

Questions for Councillors August 2016

This questionnaire has been designed to gather evidence about Councillors' involvement and knowledge of the Edinburgh Trams Project. The questionnaire contains 12 questions and, for guidance, a list of issues that may assist you in answering these questions. Please ignore any questions and issues which you feel do not apply to you, for example, questions that relate to a period when you were not serving as a Councillor of the City of Edinburgh Council.

Your details

In order for the evidence to be analysed and taken forward by the Inquiry we require some information about you.

As you are responding as a Councillor (or ex-Councillor) your name and ward will be published, but your postal address, postcode, telephone number and email address will not be published.

Ward	Portobello & Craigmillar
Period that you were a Councillor	May 2007 to May 2012
Surname	Hawkins
Forename	Stephen
Postal Address	[REDACTED]
Postcode	[REDACTED]
Telephone	[REDACTED]
Email	[REDACTED]

What will happen to your response

Your answers will be considered by the Inquiry and will form part of the record of the Inquiry

All of the written evidence, unless deemed offensive or inappropriate, which is submitted through this process will also be published on the Inquiry's website at some point, either during the Inquiry proceedings or when the Inquiry Report is issued.

The Inquiry team may wish to explore the evidence you have provided in more detail. They may wish to contact you following completion of this questionnaire to take a statement from you, and you may be invited to give evidence at an oral hearing. However, not everyone who submits written evidence at this stage will be invited to provide more information, and participation at any oral hearings would be by invitation only.

Questions

Please refer to the guidance to assist you in answering these questions.

1. Please provide an overview of your duties and responsibilities as a Councillor? Please also provide an overview of any duties and responsibilities you had in relation to the Edinburgh Trams Project.

I was a councillor representing the Portobello/Craigmillar ward and a member of the Liberal Democrat group. I was elected in May 2007 and served for the term until May 2012. During this period I served on various committees of the council and the Licensing Board but specifically, with regard to this enquiry, the Transport Infrastructure and Environment Committee and the Tram Sub-committee.

As a Chartered Building Surveyor I had knowledge and experience in delivering building projects which was useful when discussing and reaching an opinion on the tram project. However the scale and civil engineering aspects of delivering the Tram infrastructure were outside my professional experience. There was no specific training given to me other than briefings organised for councillors. In many respects, it was the strategy that was concentrated on with the belief that the various officers of the council and the ward were competent in their respective disciplines.

Within the Liberal Democrat/SNP coalition the agreement was that each party could maintain its own position with regard to the trams project. As all other parties in the council were in favour of the project this difference in the administration did not impede the delivery of the project.

2. Do you have any comments on the trams project during the initial proposals stage (i.e. between 2000 and 2006)?

As an individual I was in general support of the tram project for Edinburgh having experienced the benefits systems brought to Manchester and some French cities. I was disappointed that the proposed system for Edinburgh would not come to Portobello but strongly in favour of the proposed route through Craigmillar to the Royal Infirmary. I was in favour of funding from a congestion charge.

3. Do you have any comments on the trams project in relation to events between May 2007 and the signing of the infrastructure contract in May 2008?

Notwithstanding the opposition of the SNP group to the tram project there was overall support within the Council for it to be progressed and succeed. To some extent, the financial support of the national government tempered the views of the coalition partner. Much confidence was given in briefings and council papers that the project was well managed, risks mitigated and that cost control measures were in place. This was backed up with assurances that good links had been established

between tie, TEL and council officers and that a robust competitive procurement process had been followed. Further comfort was given in reports such as a positive outcome from the Auditor General. The setting up of a sub-committee of the Transport infrastructure and Environment Committee with a comprehensive remit was a positive step to monitor progress of the project.

At the same time the economic imperative of keeping Edinburgh moving was being emphasised with projections of commercial and residential growth in Leith, Granton, the south-east wedge and western parts of the city. Putting aside the desire for Edinburgh, as a modern European city, to have a tramway system, there was a pressing need to accommodate projected transport growth. This was before the disastrous fallout from the banking crisis and the decision not to develop Leith.

In the initial stages of the administration the progress of the design of the infrastructure did not seem to be an issue and there was an assumption that this was being managed by tie through the various consultants and project team. It was only later that it became apparent that designs and therefore costings had not been finalised.

At the time of accepting the Final Business Case and subsequent procurement approvals, there was optimism that despite the risks the project could be delivered as reported. In hindsight, there was a hint of what might come in paragraph 4.3 of the report to Full Council of 25th October 2007 which states "The infrastructure costs are also based on the fixed prices and rates received from the recommended infrastructure bidder." From discussions in later years with other councillors it appears that the emphasis in the mind of councillors was that a fixed price had been agreed. Whilst rates may have been fixed, until the quantity is known an overall price for work cannot be arrived at and only towards 2012 did sufficient information come to the group that work had not been quantified and that some work had not even been designed by the time of acceptance of the contract. The extent of the work still to be designed was not made clear in any briefing or documents.

