

Planning Committee

10am Thursday 16 May 2013

Tram Developer Contributions: Application of Policy and Guidance

Item number	-
Report number	-
Wards	Almond (1), Drumbrae/Gyle (3), Forth (4), Inverleith (5), Corstorphine/Murrayfield (6), Sighthill/Gorgie (7), Fountainbridge / Craiglockhart (9), City Centre (11), Leith Walk (12) and Leith (13)

Links

Coalition pledges	P8 , P17 , P18
Council outcomes	CO7 , CO19 , CO22 and CO23
Single Outcome Agreement	S01 and S04

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Executive summary

Tram Developer Contributions: Application of Policy and Guidance

Summary

The purpose of this report is to seek the Committee's approval to revise the approach currently being taken in relation to developer contributions being sought towards the tram project. The policy and related guidance was originally developed to cover the full extent of the tram route (Lines 1 and 2) as approved by the Scottish Parliament. At the current time the Council is only delivering the section of the system between Edinburgh Airport and York Place in the city centre.

A full review of the overall approach to developer contributions, in light of the proposed Local Development Plan, is programmed for a Committee later this year.

Recommendations

It is recommended that the Committee cease the application of the tram contributions policy and guidance other than in relation to development sites connected with the section of the route that is currently being delivered and the proposed section between York Place and Newhaven Road.

Measures of success

A measure of success is an efficient and effective approach to land use planning, which ensures that new developments are suitably served by supporting infrastructure, while ensuring that they are not burdened by overly onerous requirements that may prohibit development taking place.

Financial impact

The contributions that have been received by the Council through the application of these policies and the guidance have been recorded in connection with the sections of the route to which they relate. To date a total of £7,178,432 have been received in relation to the tram works that have, and are, currently taken place. This relates to both the Airport to York Place section of the route and the York Place to Newhaven Road section of the route. Further contributions have been received in relation to the

Haymarket to Granton Square section (£631,742) and the Kirkliston to Airport section (£30,000). No contributions have been received in relation to the Granton Square to Newhaven Road section.

The funding strategy for the tram project was reported to the Council on 30 June 2011. That report noted that the amount contributed (at that time) was £6.9 million and that the target for developer contributions would remain at £26.6 million. However, it was accepted that the reduced tram route would have implications for this funding stream, and closed off this issue on the basis that developer contributions would be used to offset borrowing costs wherever possible.

The recommendations in this report are in line with the position reported to Council on the 30th of June 2011. Accordingly, there are no new financial implications for the Council arising from this report.

Equalities impact

There are no equalities impacts arising from this report.

Sustainability impact

There are no sustainability impacts arising from this report.

Consultation and engagement

Consultation will be undertaken in relation to the planned review of the Developer Contributions and Affordable Housing Guidance (within which the guidance on tram contributions is contained). This report is concerned with the application of the guidance in certain areas of the city and not with any changes to policy itself. It is not considered necessary to undertake any consultation exercise at this time.

Background reading / external references

Circular 3/2012 – Planning Obligations and Good Neighbour Agreements

Edinburgh City Local Plan – Policy 3, Tram Contributions

Rural West Edinburgh Local Plan (as altered) – Policy Imp 2 Planning Agreements (read in conjunction with Schedule 2 of the Action Plan)

Edinburgh Planning Guidance – Developer Contributions and Affordable Housing, May 2011

Report to City of Edinburgh Council – Edinburgh Tram Project, 30 June 2011

Report to City of Edinburgh Council – Edinburgh Tram Project, 25 August 2011

Economic Resilience Action Plan

Tram Developer Contributions: Application of Policy and Guidance

1. Background

- 1.1 It was agreed by Committee on 27 November 2003 that the corridors of Tram Lines 1 and 2, as defined by the limits of deviation in the parliamentary plans, be safeguarded from any conflicting development which could prevent the realisation of the Tram project. The report to Committee on this matter also recognised that development along the tram corridor would place demands on the tram system and gain significant benefits from this high quality transport facility.
- 1.2 The Edinburgh City Local Plan and the Rural West Edinburgh Local Plan both reflect this safeguarding position, and include policy provisions regarding developer contributions towards the construction of Lines 1 and 2.
- 1.3 On 8 September 2004, a guideline on Tram Developer Contributions was approved by Planning Committee. It has been applied by the Council in the determination of planning applications, in the vicinity of Lines 1 and 2, since that time. The guidance has been revised on a number of occasions, the most recent being on 19 May 2011 when the planning guidelines were consolidated. However, the revisions have been minor in nature and it has provided a framework for agreeing contributions and ensured a transparent and consistent approach to the negotiation process.

