

The City of Edinburgh Council

10.00am, Thursday, 15 December 2022

Support for Roseburn Businesses

Executive/routine Wards Council Commitments	Executive All
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1. Recommendations

1.1 The City of Edinburgh Council is asked to note the contents of this report.

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Support for Roseburn Businesses

2. Executive Summary

- 2.1 This report responds to recommendations on Support for Roseburn Businesses, which were approved by the Finance and Resources Committee on 10 November 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.

3.2 In response to the motion, a report was submitted to the Finance and Resources Committee on 10 November 2022. The Committee approved an amendment by Councillor Neil Ross as follows - Committee:

- 1) Notes report 8.10;
- 2) Recognises the work undertaken by the City Centre West East Link (CCWEL) do not relate to regular maintenance of road and footway infrastructure but represent a significant capital project which, as the Council has already recognised, has had a significant impact on several businesses in Roseburn;
- 3) Notes that a business support scheme was established for those businesses suffering a significant loss of business from the Tram to Newhaven project and recognises how this is viewed by some as setting an important precedent when it comes to supporting business affected by major transport projects undertaken by the Council;
- 4) Regrets the report presented includes no specific financial sums that would allow the Committee to understand a) the likely resource required, b) the budgetary implications of such a support scheme and c) how it could potentially be funded;
- 5) Believes the absence of this information means the committee is unable to take an informed decision on how matters could be progressed;
- 6) Therefore, agrees to refer the report back to officers with a request that they return to full Council in December to outline the criteria appropriate for a consideration of a business support scheme for a discretionary transport project along with fuller costings and an assessment of whether this might apply to the CCWEL project.

3.3 This report seeks to address the recommendations agreed by the Finance and Resources Committee by setting out a response in two parts:

- 3.3.1 Firstly, it sets out a proposed discretionary business support scheme for Roseburn Terrace including the resource required; the budgetary implications; and how it could potentially be funded; and secondly
- 3.3.2 How any discretionary business support for future infrastructure projects could be assessed; the resource required; the budgetary implications; and how it could be funded moving forward.

3.4 As both could have wider implications, these are also explained.

4. Main report

Tram to Newhaven Business Continuity Fund

- 4.1 While there may be a perception that the Tram to Newhaven set a precedent for business support, this does not reflect what has happened in practice.
- 4.2 The decision to introduce a business continuity fund was made in 2018, as part of the business case for the Tram to Newhaven project, and is principally focused on addressing hardship during the works, not compensation for loss of profit. There has been no similar support schemes since that time.
- 4.3 Additionally, the Tram to Newhaven project was promoted under private legislation, not the Roads Scotland Act, with funding and a business case predicated on a long-term financial return. These factors set it apart from other Council funded transport infrastructure projects.

Discretionary Business Support for Roseburn Terrace

- 4.4 Notwithstanding the above, the Tram to Newhaven business continuity fund can provide a basis on which to develop a business support scheme for businesses on Roseburn Terrace.
- 4.5 The proposed criteria which could support such a scheme are set out below:

4.5.1 Who could be supported? Businesses:

- Situated on Roseburn Terrace and affected by the works;
- Which have been operational for at least 12 months prior to the construction start date at this location;
- Which have had works within 10 metres of their door, for at least three months;
- Which derive the majority of their revenue from customer footfall; and
- Which are independent retailers, with no more than four branches.

4.5.2 What information could be required?

- Details of the costs the business is paying out to keep operational – this will include items such as rent, utilities, staff payments, etc;
- Details of the income the business generated over previous yearly time periods;

- How this compares with the same period the previous year; and
- Any changes to how the business operates' (e.g. reduced hours, staffing offering etc).

4.6 The Tram to Newhaven business continuity scheme provided maximum support of up to £9,000 per business. As that project has a duration of three years, it is proposed that any business support at Roseburn Terrace is capped pro rata at up to £3,000 per business.

4.7 Based on the above, it is estimated the financial implications of a support scheme for Roseburn Terrace would be *up to* £100,000.

