

# Notice of meeting and agenda

## Planning Committee

**2.00pm, Wednesday, 13th September, 2023**

Dean of Guild Court Room - City Chambers

This is a public meeting and members of the public are welcome to attend or watch the webcast live on the Council's website.

### Contacts

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## **1. Order of Business**

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- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **2. Declaration of interests**

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- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **3. Deputations**

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- 3.1 If any

## **4. Minutes**

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- 4.1 Planning Committee of 14 June 2023 - submitted for approval as a correct record 7 - 12

## **5. Forward Planning**

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- 5.1 Planning Committee Rolling Actions Log 13 - 16
- 5.2 Planning Committee Work Programme 17 - 18

## **6. Business Bulletin**

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- 6.1 Planning Committee Business Bulletin 19 - 52

## **7. Development Plan**

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- 7.1 Development Plan Scheme September 2023 – Report by the Executive Director of Place 53 - 76

## **8. Planning Policy**

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- 8.1 Planning Controls Over Construction – Report by the Executive Director of Place 77 - 82

<b>8.2</b>	Response to Motion by Councillor O'Neill – Edinburgh's Monuments and Commemoration- referral from the Culture and Communities Committee	83 - 92
<b>8.3</b>	Short-Term Lets Licensing Scheme Review - Update - referral from Regulatory Committee	93 - 122

## **9. Planning Process**

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**9.1** None

## **10. Planning Performance**

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**10.1** None

## **11. Conservation**

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<b>11.1</b>	Addressing the Nature Emergency through Planning – Report by the Executive Director of Place	123 - 138
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## **12. Motions**

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**12.1** None

### **Nick Smith**

Service Director, Legal and Assurance

## **Committee Members**

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Councillor James Dalglish (Convener), Councillor Alan Beal, Councillor Chas Booth, Councillor Lezley Marion Cameron, Councillor Neil Gardiner, Councillor Tim Jones, Councillor Martha Mattos Coelho, Councillor Amy McNeese-Mechan, Councillor Joanna Mowat, Councillor Hal Osler and Councillor Alex Staniforth.

## **Information about the Planning Committee**

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The Planning Committee consists of 11 Councillors and is appointed by the City of Edinburgh Council.

The Planning Committee usually meets in the Dean of Guild Court Room in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public. .

### **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Taylor Ward, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, email [taylor.ward@edinburgh.gov.uk](mailto:taylor.ward@edinburgh.gov.uk) / [joanna.pawlikowska@edinburgh.gov.uk](mailto:joanna.pawlikowska@edinburgh.gov.uk)

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# Minutes

## Planning Committee

2.00pm, Wednesday 14 June 2023

### Present

Councillors Dalgleish (Convener), Beal, Booth, Cameron, Gardiner, Hyslop, Jones, McNeese-Mechan, Mowat, O'Neill and Osler

### 1. Minutes

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#### Decision

To approve the minute of the Planning Committee of 19 April 2023 as a correct record.

### 2. Business Bulletin

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The Planning Committee Business Bulletin for 14 June 2023 was submitted.

#### Decision

- 1) **City Plan Update 2030** – To request Officers update Committee on engagement with the reporter regarding the Local Place Plan.
- 2) **Seafield Update** – To note members would be updated on any decisions made on the new Chair of the Seafield Sounding Board.
- 3) **Planning Performance** – To include information on the outcomes of Appeals against Non-Determination in the Business Bulletin.
- 4) **Correspondence with Minister re Non-Determination** –
  - i) To check whether determination dates could be included in reports.
  - ii) To include whether non-determination decisions were pre or post decision making in the update to Committee.
- 5) To otherwise note the updates in the Business Bulletin.

(Reference – Business Bulletin 14 June 2023, submitted.)

### 3. Affordable Housing Policy Update 2023

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Information was provided on how the Affordable Housing Policy had supported delivery of affordable housing in 2021/22 and 2022/23.

#### Motion

- 1) To note that the Affordable Housing Policy (AHP) was consistently delivering onsite affordable homes for more than 85% of sites of 20 homes or more.

- 2) To note that almost 1,050 new affordable homes were completed through 2021/22 and 2022/23 and almost 1,000 new affordable homes were approved on sites secured through the AHP.
  - 3) To note the use of commuted sums, as set out in paragraph 4.17 of the report by the Executive Director of Place, to support delivery of 216 new affordable homes on three sites.
  - 4) To refer the report to Housing, Homelessness and Fair Work Committee for information.
- moved by Councillor Dalgleish, seconded by Councillor Cameron