I assumed that increase in costs had arisen due to these becoming clearer as design work was progressed and costs moved from being estimates to more certain sums for quantified work. The capping of the grant from Transport Scotland did mean that more risk was transferred to the council for cost overruns but this was dealt with in reports by identifying risks and assurance being given that the project was well managed.

The papers asking for approval of the Final Business Case were comprehensive and set out clearly the advantages of the tram project although at that stage it looked as if the Granton branch would not be included. The Leith section was still proposed and assurances were given that the estimates of costs were still valid. However, the details of the risks and the various allowances for these were not emphasised.

At the signing of the contract I believed that the council through tie would be responsible for the risks of any incomplete or amended design. Trust had been placed in tie that they were managing the delivery of the project competently but it had not been made clear, nor was there a general suspicion, about how much design work was still to be completed.

4. Do you have any comments on events after May 2008, including, in particular, in relation to the dispute that arose with the infrastructure consortium?

The progress of the project initially concentrated on the utility diversion work and the dilatory nature of the contractor along with the complexities of working in historic urban streets where incomplete or non-existent records of existing services and

archaeological remains hampered the works. This is coupled with an unrealistically optimistic assessment of work progress and how any delays could be caught up from the then chief executive of tie, Willie Gallacher.

The dispute with the infrastructure contractor was generally presented as that of an aggressive contractor who was looking for every way of increasing their profit from the works and that they were presenting unrealistic claims for payment for works done. This assessment was presented in briefings to the Liberal Democrat group by the Convenor of Transport backed by officers of the council. To back this up, it was claimed that of the disputes that had been settled through the dispute resolution mechanism, these were mainly in favour of the employer.

In my view it is rare for contractual disputes to be totally one-sided and at a Liberal Democrat group meeting suggested that senior councillors should talk to the contractor. This was not accepted and as a junior councillor I did not push this. I accepted it was correct that councillors should not become involved in operational decisions and details.

The appointment at the beginning of 2009 of Richard Jeffrey was therefore welcomed and it was assumed that his previous experience of dispute resolution and delivery of major infrastructure contracts would sort out this claim conscious contractor. The problem was firmly placed with one of the partners in the tram consortium and other works around the globe were cited to back up that this was not just a problem in Edinburgh.

Confidence was still being given that the financial modelling and overall business case was robust from consultants such as DTZ and whilst there were concerns about the delivery of the project and when the first tram would actually run in service, there was belief that the professionals involved would contain the expenditure and complete the works albeit with a delay. But then, what major infrastructure is not usually late?

The refreshed business case presented in December 2010 was still positive although it was disappointing in proposing a shortened line to St. Andrew Square. The need to provide for future development was prominent along with the benefits already derived from the utilities diversions and upgrades and emphasis was placed on the sunk costs incurred.

5. Do you have any comments in relation to the settlement agreement reached at the Mar Hall mediation in March 2011, and finalised later that year?

The Mar Hall settlement seemed to clear the log jam created by the adversarial relationship between tie and the infrastructure contractor. The successful delivery of a project cannot rely on the application of contract conditions but needs a working partnership between employer's agent and the contractor. This settlement resulted in a more collaborative partnership being restored which gave confidence that the project would be completed.

At this stage it was made clear that the council's Chief Executive had been given the task of successfully concluding the negotiations by securing the best outcome for the council. There was no involvement of councillors and little feedback of the details of the mediation. In these complex and sensitive negotiations this was to be expected with reliance placed on the competency of the new Chief Executive.

The settlement was guarded as commercially confidential but it had now appeared that tie had been overstating their position with regard to the claims for payment being made by the contractor.

The decision to curtail the line from the airport at Haymarket was seen by me as a political move without fully taking into account practicalities. To have any chance of contributing to better transport from the west of the city, say from a park and ride, the tram had at least to get to the east end of Princes Street. To stop the tram journey at Haymarket and then for travellers to have to change to busses presented an obstacle for taking the tram. All projections backed the need to take the tram line to St Andrew Square and it was common sense for even those who opposed the tram, to overturn this decision

6. Do you have any comments on the project management or governance of the trams project?

The governance of the trams project from the election in 2007 was devolved to the Transport, Environment and Infrastructure Committee from the Council for detailed approvals which in turn created a Tram Sub-committee reflecting the importance of the project to the city. The sub-committee had a comprehensive remit but this was never really fully exercised. This structure would have been successful for a relatively smooth running project but as events unfolded it became clear that decisions had to be taken at Full Council.