2. Main report

Legislative and Policy Framework

- 2.1 The Council as Planning Authority is entitled to enter into agreements under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) for the purpose of restricting or regulating the use or development of land. Such agreements can include financial provisions where appropriate.
- 2.2 The Council has through the policies of the Edinburgh City Local Plan and the Rural West Edinburgh Local Plan, along with supporting guidance, provided an appropriate policy basis for seeking contributions to the tram system. However, the application of the policies and the guidance needs to be reviewed with

regard to the extent of the tram system currently being constructed and the likely prospect of other sections being delivered in due course. Government policy in the form of Circular 3/2012: Planning Obligations and Good Neighbour Agreements is of relevance.

- 2.3 Circular 3/2012 sets out a number of tests to be met by local authorities in using their powers under Section 75 of the Act. The 'Relationship to proposed development test' and the 'Reasonableness test' are of particular relevance. These tests respectively require there to be a clear relationship between a development and the infrastructure in question, and, that any financial payments will contribute to the cost of providing necessary facilities in connection with the development in the near future. These are the tests that need to be considered in relation to each of the sections of the tram route set out below.

Edinburgh Airport to York Place

- 2.4 This section of the tram system is currently under construction. There is a clear relationship between new developments located along this section of the route and the tram system. Any financial contributions will be used to help fund the delivery of the tram project. Accordingly, it is appropriate to continue to apply the tram policy and related guidance along this section of the route.
- 2.5 There are a number of sites along this section of the route that have stalled as a result of the difficult economic conditions in recent years. In 2008, the Council prepared an Economic Resilience Action Plan which, amongst other things, deals with the issue of developer contributions in relation to project viability. Planning applications will continue to be considered on their own merits with consideration given to the Economic Resilience Action Plan, where necessary.

Kirkliston to Edinburgh Airport

- 2.6 Parliamentary approval was obtained to build the tram system in this area, but the Council has not at any time entered into a contract to construct the tram beyond the Airport to Kirkliston. There is little or no prospect of this section of the route being delivered in the near future, and as such, it is not considered appropriate to continue applying the tram policy and related guidance along this section of the route.
- 2.7 The agreements concluded and contributions already paid in relation to tram will continue to be monitored and managed in accordance with the agreed terms.

Haymarket to Granton Square

- 2.8 Parliamentary approval was obtained to build the tram system in this area, and the Council had an option to construct the tram along this section built into the original tram construction contract. Unfortunately the Council was unable to activate this option within the required timescale. There is now little or no

prospect of this section of the route being delivered in the near future, and as such, it is not considered appropriate to continue applying the tram policy and related guidance along this section of the route.

- 2.9 The agreements concluded and contributions already paid in relation to tram will continue to be monitored and managed in accordance with the agreed terms.

Granton Square to Newhaven Road

- 2.10 Parliamentary approval was obtained to build the tram system in this area, but the Council has not at any time entered into a contract to construct the tram beyond from Granton Square to Newhaven Road. There is little or no prospect of this section of the route being delivered in the near future, and as such, it is not considered appropriate to continue applying the tram policy and related guidance along this section of the route.

York Place to Newhaven Road

- 2.11 The Council entered into a contract to construct this section of the route and a considerable amount of work was undertaken before the decision to curtail the extent of the tram system was taken. While there is no immediate prospect of the tram being continued down Leith Walk and into Leith, this would be of considerable benefit to the city, and it is likely that this would result in considerable additional patronage and revenue. While such a financial case remains to be made, it is clear that this section of the route would be the priority, if the system were to be extended. Accordingly, it is considered appropriate to continue to apply the tram policy and related guidance along this section of the route, given that there is a reasonable prospect of the infrastructure being delivered in the near future.

Conclusion

- 2.12 It is not considered reasonable to continue to seek tram contributions in relation to the Kirkliston to Airport, Haymarket to Granton Square, and Granton Square to Newhaven Road sections of the tram system, as there is no reasonable prospect of the tram being delivered in the near future.

3. Recommendations

- 3.1 It is recommended that the Committee cease the application of the tram contributions policy and guidance other than in relation to development sites connected with the section of the route that is currently being delivered and the proposed section between York Place and Newhaven Road.

Mark Turley

Director, Services for Communities

Links

Coalition pledges	<p>P8: Make sure the city’s people are well-housed, including encouraging developers to build residential communities, starting with brownfield sites.</p> <p>P17: Continue efforts to develop the city’s gap sites and encourage regeneration.</p> <p>P18: Complete the tram project in accordance with current plans.</p>
Council outcomes	<p>CO7: Edinburgh draws new investment in development and regeneration.</p> <p>CO19: Attractive places are well maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm.</p> <p>CO22: Moving efficiently – Edinburgh has a transport system that improves connectivity and is green, healthy and accessible.</p>
Single Outcome Agreement	<p>SO1: Edinburgh’s economy delivers increased investment, jobs and opportunities for all.</p> <p>SO4: Edinburgh’s communities are safer and have improved physical and social fabric.</p>
Appendices	None