

Scottish Parliament Region: Central Scotland

Case 200502055: South Lanarkshire Council

Summary of Investigation

Category

Local government: Education; Policy/Administration

Overview

The complaint concerns South Lanarkshire Council's (the Council) proposals to re-build, rather than renovate, a school. The complainants (Mr and Mrs C) were aggrieved that the Council did not re-tender the works when the Council's proposals were changed; that it was unsatisfactory that transportation costs remained to be calculated; and that no explanation was given for the reasons why the site next to an existing primary school was unsuitable.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council did not re-tender the works when their proposals for the School changed from renovate to re-build (*not upheld*);
- (b) it was unsatisfactory that transportation costs remained to be calculated (*not upheld*); and
- (c) no explanation was given for the reasons why the site next to an existing primary school was unsuitable (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 24 March 2006 the Ombudsman received a formal complaint from Mr and Mrs C whose grandchildren attend X Secondary School (the School). They were concerned about the Council's proposals for the School.
2. The complaints from Mr and Mrs C which I have investigated are that:
 - (a) the Council did not re-tender the works when their proposals for the school changed from renovate to re-build;
 - (b) it was unsatisfactory that transportation costs remained to be calculated; and
 - (c) no explanation was given for the reasons why the site next to an existing primary school was unsuitable.

Investigation

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr and Mrs C, their councillor, and the Council. I have also seen local newspaper reports and the Executive Director's (Education Resources) Report to the Executive Committee of 2 February 2005.
4. While I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr and Mrs C and the Council were given an opportunity to comment on a draft of this report.

(a) The Council did not re-tender the works when their proposals for the school changed from renovate to re-build

5. Mr and Mrs C's granddaughters both attend the School and they said they had serious concerns about the Council's proposals to demolish and re-build the School on the same site. They believed this to be a waste of public money because, in their view, 'a better end product (can) be achieved with less expenditure'.
6. From my enquiries of the Council, I understand that on 16 June 2003 the Council placed an advert in the Official Journal of the European Community initiating the overall procurement process for their Secondary Schools

Modernisation Project (under the terms of the European Union Procurement Procedures). At that point, 35 contractors replied to the advert and expressed an interest in the project. The Council then chose two to take part in the final bid. Both bidders were required to submit proposals for a Standard Bid which consisted of eight new-build schools and eleven refurbished schools. The School was one of those anticipated to be refurbished. However, as part of the tender process the bidders were also asked to submit Mandatory Variant Bids (on, for example, different methods of funding) and up to three Non Mandatory Variant Bids. The Council said that the Non Mandatory Bids included the provision for additional new-build schools that could be provided to the Council, taking into account the level of funding available to the project, the disposal of additional surplus school sites (in whole or part) and life cycle maintenance costs. As a result, both contractors submitted proposals that would provide the Council with more new schools than was allowed for in the Standard Bid.

7. The Council said that the various tender submissions were then evaluated by: 'the Schools Modernisation Team, assisted by staff in Education, other relevant staff from Community, Corporate and Finance and IT Resources, Trade Union representatives, and the Council's external Advisers.'

Various criteria were used to assess the submissions (the Standard, Mandatory Variant and Non Mandatory Variant Bids, as described in paragraph 6) and a successful bidder was chosen at a meeting of the Executive Committee on 2 February 2005. As a result of the successful tenderer's bid, nine additional new schools were proposed. In reality this meant that, rather than being refurbished, it was now intended to re-build the School. It is this decision that has caused Mr and Mrs C to complain.

(a) Conclusion

8. I have seen a copy of the Report submitted to Committee and I have looked carefully at the tender process and what was proposed and accepted, and I am satisfied that the Council followed the required procedures (the European Union Procurement Procedures). There was no requirement for the Council to re-tender the project as the European Union Procurement Procedures allowed for the submission of Variant Bids from contractors. The successful contractors' bid included a proposal to build nine new schools; one of these was the school Mr and

Mrs C's grandchildren attended. While Mr and Mrs C may be unhappy with this, there is no evidence to suggest that this decision was reached improperly or without reference to the proper processes. Mr and Mrs C have also raised issues regarding public expenditure and value for money. However, these matters are considered by Audit Scotland during their audit process. The Council were not required to re-tender the process and, in the circumstances, I am unable to uphold this aspect of the complaint.