4.8 This could be funded from the following options:

4.8.1 **Capital Funding** – to fund from capital, the budget for the City Centre East West Link (CCWEL) would need to be increased by up to £100,000. This can be taken from unallocated capital funding for Council's Active Travel Programme in future years. However, this would have an opportunity cost of reducing the funding available for the future programme. This could have a disproportionately adverse impact as, typically, Council investment in active travel is more than match funded by a grant from Sustrans at a ratio of 30/70. This would mean that the opportunity cost impact is also the loss of leveraging additional grant funding of £233,000;

4.8.2 **Revenue Funding** - the proposal to use the Council's revenue budget was set out in the report 10 November 2022 and involves the Council allocating one-off funding of £100,000 in the revenue budget for 2023/24 specifically for this purpose, i.e., to reinstate the use of unallocated reserves; or

4.8.3 **Edinburgh Discretionary Business Support Fund** - since the first report was considered, a review of possible funding sources has been carried out. This has identified a residual amount of £257,000 remaining in the Edinburgh Discretionary Business Support Fund. This fund was provided by the Scottish Government during the Coronavirus pandemic, with governance and oversight by the Housing, Homelessness and Fair Work Committee. The original fund was over £12m and its purpose was for Council's to "provide additional support for businesses where they consider that necessary or justified". Further guidance stipulated that "the aim of this fund is to mitigate the short-term financial challenges being experienced by businesses adversely impacted by restrictions and regulations introduced to control the spread of Covid-19". Since the removal of all restrictions, the original purpose of the fund has been superseded and local authorities have been advised that any residual amounts can now be spent on economic development activity. The Business Growth and Inclusion team had identified using the residual funding for visitor economy related business activity. However, this could be redirected to support businesses on Roseburn Terrace, with the opportunity cost being the reduction in support on economic development activity.

- 4.9 In addition to the financial implications of each of the options above, there are other potential implications should the Council wish to proceed with creating a business support fund for businesses on Roseburn Terrace:
- 4.9.1 If there is a perception that the Tram to Newhaven business continuity fund set a precedent, then a decision to establish something similar for Roseburn Terrace will significantly exacerbate that perception. Irrespective of the conditionality or discretionary nature of the decision to support businesses at Roseburn, there is a high risk that other businesses will seek financial support from the Council for past, current and future infrastructure projects. This could also result in a legal challenge (or challenges) from businesses who perceive that their business has been impacted equally, or more than, CCWEL at Roseburn; and
- 4.9.2 The next phase of CCWEL includes identical works and construction timescales at Haymarket Terrace, Randolph Place and York Place with approximately 60 businesses impacted at those locations. It would therefore be difficult to justify business support at Roseburn in isolation. Using the same approach for the whole of the CCWEL programme would require a further (up to) £180,000. The funding options set out in paragraph 4.8 would continue to apply.
- 4.10 As the Roseburn works are substantially complete, any business support would need to be discretionary and applied in retrospect.

Discretionary Business Support for Infrastructure Projects

- 4.11 As previously reported, there is no statutory or case law guidance to assist on how business support entitlement and/or assessment could be regulated. There are also no other Scottish local authorities that have implemented a scheme based on capital investment for transport infrastructure work. Therefore, the only guidance available is the decision by the Council to set aside funding for a business continuity scheme during the construction of the tram to Newhaven.
- 4.12 The report of 10 November 2022 sought to make a distinction between those projects necessary to fulfil the Council's statutory requirements (i.e., the road and footway renewals capital delivery programme), and those which the Council implements in furtherance of its policies (i.e., the active travel programme/town centre improvements/bus priority projects/road safety etc). The assumption being that any discretionary business support should only apply to an investment programme that the Council is not statutorily required to do.
- 4.13 While the above seems straightforward, road and footway capital investment projects are increasingly introducing additional measures under the Scottish Government's 'Designing Streets' policy and the Council's Street Design Guidance. Supplementary measures are also being designed in when the maintenance/improvement project aligns with future planned active travel investment. Therefore, the distinction between many projects has become blurred and are perceived as the same.

- 4.14 Irrespective of the nature of a transport infrastructure project, it is highly subjective to propose a set of criteria than can generically cover every active travel and/or road and footway renewal capital programme project. This is because all projects are planned and delivered based on a unique set of individual circumstances with different backgrounds, context, impacts, duration and physical delivery implications. It is therefore not feasible to draft a 'one size fits all' business support scheme for all Council projects.
- 4.15 If the Council is therefore minded to introduce a discretionary support scheme, it is considered more practical to do so based on the individual business cases for major transport infrastructure programmes, with the each scheme tailored for the merits of the project (as per the Tram to Newhaven scheme). This could cover issues such as duration, proximity and impact, the nature of the businesses impacted, business rates relief availability, financial limits etc.
- 4.16 Notwithstanding the above, to identify and advise members of the potential scale of the funding required, a high-level assessment (based a percentage on capital cost) has been completed using the Tram to Newhaven business continuity fund principles applied across all current and planned transport infrastructure works.
- 4.17 The estimated impact of this has been calculated as up to £2m from the roads, footpaths and infrastructure investment programme (over 10 years) and up to £1.4m (over five years) from the active travel/road safety programmes. Again, the opportunity cost of the latter is anticipated to be an additional £3.26m in grant funding not secured, resulting in a total reduction in works completed of £6.66m.
- 4.18 As set out above for Roseburn Terrace, there are a number of other implications of introducing a discretionary business support scheme:
- 4.18.1 The cost will significantly impact the financial ability to deliver current programmes and will likely delay delivery. An update on the Sustainable Capital Budget Strategy was reported to Finance and Resources on 10 November. Members noted the wider financial challenges and the various sacrifices taken to bring the programme to a balanced position. Introducing further discretionary cost to the programme will be require a further review prior to setting the capital budget for financial year 2023/24 (in February 2023).
- 4.18.2 As previously advised, making a distinction between statutory and discretionary works e.g. road and footway renewal/active travel/road safety etc projects is unworkable in practice. The Council must follow Street Design Guidance that effectively results in all schemes including active travel enhancement elements in part. Hence, any business support scheme will potentially leave the Council open to challenge in the future on all statutory road schemes. If any legal challenge were successful, it could set a precedent that would have significant wider implications.
- 4.18.3 In a worse-case scenario, the Council could be delayed carrying out its statutory function as Roads Authority due to the additional budget constraints.