### **Amendment**

- 1) To note the extremely challenging circumstances for delivery of affordable homes, through the war in Ukraine, Brexit and a number of other factors leading to significant increases in prices and added pressure to the sector, as set out in the report by the Executive Director of Place.
- 2) To note that the Affordable Housing Policy (AHP) was nonetheless consistently delivering onsite affordable homes for more than 85% of sites of 20 homes or more.
- 3) To note that almost 1,050 new affordable homes were completed through 2021/22 and 2022/23 and almost 1,000 new affordable homes were approved on sites secured through the AHP.
- 4) To note the use of commuted sums, as set out in paragraph 4.16 of the report by the Executive Director of Place, to support delivery of 216 new affordable homes on three sites, and to further note that only around one fifth of the £2.662 million received in commuted sums over 2021-23 was used to support the delivery of affordable homes; and further notes that the report set out that there would be “ample opportunities” to allocate these commuted sums.
- 5) To agree to receive a detailed report within two cycled on the use of commuted sums to deliver affordable homes, and that this report would include, but not be limited to, the following:
  - a) In what circumstances commuted sums were considered a reasonable alternative to on-site affordable housing.
  - b) A detailed breakdown of the use to which commuted sums had been used over the last 5 years.
  - c) A detailed analysis of how long the Council had held on to commuted sums before they were used.
  - d) In what circumstances, and within which thresholds, it was considered reasonable to offer to contribute commuted sums to deliver on-site affordable housing, and that, should any of the above information be considered commercially confidential, the information should be provided to members of Planning Committee and Housing, Homelessness and Fair

Work Committee in the form of a confidential members' briefing rather than a report to Committee.

- 6) To note that there were no new planning approvals for Golden Share in 2021-23; and that no changes to Golden Share policy would be considered while City Plan 2030 was being considered by Scottish Ministers, but that the affordability of Golden Share continued to be monitored.
- 7) To note the affordability of Mid Market Rent (MMR) and Intermediate Rent (IR) homes as set out in previous reports to this Committee, and to further note the Council's affordable housing guidance set out the affordable housing tenures in priority order, with social rented housing as the highest priority need, and to further note that IR could sometimes be time-limited.
- 8) To note that the overwhelming need for affordable housing identified in both HoNDA2 and HoNDS3 was for affordable rented accommodation.
- 9) To note that any significant changes to the affordable housing policy would be subject to consultation.
- 10) To therefore agree that reports presented to Committee as part of the preparation of guidance to support relevant policies once the City Plan 2030 had been approved would give consideration to consulting on changes to the affordable housing policy which focused on those tenures which best delivered affordable rented accommodation, and which considered limited or an end to the use of those tenures which supported low-cost home ownership or more expensive rental tenures, including, but not limited to, consideration of ending the use of Golden Share, and removing the time-limited aspect of Intermediate Rent.
- 11) To refer the report to Housing, Homelessness and Fair Work Committee for information.

- moved by Councillor Booth, seconded by Councillor O'Neill

In accordance with Standing Order 22(12), the amendment was accepted as an amendment to the motion.

### **Decision**

To approve the following adjusted motion by Councillor Dalglish:

- 1) To note the extremely challenging circumstances for delivery of affordable homes, through the war in Ukraine, Brexit and a number of other factors leading to significant increases in prices and added pressure to the sector, as set out in the report by the Executive Director of Place.
- 2) To note that the Affordable Housing Policy (AHP) was nonetheless consistently delivering onsite affordable homes for more than 85% of sites of 20 homes or more.
- 3) To note that almost 1,050 new affordable homes were completed through 2021/22 and 2022/23 and almost 1,000 new affordable homes were approved on sites secured through the AHP.

- 4) To note the use of commuted sums, as set out in paragraph 4.16 of the report by the Executive Director of Place, to support delivery of 216 new affordable homes on three sites, and to further note that only around one fifth of the £2.662 million received in commuted sums over 2021-23 was used to support the delivery of affordable homes; and further notes that the report set out that there would be “ample opportunities” to allocate these commuted sums.
- 5) To agree to receive a detailed report within two cycles on the use of commuted sums to deliver affordable homes, and that this report would include, but not be limited to, the following:
  - a) In what circumstances commuted sums were considered a reasonable alternative to on-site affordable housing.
  - b) A detailed breakdown of the use to which commuted sums had been used over the last 5 years.
  - c) A detailed analysis of how long the Council had held on to commuted sums before they were used.
  - d) In what circumstances, and within which thresholds, it was considered reasonable to offer to contribute commuted sums to deliver on-site affordable housing, and that, should any of the above information be considered commercially confidential, the information should be provided to members of Planning Committee and Housing, Homelessness and Fair Work Committee in the form of a confidential members’ briefing rather than a report to Committee.
- 6) To note that there were no new planning approvals for Golden Share in 2021-23; and that no changes to Golden Share policy would be considered while City Plan 2030 was being considered by Scottish Ministers, but that the affordability of Golden Share continued to be monitored.
- 7) To note the affordability of Mid Market Rent (MMR) and Intermediate Rent (IR) homes as set out in previous reports to this Committee, and to further note the Council’s affordable housing guidance set out the affordable housing tenures in priority order, with social rented housing as the highest priority need, and to further note that IR could sometimes be time-limited.
- 8) To note that the overwhelming need for affordable housing identified in both HoNDA2 and HoNDS3 was for affordable rented accommodation.
- 9) To note that any significant changes to the affordable housing policy would be subject to consultation.
- 10) To therefore agree that reports presented to Committee as part of the preparation of guidance to support relevant policies once the City Plan 2030 had been approved would give consideration to consulting on changes to the affordable housing policy which focused on those tenures which best delivered affordable rented accommodation, and which considered limited or an end to the use of those tenures which supported low-cost home ownership or more



expensive rental tenures, including, but not limited to, consideration of ending the use of Golden Share, and removing the time-limited aspect of Intermediate Rent.

