

Planning Committee

10am, Thursday 2 October 2014

Spokes Factsheet: Cycle Storage in Gardens

Item number	6.1
Report number	
Executive/Routine	Executive
Wards	City wide

Executive summary

This report presents a summary of activity on the use of the Spokes factsheet, Cycle Storage in Gardens (Appendix 1) in enforcement cases and by householders in submitting applications for front garden sheds since 3 October 2013.

From the limited number of cases over the period, it is difficult to draw any conclusions about the effectiveness of the Spokes factsheet. Spokes is pleased that the factsheet is now used in such cases, but notes that the low number of cases means that conclusions about its effectiveness are limited. In view of the small number of cases since the factsheet came into operation, it is recommended that monitoring continues and that a further report on activity be submitted two years from now, during which time the factsheet would remain available on the Council website.

Links

Coalition pledges	P40
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Spokes Factsheet: Cycle Storage in Gardens

Recommendations

- 1.1 It is recommended that the Committee:
 1. notes the results of the use of the Spokes factsheet, Cycle Storage in Gardens, in enforcement cases and by householders in submitting applications for sheds in front gardens since October 2013; and
 2. agrees that monitoring should continue and requests a further report on activity in October 2016.

Background

- 2.1 On 3 October 2013, the Planning Committee noted the finalised version of a Spokes factsheet, Cycle Storage in Gardens (Appendix 1). The Committee also agreed that the use of the factsheet in enforcement cases and by householders in submitting applications for front garden sheds should be monitored for a period of six months, and that a summary of activity should be presented to the Committee.
- 2.2 Planning officers worked with representatives of SPOKES to prepare the factsheet which sought to balance the provision of cycle storage with the preservation of character and amenity, especially in conservation areas. The factsheet has been supported by inclusion on the Council's cycling-related web pages and mentioned in the Householder Guidance. Applications continue to be considered in terms of the Householder Guidance.
- 2.3 The erection of a shed is development requiring planning permission. The legislation does not differentiate between the use of a shed – there is no separate categorisation for a structure used for the storage of a bike.
- 2.4 National legislation states that within the curtilage of a single dwelling house (not a flatted property), the erection of a garden shed is permitted development (work that does not require planning

permission) when it is located to the rear of properties subject to certain locational and size restrictions. However, the same legislation requires planning permission for the erection of a shed in all cases within the curtilage of flatted properties. The reason for the stricter control on flatted property relates to the greater potential for issues such as visual clutter and overshadowing. Within conservation areas, development is required to preserve or enhance the character and appearance.

- 2.5 The impact of a shed on the appearance and amenity of the street is a material consideration. However, a small shed capable of accommodating a bike will normally be considered acceptable and granted planning permission in cases where the shed is not located forward of a street elevation.
- 2.6 The Council aims to support and encourage travel by bicycle and recognises the need for secure storage. However, the erection of structures for the storage of bicycles in the front gardens of residential properties has recently resulted in a number of complaints being made by members of the public. All such enquiries have to be considered for potential enforcement action. The Council has a duty to protect the amenity of residential areas and the character and appearance of conservation area.

Main report

- 3.1 The Spokes factsheet details the planning legislation relating to the erection of sheds and provides further guidance on the location, size, form, screening and colour of shed which is likely to be acceptable, where planning permission is required. The factsheet makes it clear that applications are always treated on their merits.
- 3.2 There has been a relatively small number of applications and enforcement cases involving sheds in front gardens since the factsheet was noted by the Planning Committee, on 3 October 2013. For this reason, the monitoring period requested by Committee was extended from six months to 12 months.
- 3.3 There have been seven individual enforcement cases involving unauthorised sheds in front gardens since the October report. These are detailed in Appendix 2.
- 3.4 The sheds in the cases at 10 and 14 Marchmont Road conformed with the Spokes guidelines, but were in the curtilage of listed buildings. They were both moved to the rear garden of the properties following discussion with the householders. No action was taken on the cases at

Caiyside and Lady Menzies Place. The sheds in the cases at 84 Milton Road and 97 Rankin Drive where enforcement action is being progressed did not conform to the Spokes factsheet in terms of size. In the case at 28 Comely Bank Grove, the shed also did not conform to the Spokes factsheet in terms of size. The appeal against the enforcement notice was dismissed on the grounds of the negative impact of the size and appearance of the shed on the character of the area. This shed has since been removed.