4.18.4 It is likely that any business support scheme will lead to complaints or legal challenges from businesses or individuals who are not entitled to benefit from it but feel that they fall within the scheme parameters or that the parameters are unfair.

4.18.5 To support a business support scheme, an internal resource would be required to deal with claims. This team would require expertise to address future legal claims/challenges.

Conclusion

4.19 In summary, the Council could introduce a retrospective discretionary business support scheme for traders on Roseburn Terrace, based on the criteria set out at paragraph 4.2. This is estimated to cost up to £100,000, which can be funded from the sources identified at paragraph 4.8. In doing so, it is advised that members also consider the impact of that decision on the issues identified at paragraph 4.9.

4.20 In addition, the Council could choose to introduce a discretionary business support scheme for future transport infrastructure projects. However, if doing so, it is recommended any scheme is developed on a case by case basis, based on their business plan. If members are minded to introduce any scheme, it is advised that also consider the impact of that decision on the issues identified at paragraphs 4.17 and 4.18.

4.21 Alternatively, due to the financial pressures and legal risks associated with introducing a discretionary scheme, and recognising that no other Scottish local authority does so, the Council could reconfirm the long stated position that there is no legal entitlement to business support for transport infrastructure projects and note that disruption mitigations will continue on a project by project basis including:

4.21.1 Development of a comprehensive package of promotional material for an 'Open for Business Campaign', covering social and print media and on-street promotion;

4.21.2 Physical temporary works to mitigate impact, developed on a project by project basis, e.g., short stay car parking spaces were introduced at Roseburn;

4.21.3 Enhanced engagement with the local communities, including business representatives, community councils etc.

4.21.4 Agreed construction break points around busy period such as the festive and festival periods.

5. Next Steps

5.1 The Council is asked to note the information provided within Section 4 of this report.

5.2 If the Council decides to proceed with a discretionary business support scheme for businesses on Roseburn Terrace and/or a discretionary business support scheme

for future transport infrastructure projects, a decision on how to fund the scheme will be required.

- 5.3 If it is decided to proceed with one or both schemes and the source of funding is agreed, officers will make the necessary arrangements to put such a scheme in place.

6. Financial impact

Roseburn Terrace

- 6.1 Business support for Roseburn Terrace can be funded from the sources identified at paragraph 4.8. The opportunity cost of doing so is as set out earlier in this report.

Future Discretionary Business Support Scheme

- 6.2 Wider future support can be paid for by either the capital or revenue budget. If capital is the preference, the Sustainable Capital Budget Strategy would have to be realigned in February 2023 to reflect the required funding identified in paragraph 4.17. The impact is the opportunity cost albeit the active travel budget would be disproportionately and adversely impacted as explained earlier in this report.
- 6.3 If the revenue budget is used, it would require members to set aside recurring revenue funding when setting the budget for financial year 2023/24 and beyond. Based on the figures in paragraph 4.17, it is recommended that this is £550,000 per annum, which is inclusive of the costs identified in paragraph 4.18.5. (i.e., £2m/10 years plus £1.4m/5 years plus £70k administration and legal costs).

7. Stakeholder/Community Impact

- 7.1 While the motion/s did not call for any stakeholder and/or community engagement, each infrastructure project has its own communication and engagement strategy.

8. Background reading/external references

- 8.1 Motion by Councillor Davidson – Support for Roseburn Businesses - Finance and Resource Committee, [10 November 2022](#)

9. Appendices

- 9.1 None.