- 11) To refer the report to Housing, Homelessness and Fair Work Committee for information.
- 12) To discuss with Officers if further advice could be given to applicants to ensure affordable housing.
- 13) To discuss with Officers the options to ensure social housing was delivered.

(References – Planning Committee 30 November 2022 (item 1); Act of Council No.7 of 16 March 2023; report by the Executive Director of Place, submitted.)

#### **4. West Edinburgh Placemaking Framework and Masterplan: Draft for Consultation**

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Approval was sought for the draft West Edinburgh Placemaking Framework and Masterplan. The report set out the process for consultation on the draft Placemaking Framework and Masterplan.

##### **Motion**

- 1) To approve the Draft West Edinburgh Placemaking Framework and Masterplan for public consultation.
  - 2) To note that a report would be brought back detailing the outcome of the consultation, along with a finalised Framework and Masterplan.
- moved by Councillor Dalgleish, seconded by Councillor Cameron.

##### **Amendment**

- 1) To approve the Draft West Edinburgh Placemaking Framework subject to planning officers amending the Draft West Edinburgh Placemaking Framework and Masterplan to include more focused consideration of potential traffic impacts on existing communities. This should amend the consultation to enable views from key landowners within and around the masterplan area, those living directly in the area, surrounding community and interest groups, statutory consultees, key stakeholders and other interested organisations on how best to mitigate the impacts of increased flow of traffic on existing communities in West Edinburgh.
  - 2) To note that a report would be brought back detailing the outcome of the consultation, along with a finalised Framework and Masterplan.
- moved by Councillor Gardiner, seconded by Councillor Hyslop

In accordance with Standing Order 22(12), the amendment was accepted as an addendum to the motion.

##### **Decision**

To approve the following adjusted motion by Councillor Dalgleish:

- 1) To approve the Draft West Edinburgh Placemaking Framework subject to planning officers amending the Draft West Edinburgh Placemaking Framework

and Masterplan to include more focused consideration of potential traffic impacts on existing communities. This should amend the consultation to enable views from key landowners within and around the masterplan area, those living directly in the area, surrounding community and interest groups, statutory consultees, key stakeholders and other interested organisations on how best to mitigate the impacts of increased flow of traffic on existing communities in West Edinburgh.

- 2) To note that a report would be brought back detailing the outcome of the consultation, along with a finalised Framework and Masterplan.

(References - report by the Executive Director of Place, submitted)

## **5. Economic Impact of Residential and Short-term Let Properties in Edinburgh**

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A report by MKA Economics was considered by Committee on the Economic Impact of Residential and Short-Term Let Properties in Edinburgh (“the Economic Report”). It was noted that if further guidance on short-term lets was prepared in accordance with the decision of Planning Committee of 19 April 2023, the Economic Report would be used to inform the preparation of that guidance.

### **Decision**

- 1) To note that an independent assessment of the economic impact of residential and short-term let properties in Edinburgh was commissioned with a final report issued in May 2023.
- 2) To note that the findings of the report were one source of information that could be considered when assessing the economic impacts of short-term let planning applications and that given the report was considering generalities rather than the specifics of an individual case, it was likely that only limited weight could be attached to it as a material consideration when making planning application decisions.
- 3) To circulate the updated Scottish Guidance on NPF4 in relation to short term lets to members when it became available.

(Reference – report by the Executive Director of Place, submitted)

# Rolling Actions Log

## Planning Committee

13 September 2023

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comment
1	14.06.23	Affordable Housing Policy Update 2023	<p>1) To agree to receive a detailed report within two cycles on the use of commuted sums to deliver affordable homes, and that this report would include, but not be limited to, the following:</p> <p>a) In what circumstances commuted sums were considered a reasonable alternative to on-site affordable housing.</p> <p>b) A detailed breakdown of the use to which commuted sums had been used over the last 5 years.</p> <p>c) A detailed analysis of how long the Council had held on</p>	Executive Director of Place	November 2023		

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comment
Page 12			<p>to commuted sums before they were used.</p> <p>d) In what circumstances, and within which thresholds, it was considered reasonable to offer to contribute commuted sums to deliver on-site affordable housing, and that, should any of the above information be considered commercially confidential, the information should be provided to members of Planning Committee and Housing, Homelessness and Fair Work Committee in the form of a confidential members' briefing rather than a report to Committee.</p>				
			<p>2) To discuss with Officers if further advice could be given to applicants to ensure Affordable Housing.</p>	Executive Director of Place	November 2023		<p><b><u>Update September 2023</u></b></p> <p>A summary of discussions and outcomes will be included within the detailed report on the use of</p>

