revised programme will be presented to Committee early in the new year as part of 2023/24 budget setting exercise, and there will be significant impact on existing projects.
- 4.20 The Council's revenue budget is set on an annual basis and the current month five monitoring position is also the subject of a separate report on the Committee's agenda. This shows a forecast overspend of £5.092m for financial year 2022/23. On this basis, there is no spare revenue funding to meet the cost of retrospective business support
- 4.21 Recognising the financial challenges facing the Council, it is considered that any future schemes to provide support for business would need to be funded within the programme or project business case (as is the case with the Trams to Newhaven Business Support Scheme).
- 4.22 This would, however, result in less capital being available for projects that already have a potential funding shortfall due to increasing construction costs and/or could reduce the funding available to complete future schemes.
- 4.23 In addition, depending on the extent of external funding secured, the requirement to meet the costs of a business support scheme could undermine the Council's ability to meet its statutory obligations and/or delay projects until additional funding is identified.
- 4.24 Alternatively, provision could be required to be made for this in the revenue budget setting process for financial year 2023/24 onwards, but would require additional annual savings to be identified.

Principles for Supporting Businesses

- 4.25 As there is no statutory or case law guidance on how support entitlement and/or assessment could be regulated, any payment, and how it would be assessed, would be wholly discretionary. The only guidance available is the decision by the Council to set aside funding to assist businesses during the construction of the Tram to Newhaven.
- 4.26 During the Council meeting that considered this motion, Councillors discussed types of infrastructure schemes which could attract business support in the future.
- 4.27 It is possible to make a distinction between those necessary to fulfil the Council's statutory requirements, i.e. the capital investment programme, and those which the Council chooses to do, i.e. the active travel programme.

- 4.28 In terms of quantum, the active travel five-year programme has had a high-level assessment of potential impacted businesses carried out, using the Council's property data sets and filtered to within 40m of active travel projects, which estimates the number of businesses which could be affected as 3,192.
- 4.29 Consistency of approach is essential to ensure fairness and transparency and it is important to note that a significant element of works to improve public realm and street environment benefit businesses financially in the longer term.

Business Support for Roseburn Businesses

- 4.30 CCWEL is an 'in flight' capital project approved within the constraints of its budget allocation and any additional cost can only be met from elsewhere from either the Council's capital programme and/or its revenue budget.
- 4.31 In these circumstances, the only option for using capital is to reallocate funds from the wider programme. If Committee is minded to fund a scheme from this source, given CCWEL is an Active Travel project, it is recommended that funding is reallocated from one of the projects in the Active Travel Investment Programme. As fully committed, Committee would have to decide which scheme the funding (and how much) is taken from so this can be factored into the revision of the Sustainable Capital Strategy referred to on paragraph 4.19.
- 4.32 Given the month five monitoring position on revenue, it could not be recommended that revenue is used. However, technically, if revenue was to be used, it would have to be sourced from unallocated revenue reserves. Such a decision would require Council approval and a commitment to replenish the reserves as part of 2023/24 revenue setting proposals, thereby increasing the level of savings required as part of that process.

Conclusion

- 4.33 Based on the legal position, past and current practice and future financial implications, the subject matter is complicated. Any future proposals would need to be clearly set out and funded in advance to avoid subjectivity and ensure it is consistent, transparent and fair.

5. Next Steps

- 5.1 The next steps depend on the decision of Committee.

6. Financial impact

- 6.1 The main financial implications are set out at paragraphs 4.18 to 4.24. In summary, should Committee decide to either fund support retrospectively and/or make a future commitment to do so, provision should be made by the Council in setting its revenue and/or capital budget for FY 2023/24. Any provision should include resources to administer such support.

7. Stakeholder/Community Impact

- 7.1 There has been no stakeholder and/or community impacts considered as part of this report.
- 7.2 However, the impacts associated with the CCWEL project have been considered and support has been offered to businesses in the Roseburn area, as set out in paragraph 4.13.

8. Background reading/external references

- 8.1 None.

9. Appendices

- 9.1 Appendix 1 – Tram to Newhaven Business Support scheme.

Appendix 1 – Tram to Newhaven Business Support Scheme

Business Continuity Fund

The business continuity fund was established to support businesses experiencing hardship due to the Trams to Newhaven construction works. While the COVID 19 pandemic has had an impact on businesses in the area and it is important to distinguish between the two.

Latest figures show that retail sales, minus online sales, across the UK have fallen by 12% over a six-month period. These figures are regularly reviewed.

To process applications, businesses' need to provide full details of their financial situation. To do this, an understanding of the impact on net income over a minimum of a three-month period is required and a comparison year on year. The following details are required:

- a. What monies the business is paying out to keep operational – this will include items such as rent, utilities, staff payments, etc. Businesses must declare any support you have received from the UK and Scottish Government as part of the COVID 19 pandemic (e.g., furlough scheme, business support grants, etc)
- b. What income the business generated over the same time.
- c. How this compares to the same time period last year
- d. Any changes to how the business operate (e.g.: reduced hours, reduced staffing, reduced offering, etc).

What Qualifies for Funding

- Rent payments
- Staff overheads e.g., wages
- General operational costs e.g., utility bills
- Business rates
- Other costs agreed as essential at the discretion of the Council

Level of Financial Contribution

To ensure that the fund operates in an effective way and works for the largest number of businesses as possible, there are some limits on the level of financial contribution that each individual business can qualify for:

- Maximum number of single payments to each affected business over the construction period:3
- Maximum amount paid out in any single payment £3000
- Maximum fund available to any qualifying business over the construction period £9000

- There will be a minimum waiting time of three months between the processing of each application.

Other Conditions:

- A payment from the Business Continuity Fund will be classed as a grant. A grant awarded on a valid application does not need to pay back.
- Information provided will be verified against other information sources held by us. This will assist application processing, fraud prevention and for auditing purposes.
- Applications may be subject to delay if incomplete or incorrect details given.
- A business bank account is required for the monies to be paid into.
- If successful, monies will be paid within four weeks on completion of a full application and once all information and evidence has been verified.
- If a payment is made based on false or inaccurate information, it may result in arrangements being made to recover the award, and legal proceedings being initiated.
- Any grant awarded must be declared for tax purposes or if applying for any other forms of support in the future.
- Applications must be made within three months of the end of construction directly outside the applying business.

ITISON Discounts Funded by the Council

On the deal site 'itison', customers can purchase vouchers online to spend in local stores at a discounted rate, which is funded by the Council. Vouchers remitted in stores are redeemed to the businesses by the Council. £10 vouchers can be purchased for £5.