

## **Nairn West & Suburban Community Council Ordinary Meeting (by Zoom)**

### **Appendix 1**

#### **Presentation Scott Dalgarno & Dafydd Jones for Highland Council**

**26<sup>th</sup> April 2021**

SD started by clarifying a few matters – four issues that were captured from NW&SCC letter.

- 1 Auditing of contributions and a request for an update on amounts received over last years, colleagues have collated figures and circulated to members. Over the last few years things have been tightened up audit wise, so it is now clear what has been gathered in various pots.
- 2 Responsibility for the timing and collection of those developer contributions. A point of clarification. HC were keen to highlight was the suggestion in the question that there may be a misunderstanding about the developer contributions supplementary guidance as it states developers' contributions always being required ahead of planning approval. HC agree what the contributions will be and when they will be timed, relative to what the impacts are of that application, so it is on a case by case basis and is in line with that specific development. HC use specialised advisers on the impacts for each type of infrastructure.
- 3 Relating to the Community Council potential role in agreeing developer contributions and what HC were keen to do are to highlight the mechanisms available to highlight, as a community, the issues necessary to support it. Under separate correspondence there has been suggestions made about how matters, that might not be on the radar, could be promoted by the CC or any other groups.
- 4 Sandown and mechanisms/requirements in place if it were to become a development site. Part of the response regarding community requirements that would apply – conscious that the wider requirement would be sought to be addressed as part of any application that emerges. They would be identified through either the preapplication process and/or the determination of the application. LDP will have identified what those requirements are but comes back to a case officer determining what the requirements are based on all the mechanisms to be taken into accounts. The LDP looking at the developer contributions supplementary guidance and taking the advice from the specialist advisors but also the consultation responses that are received on planning applications so that an officer can come to a judgement about what is appropriate to seek for that contribution.

#### **Questions from the floor: -**

JF asked, how do you know that you have collected all DCs that have been due in the period presented? SD advised that when it comes to DCs HC are very much at the behest of the private market coming forward with planning applications. It is difficult to manage, we only have as much information before us about what people wish to do with a site and collectively HC try to identify what those individual and cumulative requirements are, so it's less of a targeted approach. HC instead, monitor the situation on the ground annually compared to the LDP by carrying out an annual housing land audit which helps respond to fluctuations in terms of rate of delivery compared to what was expected. It also helps those who are coordinating infrastructure provision for current and future developments, anticipated levels, for them to respond to the rate of development. HC can think through what remaining developments contribute to a piece of infrastructure. DJ added

this is based on building rates and that contributions are collected twice yearly (beginning of April and October). Whilst HC have a provisional target of monies to be collected that won't be collected until threshold of Section 75 agreement has been reached, after a certain amount of houses have been built or a certain threshold depending on the parameters of Section 75 is applicable in each case. It will vary from each application set out on the legal agreement.

SB stated that she did not think they had answered JF question. BS also mentioned we know from the information provided what is in the pots but what is still due? BS said the information provided only covers the period from 2013 for Lochloy which is a source of much of the DC money. BS requested that there are detailed figures on what was and is payable in DCs from the outset of the development from 2000 onwards. However, interested Nairn residents have been unable to ascertain what DCs were payable throughout that development. BS asked if NW&SCC could have full info and a detailed breakdown of all monies due and formulas. SD advised it may be difficult to look back further than the information they have but he would need to check if he could go back and document what was agreed for more recent applications and expected. SD advised that Education colleagues had confirmed that no school contribution were required based on school roll forecasts at the time. DJ advised when a decision is made based on requirements for education they are identified by the consultees and a value is attributed to them, so all parties understand what is being requested and on what basis. Where there are variations is dependent on when the money is drawn down on i.e. HC ensure the figures are related to the retail price index. The reasoning is a development may be granted permission at a point in time and if it is built over a longer period of time then the value of contribution that was taken at a said point in time it loses its value as time progresses so it's important the figures are adjusted when the development does come forward to reflect the rate that is applicable at that time. Depending on Section 75 arrangements they try to take this into account. It is not as straight forward as getting a set amount at that point. The amount may vary over the course of the development. There are also other variables depending on if that need is met and therefore that requirements are no longer needed. There is also a clawback factor which is considered, which ensures HC takes the money but also spends the money. Legislation dictates that developers are legally eligible to request for contributions to be returned to them if HC have not spent it within a set period.