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comment
							commuted sums to deliver affordable homes.
			3) To discuss with Officers the options to ensure Social Housing is delivered.	Executive Director of Place	November 2023		<b><u>Update September 2023</u></b> A summary of discussions and outcomes will be included within the detailed report on the use of commuted sums to deliver affordable homes.
Page 13	14.06.23	West Edinburgh Placemaking Framework and Masterplan: Draft for Consultation	To note that a report would be brought back detailing the outcome of the consultation, along with a finalised Framework and Masterplan.	Executive Director of Place	December 2023 (Provisional date)		<b><u>Update September 2023</u></b> The West Edinburgh Placemaking Framework and Masterplan <a href="#">consultation</a> closes 4 October 2023.
3	14.06.23	Economic Impact of Residential and Short-Term Let Properties in Edinburgh	To circulate updated Scottish Guidance on NPF4 in relation to short term lets to members when it becomes available.	Executive Director of Place	September 2023	September 2023	<b>Recommended for Closure</b> Scottish Government produced the <a href="#">Planning circular 1/2023: short-term lets and planning</a> on 17 May 2023, and subsequent Errata published 7 June 2023.

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comment
							The Planning Authority will continue to monitor emerging guidance on NPF4 in relation to short term lets and update Members accordingly.

# Work Programme

## Planning Committee

13 September 2023

Item	Key decisions	Frequency	Director and Lead Officer	Expected Date
1	Training and Awareness Programme	Yearly	Place, Chief Planning Officer and Head of Building Standards	15 November 2023
2	Housing Land and Completions Programme	Yearly	Place, Chief Planning Officer and Head of Building Standards	31 January 2024
3	Edinburgh Urban Design Panel – Annual Review	Yearly	Place, Chief Planning Officer and Head of Building Standards	31 January 2024
4	Annual Review of Guidance	Yearly	Place, Chief Planning Officer and Head of Building Standards	22 April 2024
5	Funding of Third Sector Delivery Partners	Yearly	Place, Chief Planning Officer and Head of Building Standards	22 April 2024
6	Local Development Plan Delivery Programme	2 yearly	Place, Chief Planning Officer and Head of Building Standards	September 2024 provisionally
7	Development Plan Scheme	Yearly	Place, Chief Planning Officer and Head of Building Standards	September 2024 at latest

## Planning Committee Upcoming Reports

## Appendix 1

Report Title	Directorate	Lead Officer
<b>November 2023</b>		
No reports identified at this stage.		
<b>January 2024</b>		
No reports identified at this stage.		




# Business Bulletin

## Planning Committee

10.00am, Wednesday, 13 September 2023

## Planning Committee

Convener:	Members:	Contacts:
<p>Councillor James Dalgleish</p> 	<p>Councillor Alan Beal            Councillor Chas Booth            Councillor Lezley Marion Cameron            Councillor Neil Gardiner            Councillor Tim Jones            Councillor Martha Mattos Coelho            Councillor Amy McNeese-Mechan            Councillor Joanna Mowat            Councillor Hal Osler            Councillor Alex Staniforth</p>	<p><a href="#">Taylor Ward</a>            Committee Services</p> <p>David Givan            Chief Planning Officer and Head of Building Standards  <a href="mailto:david.givan@edinburgh.gov.uk">david.givan@edinburgh.gov.uk</a></p>

### Response to Motion by Councillor McKenzie – Review Rights of Appeal in Planning

The motion agreed at [Council on 4 May 2023](#) requested that the Council Leader meet with the Minister for Local Government Empowerment and Planning. At this meeting, the motion stipulated that the Council Leader ask for a response to the complaint on the lack of community appeal rights in planning for members of the public in Scotland and for a commitment to reviewing rights of appeal.

At their meeting on 11 May 2023, the Council Leader discussed a number of issues with the Minister relating to Local Government, including both review rights of appeal in planning and the Visitor Levy (Scotland) Bill. The meeting was followed up with a letter requesting a formal response to the points raised by Council.

The Minister has since confirmed the following in writing:

- Amendments which proposed third party rights of appeal were considered and rejected by the Scottish Parliament during its consideration of the Planning (Scotland) Bill 2019 now represented by the Planning (Scotland) Act 2019.

The Scottish Government has no plans to undertake a review of rights of appeal at the current time in line with the recent Council request.

**Contact:** [David Givan](#), Chief Planning Officer and Head of Building Standards

### Planning Performance

Planning performance Statistics for Q1 2023/24 and the part of Q2 up to 28 August are contained in Appendix 1.

**Contact:** [David Givan](#), Chief Planning Officer and Head of Building Standards

### Planning Appeals

Appendix 2 contains a summary of planning appeals for the year 2022/23.

