

# Development Management Sub Committee

Wednesday 17 June 2015

**Application for Planning Obligation 15/02644/OBL  
At 1A Old Liston Road, Newbridge, EH28 8SJ  
Application under section 75 for the Modification of Planning  
Obligation (Ref 07/04646/OUT) seeking to remove references  
to the Tram Contribution following a change in Council  
policy.**

<b>Item number</b>	5.8
<b>Report number</b>	
<b>Wards</b>	A01 - Almond

## Summary

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The applicants' justification for the deletion of the proposed 'Tram Contribution' would not have any detrimental impact on matters of transport impacts within the vicinity of the development site and is accepted.

## Links

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<a href="#">Policies and guidance for this application</a>	LPRW, RWED1, RWTRA2, RWTRA5, RWIMP2, NSG, NSDCAH,
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# Report

## **Application for Planning Obligation 15/02644/OBL At 1A Old Liston Road, Newbridge, EH28 8SJ Application under section 75 for the Modification of Planning Obligation (Ref 07/04646/OUT) seeking to remove references to the Tram Contribution following a change in Council policy.**

### **Recommendations**

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1.1 It is recommended that this application be Granted subject to the details below.

### **Background**

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#### **2.1 Site description**

The application site comprises an area of land extending to 24.87 hectares, and is located on the western side of the Newbridge Industrial Estate. To the west the site is bounded by the River Almond and to the north is the village of Newbridge. To the east the site is bounded by the remaining part of the industrial estate and to the south by Cliftonhall Road and the main Edinburgh to Glasgow main railway line.

The majority of the application site is 'brown-field' with the exception of the River Almond, 'Site of Importance for Nature Conservation'.

Access to the site is from the Old Liston Road which connects with the A89 and A8/M8 at the Newbridge roundabout.

The application site was originally developed in 1968 as Uniroyal Englebert Tyres Ltd. This was rationalised and transferred to Continental with Uniroyal Plastic Division (now VTS Royalite), separated into a self contained unit to the south west corner and outwith the boundaries of the application site.

The site is currently vacant.

#### **2.2 Site History**

The relevant site history is:

7 March 2012 - Outline planning permission was granted for the proposed demolition of existing buildings and redevelopment of site to provide new residential development including; family and affordable housing, residential care home, public transport facilities, community recycling facilities, new access roads, car parking, footpaths/cycleways, public park, open space, landscaping and other ancillary community facilities (reference 07/04646/OUT).

8 September 2014 - A legal agreement was concluded and outline planning permission issued for the above development.

The legal agreement provided:

- Affordable housing - 17 percent of all housing units;
- Education contribution - a total of £1,780,000 over four indexed instalments;
- Transport: Newbridge roundabout junction upgrade of £165,000;
- Transport: Public transport contribution of £44,000;
- Transport: National cycle network contribution of £20,000;
- Transport: Tram contribution of £690,000;
- Transport: Bus service contribution of £100,000;
- Streetscape improvement contribution of £12,500;
- Parkside play park upgrade contribution of £25,000;
- Construction of a community facility, for lease to the community; and
- Community facility contribution of £100,000.

4 June 2015 - An application for the modification of the planning obligation, to remove the Tram Contribution, was withdrawn without determination. The regulations only permit the Council to make a decision within a two month time period and do not permit an agreement for an extension of that period (reference 15/01774/OBL).

## Main report

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### 3.1 Description Of The Proposal

The application is for the discharge of a part of the planning obligation, under the provisions of section 75 of the Town and Country Planning (Scotland) Act 1997, comprised of clauses 4.13 to 4.16 regarding the £690,000 Tram contribution.

These clauses require the following:

#### *"Tram Contribution*

*4.13 Upon the fifth anniversary of the first residential occupation of a Residential Unit, the Proprietor shall pay to the Council the Tran Contribution.*

*4.14 The Council shall only apply the Tram Contribution towards the development of a tram network in the immediate locality of the Development.*

*4.15 The Council shall place the Tram Contribution into an interest bearing deposit account.*

*4.16 In the event that within five years of the date of payment to the Council (1) the tram network has not been brought into use, or (2) the Tram Contribution (and any interest thereon) has not been spent in full by the Council, then such contribution or the unused part thereof, as appropriate, together with any interest that has accrued thereon, shall be refunded to the party who made the relevant payment to the Council following a written request from that party."*

The applicant justifies this discharge of the financial contribution given that since the Council resolved to grant outline planning permission for this development, in March 2012, the "Tram Developer Contributions: Application of Policy and Guidance" report has been approved; 16 May 2013.

Section 2.6 of that report identifies that:

### ***Kirkliston to Edinburgh Airport***

*"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."*

Accordingly, those provisions of the obligation relating to a tram contribution should now be deleted.