SB stated it would be beneficial if DJ and SD could see how far back they can go and how much information they can provide on previous developments. SB asked, if the land for a school at Lochloy was used what happened then? Were the DCs reused or if as it is now a green space, what happened. Since 2000 there appears to be lack of clarity on what money should have been received, what was received and why HC did not receive any money that was expected other than the known liquidation case.

BS also remarked that HC did not appear to have audit trails prior to 2010 and asked for clarification if this was correct. SD advised that there is an improvement in the auditing in the last few years. He thought that the importance of contributions was underplayed at a certain time and tightened up in recent years. BS advised that there are 117 houses built at Meadowlea and that agreed DCs amounts were £6,500 per house which totals £760-770,000 yet the briefing note stated £277,000. The same briefing note so far shows £177,000 as collected. A difference of £500,000. All the houses are now built – how much more money is still due? BS asked for clarification as this does not add up and it is a recent development. DJ advised he would need to investigate it. SD advised that this would be a good case study for HC to start with and he agreed as its recent HC would investigate it. SB also point out that there have been various applications for amendments to add

additional houses would affect the anticipated contribution. BS asked if they could go back as far as the data exists.

AM asked should the money for a school not have been allocated somewhere else. She added, given that the developer then built on that site, should there not have been a new DC? SD advised that there was no evidence to substantiate a request for a school contribution. If education capacity can cope with the impact from a development, HC have no rationale to seek a contribution. The principle of seeking contributions will only apply where there is demonstrable need. AM said that if there is no need for additional schooling, the developer makes a healthy profit and does not contribute anything to the community. DJ stated that planning authorities require a list of things that are deemed to be proportionate and reasonable. There are strict guidelines as to what the draw down can be used for.

AM asked how the time period is worked out. DJ advised that the cut-off point is one that can be drawn down upon in a pragmatic way – sometimes 10 years or sometimes longer.

BY asked where HC are with the plan to build a railway bridge? He asked has the amount of £627,000 gone back to the developer as there was no need to build a bridge. SD advised that he is aware that a bridge design is being looked into and improvements made to the pedestrian provision at Balmakeith as first stage linking to the retail development and that contributions are being gathered, as its seen as a recognised project.

BY also asked what happened to the £482,000 that was collected prior to 2007? DJ stated he would investigate it.

JF stated that an officer within HC looking at leveraging equal funding to increase the pot value – is that not part of the standard policy that should be initiated so that when money does come in it is investigated to see how that money can then be used as leverage? DJ advised it is in the HC best interest to get value for money if they can draw down the additional funding sources to help the development then they will do depending on circumstances.

Stewart Stansfield (public) asked if the initial money set aside for a school could not have been used for improvements to current schools or a new Academy? SD advised that the decision for primary contributions require to be separated out from secondary so two pieces of evidence are looked at separately and those are used for the rational for any contributions that they seek. Additional complications with schools' provision are that HC are only able to seek contributions where there is a rational based on capacity and it becomes more difficult to seek a contribution based on condition and suitability. Stewart Stansfield also asked, of the children from the 150 houses just built in Meadowlea whom are now attending Auldearn school, would the numbers affect the capacity in Nairn and therefore affect the DCs required for the schooling that was given back to the developer? SD advised that any decision on the additional burden would have had to be made at that time. It is extremely difficult when there is a change in catchment boundary and Auldearn catchment boundary cuts into part of the Eastern section of the development.

AN stated that there was a big gap in the figures we expected to the figures shown and 1000 houses should merit a primary school and infrastructure.

BS said that in terms of accounting, calculating and the collecting of money we already have a clear admission of systemic failure. Until very recently HC has not been able to calculate, track, collect, account for, and make public figures for DCs. He also stated that there were planning failures regarding the provision of schooling resulting in HC having to redraw the catchment areas in

Lochloy. Nairn is now struggling with infrastructure deficiencies that could have been dealt with via the substantial DCs. SD advised that as previously mentioned regarding missing contributions there has been a decision made at some point in time for a no need for school contributions. The Education Service have given advice at that point in time. SD agrees that there has been a lack of auditing and consistency in reporting but that has changed significantly over recent years.

SB then asked if SD could attend their meeting in the Autumn to give advice on local place planning regarding what support there is from HC and how its paid for/setup etc. SD advised he would but as advised in previous meetings it is more of a corporate approach and would be best to contact the Senior Officers in HC. He would assist but would look to colleagues to get the rest of HC involved.

DJ finished by saying there should be involvement from all parties i.e. developers, planning and communities regarding what is being delivered and how it is delivered.

SB then thanked Scott and Dafydd for their time and input.