**Contact:** [Jay Skinner](#), Senior Planning Officer

### Building Standards

Building Standards continues to achieve high performance figures against national targets. Quarterly meetings and on-going discussions with colleagues in the Local Authority Building Standards Scotland (LABSS) South-East Scotland Consortium allow the Council to measure performance

**Contact:** [Colin Wishart](#), Building Standards Operations Manager

against neighbouring authorities and identify how to improve consistency in application of the building regulations and associated legislation.

Working with CGI, officers have been involved in the development and testing of the upgraded Uniform and Idox software systems to allow migration to the cloud. The work brought its challenges, but the section will benefit from this project when it is fully completed.

The majority of officers have attended climate change training. This has helped to recognise the importance of their role in addressing the climate emergency issues.

The percentage of first reports issued within target timescales is high at 94%. Similarly, the number of warrants granted within the target timescale of 10 working days is high also at 93%.

	2022/23				2023/24
	Q1	Q2	Q3	Q4	Q1
Number of first reports	1,295	1,005	1,192	1,180	1,001
% issued within 20 day target	90%	91%	91%	95%	94%
Number of warrants granted	1,374	1,144	1,248	1,168	1,085
% issued within 10 day target	91%	92%	90%	92%	93%

### Seafield Update

The community consultation for Stage 1 of the Seafield masterplan about Seafield as it is now, and how positive change could be managed and implemented in the future to best contribute to a network of local coastal communities has now been completed. The consultation received 430 responses.

Seafield was recognised as a place that people seek out for access to the beach, for active travel opportunities along the Promenade and as a quieter/ wilder alternative to Portobello for walking.

The majority of people prioritised affordability for housing development at Seafield and a desire to see a mix of housing types. Suggested improvements to the area included more green space, facilities that allow people to actively use the water and spend time at Seafield, better active travel connections, better public transport connections and a range of uses and facilities that can support the people who may live here in the future and attract people who choose to visit.

**Contact:** [Iain McFarlane](#), City Plan Programme Director

A full report on the Stage 1 Consultation can be viewed [here](#).

### Stage 2 and 3 consultation

The Stage 2 Consultation is scheduled to take place in October 2023, while the Stage 3 Consultation is scheduled to take place in December 2023. Information on future consultation events will be published in due course.

### **Conservation and Adaptation Update**

Work has progressed on ‘Conservation and Adaptation’ following the motion agreed by the Planning Committee on 2 November 2022. The motion sought to gather the views of the city’s residents on what the additional challenges are for residents who live in listed buildings and/or conservation areas to adapt their homes in response to climate change and the cost-of-living crises.

An online public consultation ran between March and June and received approximately 470 responses. The responses have been analysed and a report produced. This has informed the short-term working group which met in August and September. The group includes Councillors, planning officers, relevant bodies with an interest in the historic environment, energy saving / fuel poverty and residents.

The group considered the consultation feedback, challenges and possible solutions, including the potential impact, if change is required, on the cultural heritage value of the city’s listed buildings and conservation areas. It is intended that the analysis of the consultation responses and the discussions of the short-term working group including conclusions and next steps, will be reported to the next Planning Committee.

### **Response to Scottish Government Consultation on Permitted Development Rights**

A response was given to the Scottish Government’s “Phase 3” consultation on changes to permitted development rights. The focus is on potential changes in relation to renewables and windows. Increased permitted development is proposed for conservation areas. The response noted that the planning service recognises the importance that domestic renewables can play in addressing climate change, however noted that the proposals for increased permitted

**Contact:** [Daniel Lodge](#), Planning Officer

**Contact:** [Daniel Lodge](#), Planning Officer

development rights may harm conservation areas if implemented.

The response also explained that retaining the requirement for applications for planning permission allows impacts to be carefully considered on a case-by-case basis and that the current controls also allow the Council to mitigate the possible visual impact of proposals. It further noted that requirement for planning permission in restricted areas also affords interested parties such as members of the public and elected members the opportunity to provide their own input into the planning process.

Recognising that there are financial impacts, the response suggested that so that those in conservation areas are not unduly financially impacted, there may be a case for a further reduction of application fees. This would be for developments in conservation areas which, if in other areas, would be permitted development.

In relation to windows, the response noted that current controls allow the planning authority to make a detailed assessment of the potential impact of such development and assess whether the wider planning merits of such development is ultimately acceptable on balance.

The response is contained in Appendix 3.

### **Response to Scottish Government Consultation on Local Living and 20 Minute neighbourhood draft guidance**

A response has been submitted to the Scottish Government's consultation on draft guidance in support of NPF4 Policy 15. The proposed guidance was generally welcomed as useful, though some points require greater clarity. These include being clearer about who the guidance is aimed at, better defining urban and rural scenarios and how these would be assessed, and issues of funding where there is a need to retrofit existing areas. The full response is contained in Appendix 4.