- 3.5 An enforcement enquiry was also received from a member of the public raising concerns about garden sheds and bike stores throughout the Shandon Conservation Area. A survey was undertaken of the area which confirmed that 18 sheds had been erected in the front gardens of properties. A number of these appeared to have been *in situ* for a number of years and were time barred from enforcement action.
- 3.6 It was concluded that the area is characterised, to an extent, by sheds in gardens and although planning permission would have been required, the sheds and other structures were not detrimental to the amenity of area. It was resolved that it was not expedient for the Council, as local planning authority, to use its discretionary powers to enforce the removal of the structures or the submission of a retrospective application to regularise the structures.
- 3.7 There have been three applications for sheds in front gardens, since the October 2013 report to the Planning Committee:
 1. 33 Morton Street (13/03984/FUL). Application proposed the erection of metal structure with a footprint of 2.14 square metre and a mono-pitched roof with a maximum height of 1.34 metres. Application attracted six letters of objection. While it complied with the Spokes factsheet, planning permission was refused on 2 December 2013 as it was considered unacceptable in terms of materials, and the character and appearance of the conservation area.
 2. 1 Hillcoat Loan (14/00389/FUL). Erection of a metal container type shed on side garden facing street. The proposed shed was 2.4 metres in length, 1.8 metres in width and 2.13 metres at the apex of the pitched roof. The shed was to be located in a corner of the side garden. The shed was larger than the dimensions specified in the Spokes factsheet. The Development Management Sub-Committee on 13 August 2014 were minded to refuse planning permission on the grounds that the scale and design of the development would have a detrimental impact on the amenity of neighbouring residents and have an adverse effect on the character of the area. Detailed reasons for refusal are to be submitted to a future meeting.

3. 9 Hartington Gardens (14/00675/FUL). The erection of a bike storage shed in the front garden. The cycle storage shed is sized 2m by 1m by 1.1m. The proposal complied with the development plan and represented a minor infringement of the non-statutory guideline Guidance for Householders. The proposal was considered appropriate in terms of its scale, form and design. It was noted that an exception to the guideline was acceptable in this instance since the proposal was typical of the locality and would not have a detrimental impact on the character and appearance of the conservation area. This proposal complied with the Spokes factsheet in terms of size.

Conclusions

- 3.8 From the limited number of cases, it is difficult to draw any conclusions about the effectiveness of the Spokes factsheet.
- 3.9 Spokes note that, in the year since the factsheet has been included as a supplement to the Householder Guidance, there have been relatively few new garden shed applications or enforcement actions. Spokes is pleased that the factsheet is now used in such cases, but notes that the low number of cases means that conclusions about its effectiveness are limited. In view of the small number of cases since the factsheet came into operation, it is recommended that monitoring continues and that a further report on activity be submitted two years from now, during which time the factsheet would remain available on the Council website.

Measures of success

- 4.1 Proposals for cycle storage in gardens comply with planning policies and there is greater public awareness of planning requirements.

Financial impact

- 5.1 The contents of this report will have no impact on Council finances.

Risk, policy, compliance and governance impact

- 6.1 There are no significant risks associated with approval of the document as recommended.

Equalities impact

- 7.1 The content of this report relates to bicycle use which has the potential to improve health and wellbeing.

Sustainability impact

- 8.1 The proposals in this report:

- may reduce carbon emissions by extending access to bicycles for use in the city;
- increase the city's resilience to climate change impacts as increased levels of cycling in the city may reduce the need for vehicular travel; and
- help achieve a sustainable Edinburgh through the promotion of healthier forms of travel.

Consultation and engagement

9.1 There is no requirement for consultation on the contents of this report. Planning officers worked with representatives of Spokes on the preparation of the Factsheet and have discussed the results of the trial with representatives of Spokes.

Background reading / external references

On-Street Residential Bike Parking for Tenement Areas - Report to Transport, Infrastructure and Environment Committee, 21 February 2012.

Guidance for Householders, City of Edinburgh Council, December 2012.

Spokes Tenement Storage Cycle Factsheet, January 2011.

Spokes Factsheet: Cycle Storage in Gardens report to Planning Committee on 3 October 2013.

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Links

Coalition pledges	P40
Council outcomes	CO19
Single Outcome Agreement	SO4
Appendices	Appendix 1 – Spokes Factsheet: Cycle Storage in Gardens Appendix 2 – Details of Enforcement Cases

Appendix 1 – Spokes Factsheet: Cycle Storage in Gardens



The Lothian Cycle
Campaign

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Cycle Storage in Gardens

This factsheet provides information for householders in Edinburgh who need to store bikes in their garden. It mainly covers front gardens, as that is where most problems arise, but it also explains the position for other gardens.

Contents

1. Background.
2. Do I need planning permission for a shed/container in a garden?
3. What additional permissions may be needed?
4. Can I be sure of getting planning permission?
5. What if I have problems with planning permission or if I am told to remove an existing bike shed/container?
6. Related issues and possible future developments

1. Background

This factsheet has been produced firstly, in an attempt to reconcile the Council's objectives and targets on increasing cycle use¹ with its conservation and amenity policies; secondly, to give greater clarity and assurance to householders needing bike storage facilities in their garden; and thirdly to minimise abortive costs and administration for householders and for the Council.