There are no other modifications or discharge of any of the remaining financial contributions or other provisions comprised in the original planning obligation proposed by the applicant.

### **3.2 Determining Issues**

There are no determining issues.

### **3.3 Assessment**

To address these determining issues, the Committee needs to consider whether:

- (a) the modification and discharge of the agreement, as proposed, is considered to be acceptable;
- (b) the proposals have any equalities or human rights impacts; and
- (c) comments raised have been addressed.

#### **a) The Modification and Discharge of the Agreement is Acceptable**

The purpose of a planning obligation is to enable the Council when determining a planning application, to enter into such an obligation restricting or regulating that development or use of the land; and that obligation may not be modified or discharged except by agreement between the planning authority and a person against whom that obligation is enforceable, under the provisions of section 75A of the Town and Country Planning (Scotland) Act 1997, as amended.

Planning permission was granted, based on the requirements for a developer contribution towards the construction of the tram network, directly related to the scale of that development and its proximity to the proposed tram line and proposed tram halt located to the east of the site.

The Council's 'Tram Developer Contributions: Application of Policy and Guidance' report was approved by the Planning Committee on 16 May 2013. The direct impact of that decision has been to cease to apply the relevant development plan policy and guidance seeking tram contributions from appropriate developments within the relevant proximity to the Kirkliston to Edinburgh Airport section of the tram network.

It also provides, at section 2.7 that:

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

In a number of instances planning obligation clauses permit those financial contributions to be used towards other public transport provisions where they cannot reasonably be used for the purposes of the tram. However, clause 4.14 is specific; *"The Council shall only apply the Tram Contribution towards the development of a tram network in the immediate locality of the Development."*

Transport has raised no objections to the proposed modifications in transport impacts terms.

Accordingly, as there is little or no prospect of this section of the tram network, between Kirkliston and Edinburgh Airport, being delivered in the near future and no provision for an alternative use of that financial contribution it is accepted that the obligation should be modified by deleting the relevant tram contribution clauses and references and, therefore, the application should be approved.

#### b) Equalities and Human Rights Impacts

This application has no impact in terms of equalities or human rights.

#### c) Public Comments

No representations were received concerning this proposal.

#### Conclusion

In conclusion, the applicants' justification for the modifications of the obligation is accepted and accordingly the application should be approved.

It is recommended that this application be Granted subject to the details below.

### **3.4 Conditions/reasons/informatives**

## **Financial impact**

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### **4.1 The financial impact has been assessed as follows:**

If the obligation is modified as requested then the financial contribution of £690,000 towards the tram network would not be paid.

## **Risk, Policy, compliance and governance impact**

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5.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

## **Equalities impact**

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### **6.1 The equalities impact has been assessed as follows:**

The application has been assessed and has no impact in terms of equalities or human rights.

## **Sustainability impact**

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### **7.1 The sustainability impact has been assessed as follows:**

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

## **Consultation and engagement**

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### **8.1 Pre-Application Process**

There is no pre-application process history.

### **8.2 Publicity summary of representations and Community Council comments**

The application, to modify and discharge an obligation, has been notified in accordance with the provisions of Regulation 5 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.

No representations have been received.

## **Background reading/external references**

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- To view details of the application go to
- [Planning and Building Standards online services](#)
- [Edinburgh City Local Plan and Rural West Edinburgh Local Plan](#)
- [Planning guidelines](#)
- [Conservation Area Character Appraisals](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

**Statutory Development  
Plan Provision**

**Rural West Edinburgh Local Plan** - Within the Newbridge and Ratho Station Settlement Boundary and defined West Newbridge Economic Development designation (ECON 8).

**Date registered**

15 April 2015

**Drawing numbers/Scheme**

01,

Scheme 1

**David R. Leslie**

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**Links - Policies**

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**Relevant Policies:**

**Relevant policies of the Rural West Edinburgh Local Plan.**

Policy ED1 says that the Council will support the development of sites ECON1- ECON11 for the preferred uses outlined in the Schedule of Economic Development Proposals subject to the criteria listed.

Policy TRA2 states that proposals will not be permitted where it would have an unacceptable impact on the existing road network; public transport operations; air quality; road safety, residential amenity and walking and cycling.

Policy TRA5 says that the Council will support traffic management measures which seek to create a safe and attractive environment, particularly in towns and village centres and residential areas.

Policy IMP2 says that agreements between developers and the Council must be place to secure the key items included in Schedule 2 of the Action Plan prior to the granting of planning consent.

### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** on Developer Contributions and Affordable Housing gives guidance on the situations where developers will be required to provide affordable housing and/or will be required to make financial or other contributions towards the cost of, providing new facilities for schools, transport improvements, the tram project, public realm improvements and open space.

# Appendix 1

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## Consultations

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### Transport

*Has no objection to the application.*

## Location Plan

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