### **Scottish Government Consultation on Mandatory Planning Training for Elected Members**

The Scottish Government is currently consulting on mandatory training for elected members. Mandatory training is a new requirement arising from section 45 of the Planning (Scotland) Act 2019. The Chief Planning Officer will draft a

**Contact:** [Iain McFarlane](#), City Plan Programme Director

**Contact:** [David Givan](#), Chief Planning Officer and Head of Building Standards

consultation response for review by Planning Committee Members ahead of submission in October.

### **Short-Term Let Planning Guidance Judicial Review**

A petition has been submitted to the Court of Session for a Judicial Review of the Council's Guidance for Businesses regarding short-term lets and its approach to deciding whether a change of use is deemed to be a material change of use. This guidance was approved at Planning Committee on 19 April 2023. It is intended that the Council will defend its position at a substantive hearing in Court on 8 November 2023.

**Contact:** [David Givan](#), Chief Planning Officer and Head of Building Standards

### **Energy Efficiency in Homes – Introduction of Long-term Domestic Standards – Motion by Councillor Dalgleish**

On 22 June 2023, the Council [approved](#) an adjusted motion by Councillor Dalgleish on the above.

The Council agreed that the Council Leader should write to relevant Ministers to request a meeting to discuss the challenges in residential properties. The discussion should include, but not be limited to:

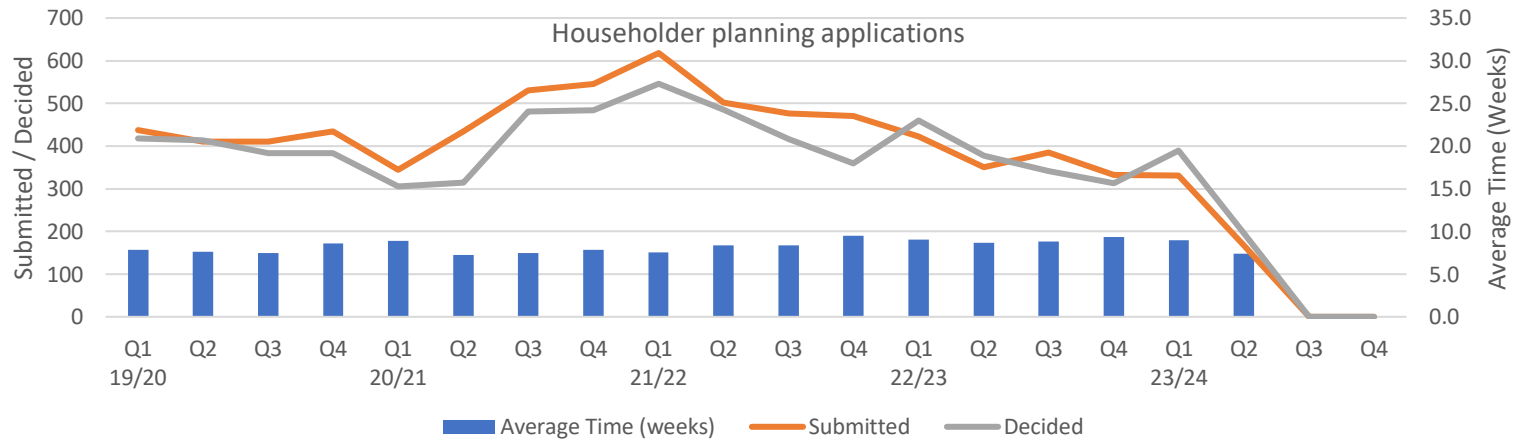
- Properties within conservation areas and those where were listed buildings faced with looking to adapt or alter homes to achieve an Energy Performance Certificate (EPC) rating of at least equivalent to EPC C;
- Request further clarification on whether the adaptations required in the context of being technically feasible, legally feasible and cost-effective apply as exemptions to the regulations;
- Anticipated financial support mechanisms available to support building owners and specifically how these would support the principles of a just transition and ensure that those on the lowest incomes were given the most support and support for those in listed buildings and conservation areas; and
- Operation of the exemptions register.

A request for a meeting was sent to Patrick Harvie, Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights on 16 August 2023. Following the meeting, an update on the discussion will be provided to Committee.

**Contact:** [Alan Irvine](#), Senior Executive Officer

**Appendix 1 - Planning Time Performance Quarterly Bulletin - Q2 2023/2024**  
**Note: Figures for Q2 2023/24 are up to 28 August 2023 Only**

Householder																				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20				20/21				21/22				22/23				23/24			
Average Time (weeks)	7.8	7.6	7.5	8.6	8.9	7.3	7.5	7.9	7.6	8.4	8.4	9.5	9.1	8.7	8.8	9.4	9.0	7.4		
Submitted	438	411	410	435	345	435	530	546	618	502	476	470	423	351	385	332	331	168	0	0
Decided	418	413	384	383	305	314	481	484	546	485	417	360	460	378	341	313	389	196	0	0
12 Month Totals:	Sub: 1694 Dec: 1598				Sub: 1856 Dec: 1584				Sub: 2066 Dec: 1808				Sub: 1491 Dec: 1492				Sub: 499 Dec: 585			
Decided over 2 months (no agreements / extensions)	76	41	26	43	133	51	70	74	78	126	111	155	203	116	108	130	110	45	0	0
Appeals against non determination									0	0	0	0	0	1	2	0	0	1	0	0