1 The City Council has adopted bold targets that, by 2020, 10% of all trips and 15% of commuting trips should be by bike. See the *Active Travel Action Plan*, www.edinburgh.gov.uk/downloads/file/4409/active_travel_action_plan

Most sheds or other storage containers in Edinburgh have been installed without the householder consulting the Council, and we suspect this is the case in most or all councils. However, if you do this in a location where planning permission is needed, and a member of the public complains, even up to four years later, your local Council may take enforcement action against you. Unfortunately enforcement action can be a very stressful process possibly involving an enforcement notice and an appeal to the Scottish Government. After four years, if no enforcement action has been taken against you, then “deemed planning permission” applies and no action can be taken.²

Unfortunately, planning permission costs £192 [April 2013 figure] - more than the cost of many sheds/containers!

Planning rules do not differentiate between different uses of a shed - there are no specific rules which apply to “cycle sheds”. The rules assume that a shed may be used for *any* non-commercial purpose. Storage of bikes, garden equipment and Council recycling boxes are common uses. There are no rules about the *type* of shed - it might for example be a proprietary metal storage box, or a softwood framed timber shed with hinged doors. See below for the criteria most likely to result in permission being granted.

2. Do I need planning permission for a shed/container in a garden?

- ◆ **In the garden of a flat – YES.**
- ◆ **In the front garden of a house (or any side garden adjoining a public road) – YES.**
- ◆ **In the rear garden of an unlisted house not in a conservation area – NO, except that under *Permitted Development Rights*³ buildings “*incidental to the enjoyment of the dwelling*” are restricted to a height of 4m overall, 3m at the eaves, and 2.5m at the eaves if within one metre of the boundary. Also, the total area covered by proposed and existing development must be less than half the relevant curtilage.⁴**
- ◆ **In the rear garden of a house in a conservation area, or of a listed building – as for rear gardens above, but with an additional limitation of a maximum floor area of 4 sq m.**
- ◆ **Further restriction – if the house is part of a development with open plan front gardens, there may also be title restrictions.**

2 See the Scottish Government paper *Planning Enforcement Charter - A guide to enforcing planning controls* at www.scotland.gov.uk/Publications/2009/12/17093151 and *Planning Circular 10/2009: Planning Enforcement* at www.scotland.gov.uk/Publications/2009/09/16092848/0.

3 See *Guidance on Householder Permitted Development Rights* www.scotland.gov.uk/Resource/0038/00388268.pdf

4 "Curtilage" is the garden area behind the principal elevation. The principal elevation is the front of the house but also including the side elevation where it adjoins a public road.

Further general advice on planning and how to apply for planning permission is available from the City of Edinburgh Council.⁵

3. What additional permissions may be needed?

Building a shed or structure on your property may require a building warrant and/or need to meet building standards which are set within the Building Regulations. The requirements in place are predominately to prevent the spread of fire and the type of property where you intend to build your shed/structure and the size and position of the shed/structure will determine whether any requirements will be imposed.

Or

For example, if you are constructing a shed/structure for your bike within the boundaries of a house you will not need a building warrant or to meet any building standards provided your shed/structure is less than 8 m². The shed/structure will need to be at least 1m from the boundary if it is within 1m of your home. However if you live in a flat, the shed/structure should be at least 1m from your flat, 3m from any adjoining flat and at least 1 m from the boundary. Again the shed/structure should be no more than 8m².

Interpreting these complex restrictions can be confusing and it is advisable to contact the Building Standards section of the City of Edinburgh Council before you build your shed/structure to ensure that the Building Regulations are being complied with and no permissions are required.

Listed Building Consent may be necessary if your property is listed as being of historic interest, but only if your shed/container is to be physically attached to the listed structure. Information on listed buildings is available from various government websites [6](#).

4. Can I be sure of getting planning permission?

The Council has agreed that, where planning permission is required, applications where the guidelines below have been followed would normally expect to be granted permission. However, applications are always treated

⁵ See *Guidance for Householders and Listed Buildings and Conservation Areas*, at www.edinburgh.gov.uk/planningguidelines

⁶ Information about listed buildings: www.environment.scotland.gov.uk or www.historicscotland.gov.uk/historicandlistedbuildings

on their own merits. Applications which do not fully meet these guidelines might also succeed, but again would depend on the particular circumstances.

