

Developer escapes having to pay extra £2m fee to council after challenging 'coin toss' decision

Plans for 256 flats on Ferry Road were brought back before councillors after the developer questioned the decision being made on a coin toss.

Developers behind plans for hundreds of new Edinburgh flats have escaped having to pay an extra £2m to the council after complaining that their education contributions had been decided on the toss of a coin.

Artisan Real Estate bosses had suggested a legal challenge could be made against the authority for leaving the fate of their application up to chance.

The plans were brought back before councillors for reconsideration this week and granted permission again – but this time with a recommended £1m contribution toward local education infrastructure.

The proposal will deliver 256 low-carbon flats at 525 Ferry Road, 70 per cent of which will be for social rent with a quarter of the homes affordable.

The existing office block will be demolished to make way for the residential development, which will include several commercial units and a large central communal garden.

Councillor Neil Gardiner, who previously backed bumping this up to £3m, said as the hearing was re-run on Wednesday, March

13, he had looked at the plans "with fresh eyes" and would "park my view on the education provision".

The increased sum was approved by a coin toss last time after councillors voted 4-4 between the two options. Convener Hal Osler, one of three in favour of rejecting the planning application altogether, waived her casting vote, deciding to draw lots to decide the outcome instead.

Developers then said the decision "could delay or put in jeopardy the delivery of this much needed housing" and wrote to council officials saying the process was considered to be "procedurally flawed due to the decision being made on the toss of a coin".

In an email to councillors chief planner David Givan argued there was a "basis for decision making to made in this way" but added there was "ambiguity in the process which could result in the decision being legally challenged".

However not everyone appeared to have received the memo explaining why the hearing was being re-run in response to concerns around the legal basis.

Cllr Lezley Marion-Cameron said as plans returned to the development management sub-committee: "There's been nothing sent to us by planning or legal as to why we're hearing this application again."

She added: "I do think it's important for members to know why something is before us again."

Council planner Elaine Campbell explained: "The previous time the application was decided in front of committee there was a position of a tie and we went to a lots position.

"We have received a letter from the applicant who sought legal advice and they had reviewed the position in terms of standing orders and council procedures and they consider that it is unclear whether that was an appropriate manner in which to take a quasi judicial process.

"So to safeguard the council, to safeguard the committee we have brought the application back to committee to be considered in its entirety again."

Cllr Gardiner said: "I was supportive of this application last

time around in principle but the issue for me was the education element of it and I looked at that with fresh eyes and am aware construction prices, inflation have rocketed for a number of economic factors.

"The education authority is important but it can't determine planning applications. So I'm going to have to go on this one with the planning report and park my view on the education provision."

"My concern remains that if we don't have the money to build an annexe to Flora [Stevenston Primary School] then the playground has already got a nursery, it's already got an extension and there's very little space for kids. But that's something this committee can't deal with.

"In short I've had to reconsider my position because of the economic situation and because reconsidering the planning implications of it and the ability to win an appeal if it came to it."

Moving to reject plans, Cllr Osler said while being "very supportive of having accommodation here" she remained concerned about the proposed height of the development and "how it has been organised on the site".

She said: "I do remain concerned that a number of individuals who are moving into this site will have reduced amenity and we can do better – there is room within this site to do other things."

Furthermore Chas Booth noted "serious concerns" raised by the council's environmental protection officers who recommended rejection of the plans "in the strongest terms" due to "significantly affected" residential amenity.

Cllr Booth said: "It is highly unusual we get that level of consultation response. We would be unwise to ignore it."

The committee voted 8-2 in favour of granting planning permission with a £1m contribution towards education infrastructure.

Commenting, Artisan Real Estate's Regional Director for Scotland David Westwater said: "This is a hugely exciting opportunity to breathe new life into an underused site, whilst

ensuring its long-term future by bringing a new sustainable community to an accessible city centre location.

“We are also fully aware that we have the responsibility to ensure that our developments exceed all current environmental standards, setting new benchmarks for smart, sustainable living whilst providing a high quality of internal and external space. Our proposals have been guided by low-carbon design and encompass a mix of apartment sizes and layouts, led mainly by residential as well as much-needed affordable housing and other complementary commercial uses.”

by Donald Turvill Local Democracy Reporter



A CGI showing the ground level restaurants and cafes at 525 Park View.