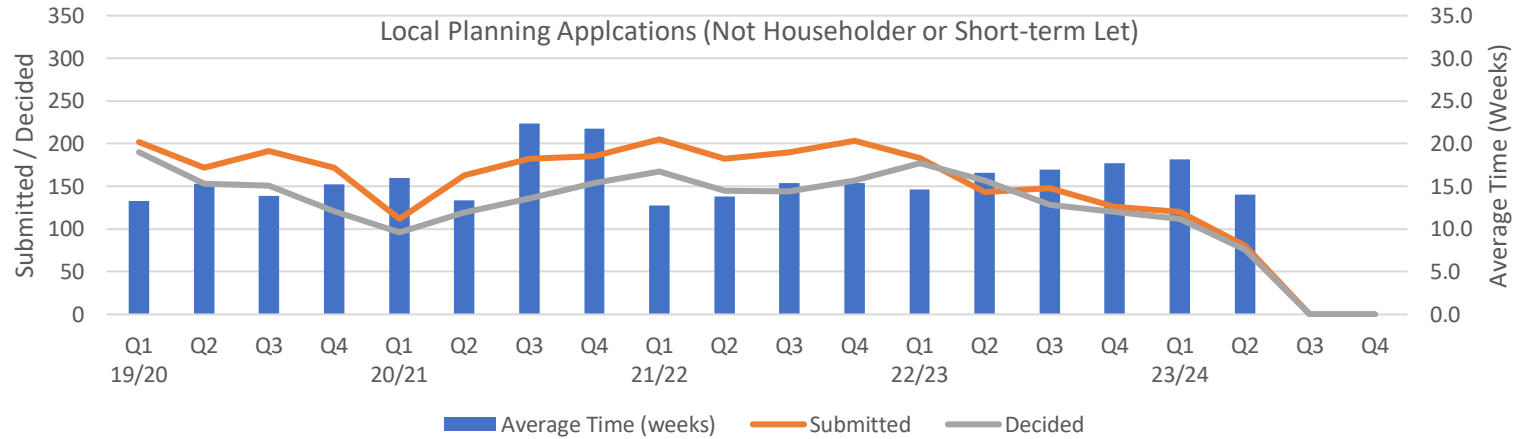


Commentary:  
 Average timescales for processing householder has improved for Q1 at 9 weeks and so far for Q2 at 7.4 weeks.



**Note: Figures for Q2 2023/24 are up to 28 August 2023 Only**

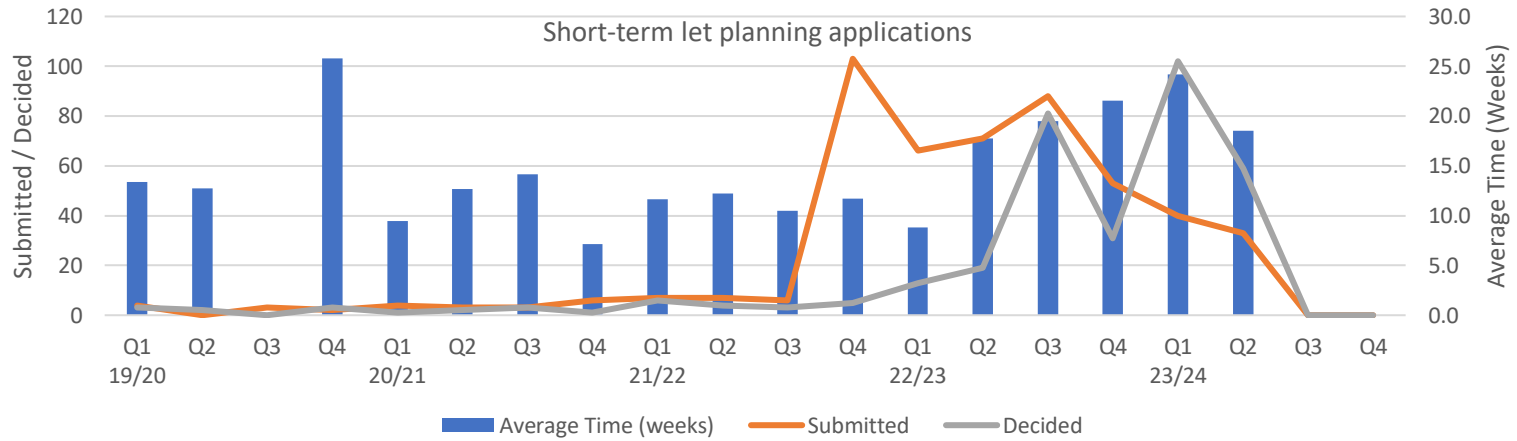
Local (Not Householder or Short-term Let)																				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20				20/21				21/22				22/23				23/24			
Average Time (weeks)	13.3	15.3	13.9	15.2	16.0	13.3	22.4	21.8	12.8	13.8	15.4	15.4	14.7	16.6	17.0	17.7	18.1	14.0		
Submitted	202	172	191	172	112	163	182	185	205	182	190	203	183	143	148	126	120	80	0	0
Decided	190	153	151	121	96	119	136	154	167	145	144	157	177	157	128	120	112	76	0	0
12 Month Totals:	Sub: 737 Dec: 615				Sub: 642 Dec: 505				Sub: 780 Dec: 613				Sub: 600 Dec: 582				Sub: 200 Dec: 188			
Decided over 2 months (no agreements / extensions)	85	63	48	58	59	52	66	64	71	73	90	103	116	107	74	86	87	47	0	0
Appears against non determination									0	0	0	0	3	0	0	0	3	4	0	0