From briefings prior to the Mar Hall agreement the general approach was that councillors should support tie and the project board as it was necessary to show solidarity with tie so as not to weaken their negotiating position with the contractor. A lead was taken in the Liberal Democrat group from the Convenor.

I do not have sufficient detail to know whether a closer intervention from council officials in the running of tie would have been beneficial. From questioning of the original tie Chief Executive there seemed to be an over optimism on what could be achieved in the utility diversion work and winter working on Princes Street. The appointment of a new Chief Executive to tie in April 2009 brought a greater degree of confidence.

7. Do you have any comments on the reporting of information relating to the trams project to Councillors?

The reporting of information in the early days of the project was over optimistic although it was backed up by independent assessors which gave more confidence just as it was designed to. The information given in Council papers though is high level and presented by officers to achieve a certain decision. The operational details are not supplied which might inform the final decision but the scale of that information which would need to be presented in an understandable format makes this impractical. It was assumed that those sitting on the project board have more access to this information and therefore reliance should be placed on their understanding.

Council reports were comprehensive although at times it seemed that the original rationale for the project was repeated and that this added to the content of the report and maybe detracted from main issues. Councillors get a relatively short time to digest the contents of a report and a focused report on the main issues will aid clearer decision making. Sometimes a lead is taken from the Convenor who has had a more detailed briefing and input into the report and in a system where political

groups arrive at a collective position on an issue, the debate that takes place in these meetings can be more informative than that in the council meeting.

In addition there are other issues running concurrently and whilst the tram was the major project of my term, I was also trying to prevent the council from pursuing a project in the ward I represented, building on Common Good land where they had no powers to do so.

It was made clear that any extra borrowing, either prudential or from other sources, would have an impact on other services but I do not recall that at any time this was presented as unachievable and not manageable. Reliance was put on the professional judgement of officers with the only detail I remember is that borrowing could be against future profits of TEL.

8. Which body or organisation do you consider was ultimately responsible for ensuring that the trams project was delivered on time and within budget?

I believe that tie, as an agent of the council, was tasked with and given the responsibility of delivering the Trams project on time and within budget.

9. What do you consider were the main reasons for the failure to deliver the project in the time, within the budget and to the extent projected?

The main reasons which combined to reduce the scale of the Trams project and make it over budget are:

- a) Commencement of the project before it was fully designed so that a more certain tendered cost can be obtained for the infrastructure;
- b) Over optimism within a historic urban environment of being able to divert or accommodate underground services when the extent or even existence were not known. Not only was it unknown about the services but such structures as an air raid shelter, ancient conduit and a mass graveyard that was discovered;
- c) The emergence of an adversarial relationship between employer's agent and the infrastructure contractor;
- d) The downturn in the economy, especially after the debacle with the banks, which reduced developer contributions to the project and the decision of developers not to create a huge residential district in Leith;
- e) To some extent, the reticence of the council to become involved in resolving the dispute between agent and contractor until a critical situation had arisen.

10. Do you have any comments on how these failures might have been avoided?

With major infrastructure which requires many years of planning external factors such as the downturn in economic activity cannot be predicted with accuracy neither can the reversal of a major land owner to change a proposal such as Forth Ports did when the residential development was cancelled.

Construction of the project, as with the Scottish Parliament building, should not be started in any significant way until the design is complete and all practical investigations, especially when underground, should be carried out to a reasonable degree of certainty.

11. What do you consider are the main consequences of the failure to deliver the trams project in the time, within the budget and to the extent projected?

The main consequence is that the benefits of the tram system has not been brought to a wider sector of the Edinburgh population especially those in the Leith Walk area who had to endure many weeks of disruption during the preparatory works for something that has not happened to date. The effect on the streetscape in Leith Walk and in particular Picardy Place has been extremely detrimental.

There has been less integration of public transport and reduction in bus numbers in Leith Walk than had been projected with the failure to reduce environmental pollution from the busses.

The greater borrowing required to meet this project has meant that borrowing to pay for other work cannot be taken and tax payers will be bearing the cost of repayment, some of whom do not directly benefit.

The confidence in local authorities delivering major projects has been weakened.

12. Are there any other comments you would like to make that fall within the Inquiry's Terms of Reference and which have not already been covered in your answers to the above questions? (The Terms of Reference can be found on the [Inquiry's website](#))

With regard to concerns from residents in my ward I do not recall any detailed queries from constituents about the tram project although some made it known that they were implacably opposed to the tram project from the start. Updates were given as part of the reporting at community council meetings with the Craigmillar Community Council expressing disappointment that line 3, which would have run through Craigmillar, would not be pursued.