- ◆ Consider the best position in the garden not only for your ease of access but also to minimise intrusion into the views of neighbours and of the passing public.
- ◆ Discuss your ideas with your neighbours and try to meet any criticisms they may have about your choice.
- ◆ Keep the size of your shed/container within the most common maximum dimensions of 2.5m long x 1.2m deep x 1.5m high. A mono-pitched roof often has a lower profile than a ridged roof and this can make the structure less obtrusive.
- ◆ Select a colour for the shed/container which is not obtrusive and which fits in with its surroundings. Note that varnish or some coloured wood stains may look too conspicuous, even though a shed is constructed from 'natural' wood.
- ◆ Try to screen the shed/container to some degree with planting, a wall, or other discreet means.

5. What if I have problems with planning permission or if I am told to remove an existing bike shed/container?

If you have difficulty coming to an agreement with the Council as to what is reasonable and acceptable, or if you have been given a notice to remove an existing shed, use the review or appeal system as below. However:

- ◆ Remember that if your shed has been in place more than four years, you should be allowed to leave it in place [section 1 above].
- ◆ Enforcement by the Council is discretionary and only if they judge it to be in the public interest.⁷ This opens up the line of argument/defence that encouraging cycling is not only in the public interest but is also Council and national policy. Of course, this argument has then to be balanced against amenity considerations.

Contact your councillors for advice, preferably before lodging an appeal. Each ward has 3 or 4 councillors, and you can find yours by typing in your postcode at www.writetothem.com.

Spokes may also be able to help. Please contact us, but remember that we are an organisation of volunteers, so may not always have the capacity to help.

⁷ See the Scottish Government paper *Planning Enforcement Charter - A guide to enforcing planning controls* at www.scotland.gov.uk/Publications/2009/12/17093151

There are several cases where householders have won appeals, often with help, advice and support from local councillors and/or Spokes.

If you are refused planning permission under delegated powers [i.e. by Council officers] then your appeal will be decided by a Council Local Review Body made up of councillors.

If you are refused planning permission by the Planning Committee, or if you are served with an enforcement notice to remove an existing shed, your appeal is decided by a government official (called a Reporter).

In both cases the documentation from the Council should give full details of how to lodge your appeal and any closing dates. Your councillors should also be able to advise.

6. Related Issues and Possible Future Developments

Other local authorities

The garden bike storage issue is not unique to Edinburgh or indeed to Scotland. For example both Ealing and Wandsworth Councils in Greater London are taking steps⁸ to reconcile amenity considerations with the need to encourage bike ownership and use.

National regulations

Like all councils, the City of Edinburgh is bound by planning law and regulations. Much of the difficulty for householders in Scotland who need garden bike storage could be removed if the Scottish Government changed the rules for permitted development, so as to allow front garden sheds/containers which meet certain criteria, such as those in section 4 of this factsheet. Spokes is lobbying MSPs for this change in regulations.

8 Garden bike storage in Ealing and Wandsworth Council areas – issues and council initiatives
www.spokes.org.uk/wordpress/wp-content/uploads/2013/03/Ealing-factsheet-Cycle-storage-in-front-gardens.pdf

Appendix 2 – Details of Enforcement Cases



14 Marchmont Road –Property is listed and in a conservation area. Following negotiations with the owner the shed was removed and relocated to the rear garden.



10 Marchmont Road –Property is listed and in a conservation area. Following negotiations with the owner the shed was removed and relocated to the rear garden.



101 Caiyside - Planning permission was granted for the erection of the shed, in retrospect (13/04847/FUL). This followed an enforcement case.



84 Milton Road - Whilst both sheds represent unauthorised development, the removal of the taller of the two sheds would resolve the cumulative adverse impact on the streetscene, particularly given its more prominent position approximately 20 cm from the pavement edge. Having regard to the above, an enforcement notice has been served requiring the removal of the taller of the two sheds. The shed does not conform to the Spokes factsheet in terms of size.



97 Rankin Drive – The householder has been asked to remove the shed and enforcement action will be recommended for its removal if no action taken. The shed does not conform to the Spokes factsheet in terms of size.



3 Lady Menzies Place - In this case, the uniformity of the streetscape has been shaped, to a degree, by the historical installation of sheds. The appearance of this part of the conservation area is now characterised by a mixture of sheds of different shapes and sizes. In these circumstances, this particular shed does not have an adverse or unacceptable effect on the character or appearance of the conservation area. It was, therefore, not considered expedient to seek the removal of this shed.



28 Comely Bank Grove - An appeal against an enforcement notice for the removal of a shed measuring 1.5m x 2.05m x 2.1m in the front garden of 28 Comely Bank Grove was dismissed on 14 October 2013. The shed has now been removed.

The dismissal of the appeal was based on amenity grounds as the timber building was very prominent in the street scene, incongruous in its setting in the garden of the 3-storey block of red sandstone flats and detracted from the character of the area. The shed did not conform to the Spokes factsheet in terms of size.