(b) It was unsatisfactory that transportation costs remained to be calculated

9. Mr and Mrs C said that, when the re-building works to the School begin in July 2007, the pupils will require to be decanted to another school. Staff and pupils will require to be relocated until about August 2009, when it is anticipated that the new school will be ready for occupation. It is their view that the transport costs will be in the region of £2 million. The Council have denied that this is the sum and advised Mr and Mrs C that pupil transportation costs have yet to be calculated and that they will be met within the contract. Mr and Mrs C said that this is totally unsatisfactory.

10. In their formal response of 28 June 2006, the Council confirmed that detailed work on determining the pupil transport arrangements for the school session of 2007/08 will not be completed until later this year. At that time, the Council's external advisers will undertake a comprehensive transport assessment which will advise the Council, particularly with regard to bus routes and road conditions. Education Resources and Strathclyde Partnership for Transport staff will be involved in the process of determining transport plans for individual pupils. Parents will be given the opportunity, in advance of the new term in August 2007, of discussing these proposed arrangements with Council staff. The Council maintained that these procedures have already worked well in the six school decants with which they have previously been involved. They also pointed out that there is likely to be a significant change in the School's pupil roll, as a result of pupils leaving and joining the School in the summers of 2006 and 2007. They have confirmed that a considerable amount of work remains to be carried out to finalise the travel arrangements for 2007/08, hence it is not possible to provide final transport costs. It has also been confirmed that the cost of transporting pupils

during the decant period will be part of the unitary charge made by the successful contractor.

(b) Conclusion

11. Mr and Mrs C consider that at this stage, it is unsatisfactory that transportation costs remain unknown but I am satisfied that the Council have properly explained the reasons for this (see paragraph 10) and confirmed that the cost will be met by the contractor. In the circumstances, I do not uphold this aspect of the complaint.

(c) No explanation was given for the reasons why the site next to an existing primary school was unsuitable

12. Mr and Mrs C maintained the view that the new School should be 'a seat of educational excellence' and that the site on which it is proposed to build is too small. They said that the Council should have looked elsewhere to locate the School and, in particular, they mentioned a site next to a local primary school but complained that the Council failed to provide them with an explanation of the reasons why this site was unsuitable.

13. I have seen a copy of the Head of School Modernisation's letter to the complainants dated 19 May 2006 and this explained to them that the Council's earlier consultations on their draft Local Plan illustrated considerable local objection to the development of the site. They also said that there were difficulties associated with sewer infrastructure. Their formal response dated 28 June 2006 expanded on this and referred to the background on the decision to re-build the school (see paragraphs 6 to 8). They said that, as the successful contractor proposed to re-build the School (rather than refurbish it) on the existing site, it was unnecessary for them to seek an alternative site or require them to carry out a statutory consultation with parents and other stakeholders regarding a permanent change of the School's location. Further, they have confirmed that, as far as possible, it is their policy not to locate primary and secondary schools on adjacent sites. However, they have confirmed that the particular site mentioned by Mr and Mrs C is parkland and that building a new school there would result in a loss of open space. Furthermore, that the draft South Lanarkshire Local Plan consulted upon potential development sites across the Council's area and the site mentioned by the complainants was one of a number identified as 'pressure for change' sites.

Consultation on the draft Local Plan received nearly 400 objections to development of this particular site and the Council have since formally accepted (at a Planning Committee meeting of 21 June 2006) that to release such land for development would make unnecessary encroachment on the greenbelt.

(c) Conclusion

14. Mr and Mrs C alleged that the new School will be squeezed onto a site that is too small and it was their view that a perfect alternative had been ignored. However, the Council advised that the successful contractor proposed to re-build, rather than refurbish the school on the same site as part of the tender (see paragraph 13) and they were, therefore, not required to look at alternative sites. Nevertheless, they have explained the reasons why the site mentioned by Mr and Mrs C was unsuitable for development. Taking all this into account, I cannot conclude that the Council did not explain the reasons why the site identified by Mr and Mrs C was unsuitable. In all the circumstances, I do not uphold this aspect of the complaint.

28 November 2006

Explanation of abbreviations used

Mr and Mrs C	The complainants
The School	The secondary school, attended by the complainants' grandchildren, which is at the centre of the complaint
The Council	South Lanarkshire Council