

Legal Agreement Report

North Meggetland

Edinburgh

Development Quality Sub-Committee
Of the Planning Committee

Subject: Legal agreement relating to the planning permission for improvements to sports facilities and erection of housing at North Meggetland

Reference: 95/02329/FUL

1 Purpose of Report

To consider an amendment to the Section 75 agreement in respect of the off-site works.

It is recommended that the agreement is **AMENDED**.

2 The Site

The site comprises Meggetland Playing Fields which occupy approximately 12 hectares of land between Colinton Road and Slateford Road.

Site History

Following a public inquiry, the Scottish Ministers granted planning permission for major improvements to the sports facilities and the erection of 175 flats in two blocks subject to a range of conditions. A Section 75 legal agreement is attached to the permission and requires, inter alia, that prior to occupation of the hundredth dwellinghouse, improvement works are carried out to the sport facility at Colinton Mains. The works are specified in a Feasibility Report dating from 1998 and comprise refurbishment and extension of the pavilion.

Proposal

The attached memorandum from the Property Manager (Asset Management) advises of a new initiative for Colinton Mains Park under the Neighbourhood Regeneration Programme. It relates what has been done to date and how the project might be taken forward.

Officer's Assessment and Recommendation

Determining Issues

The determining issue is to ensure that the appropriate improvements at Colinton Mains are secured.

Assessment

The terms of the legal agreement are not compatible with the nature of the works now being considered, nor their timescale. The proposal is to amend the agreement to make the implementation of the works at Colinton Mains the Council's responsibility, rather than that of the Meggetland developer who would, however, make an appropriate financial contribution. This is an acceptable response to the changed circumstances which will leave the Council in a position to deliver improvements which equal or exceed those required by the legal agreement and which evolve from discussions with the community.

It is recommended that the Council Solicitor is instructed to pursue an appropriate amendment to the Section 75 agreement.

Alan Henderson

Alan Henderson
Head of Planning and Strategy

Contact/Tel	Ian Turnbull on (0131) 529 3521
Ward Affected	26 – Craiglockhart
Local Plan	South West Edinburgh
Statutory Development Plan Provision	Open Space
File	10.045
Date Received	

◆ EDINBURGH ◆

THE CITY OF EDINBURGH COUNCIL

CITY DEVELOPMENT
CORPORATE PROPERTY & EMERGENCY PLANNING

Memorandum

From Bill Miller
Property Manager (Asset Management)

To Head of Planning
FAO Ian Turnbull

Our Ref AM/WM/CC

Your Ref

Date 30 March 2005

MEGGETLAND – SECTION 75 AGREEMENT

I refer to our recent meeting in connection with the conditions contained within the Section 75 Agreement attached to the Planning Approval for the residential development at Meggetland.

One of the conditions states that “prior to the occupation of the hundredth dwelling house to be erected upon the application site, the improvement works at Colinton Mains Park, Oxgangs, as specified in the Feasibility Report dated December 1998, shall be completed to the satisfaction of the Head of Planning”.

As you are aware, Oxgangs has been identified as one of the areas included within Edinburgh’s Neighbourhood Regeneration Programme 2003-2006 and has been categorised under Small Urban Regeneration Areas. These are small areas of deprivation in the City that are within the worst 10% category in Scotland as defined by the Scottish Executive’s deprivation indices.

One of the projects currently being undertaken as part of the regeneration proposals is the “Twin Project”. This project has been instigated by The Oxgangs Neighbourhood Centre on behalf of the community and proposes to create a youth and community based sports and recreation facility in Colinton Mains Park, incorporating the existing changing room pavilion and associated football pitches to compliment the services currently provided by the Neighbourhood Centre.



Edinburgh: World Heritage City

ANDREW M HOLMES
DIRECTOR

A feasibility study has been carried out by PMR Leisure Limited on behalf of the community to ascertain the potential of the proposed project and this is currently being processed through a steering group comprising officials from all Departments of the Council, representatives from the community, the local member, Councillor Andrew Scobie, and is chaired by the Leader of the Council, Councillor Donald Anderson.

The feasibility study has suggested that the proposed facilities could be provided either by new build accommodation attached to the extended and upgraded existing pavilion or through a completely new community building to replace the existing pavilion. Either suggestion would require to meet the needs of the community as well as providing the quality of changing provision included within the Section 75 Agreement for Meggetland. It would also be subject to Planning Permission being granted for any new or extended building.

As yet, the proposals have not been taken forward pending clarification of the community requirements, which can only be finalised once the use of and access to the community facilities in the newly refurbished Firrhill High School have been clarified, and funding identified for the new facilities at Colinton Mains Park. Discussions are however progressing and the steering group is keen to progress the proposals to an early conclusion.

The timing of this proposal does however have implications on the Section 75 Agreement for the development of Meggetland in that both proposals involve the upgrading of the existing pavilion. On the one hand the Council is very keen to provide the community with sufficient time to finalise their proposals but on the other, any delay in the completion of the works required to the pavilion under the Section 75 Agreement will result in the developer, Applecross/Wimpey, being unable to progress the sale of their residential units at Meggetland. This in turn will result in a substantial claim against the Council for any financial losses.

In an effort to provide a satisfactory solution, and allow more time to progress the community proposals, it has been suggested that the Council takes over the responsibility for meeting the terms of the Section 75 Agreement in so far as it relates to the works to be carried out at Colinton Mains Park. This would entail the Council accepting legal responsibility for either carrying out the works itself to extend or upgrade the pavilion as detailed in the Section 75 Agreement, should the proposal by the community fail to materialise in a reasonable timescale, or guarantee that the facilities will be provided as part of a new build community proposal if this proceeds.

Negotiations with Applecross have taken place on this proposal and agreement reached in principal that Applecross will provide the Council with the sum of £200,000 to carry out the works required at Colinton Mains Park under the Section 75 Agreement. In return the restriction on Applecross/Wimpey being unable to sell more than 100 houses at Meggetland, in so far as it relates to the completion of the improvement works at Colinton Mains Park, would require to be removed and replaced by a legal obligation for the Council to carry out the works within an agreed extended timescale.

The Director of Culture & Leisure, on whose account Colinton Mains Park is held, has agreed to accept responsibility for meeting this obligation and will retain the £200,000 in his budget to be ring-fenced for whichever scheme proceeds. He has also confirmed that he will meet any extra cost of providing the works detailed in the Section 75 Agreement arising out of any delay in carrying out the works.

From our conversation I understand that you do not have delegated authority to amend the Section 75 Agreement as proposed above and that approval will be required from the Planning Committee. I would be grateful therefore if, as a matter of urgency, you could submit a report to the first available Planning Committee seeking approval to amend the Section 75 Agreement as proposed in this memo. Should you require any further information or clarification please do not hesitate to contact me on 529 5932.



BILL MILLER
Property Manager (Asset Management)