While there was an increase in average timescales to determine Local applications (not including those that are householder or short term lets) in Q1, indications for Q2 are positive with the average timescale so far being 14 weeks.

**Note: Figures for Q2 2023/24 are up to 28 August 2023 Only**

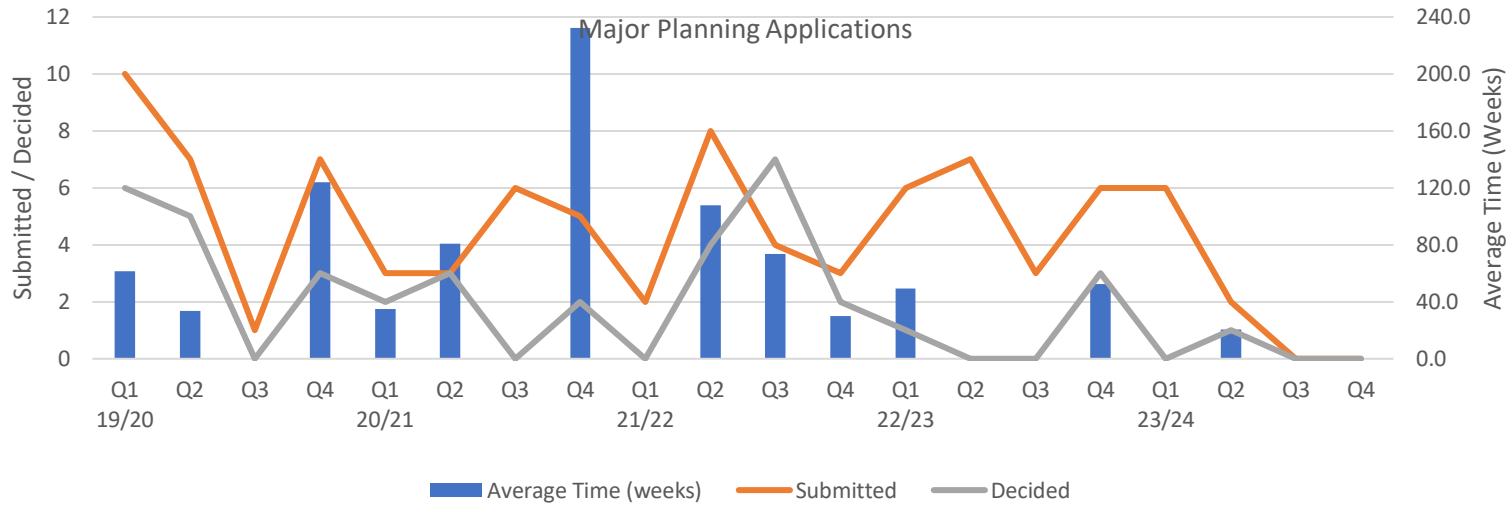
Short-term Let																				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20				20/21				21/22				22/23				23/24			
Average Time (weeks)	13.4	12.7		25.8	9.4	12.6	14.1	7.1	11.7	12.3	10.5	11.7	8.8	17.8	19.5	21.5	24.2	18.5		
Submitted	4	0	3	2	4	3	3	6	7	7	6	103	66	71	88	53	40	33	0	0
Decided	3	2	0	3	1	2	3	1	6	4	3	5	13	19	81	31	102	59	0	0
12 Month Totals:	Sub: 9 Dec: 8				Sub: 16 Dec: 7				Sub: 123 Dec: 18				Sub: 278 Dec: 144				Sub: 73 Dec: 161			
Decided over 2 months (no agreements / extensions)	1	1	0	3	1	2	2	0	5	4	3	3	2	19	76	30	101	44	0	0
Appeals against non determination																				



Short-term let application are taking longer than other local applications to determine at present given the complexity of some of the aspects of the applications. However, for Q2 so far, the average timescales are improved (at 18.5 weeks) in comparison with the previous 3 quarters.

Note: Figures for Q2 2023/24 are up to 28 August 2023 Only

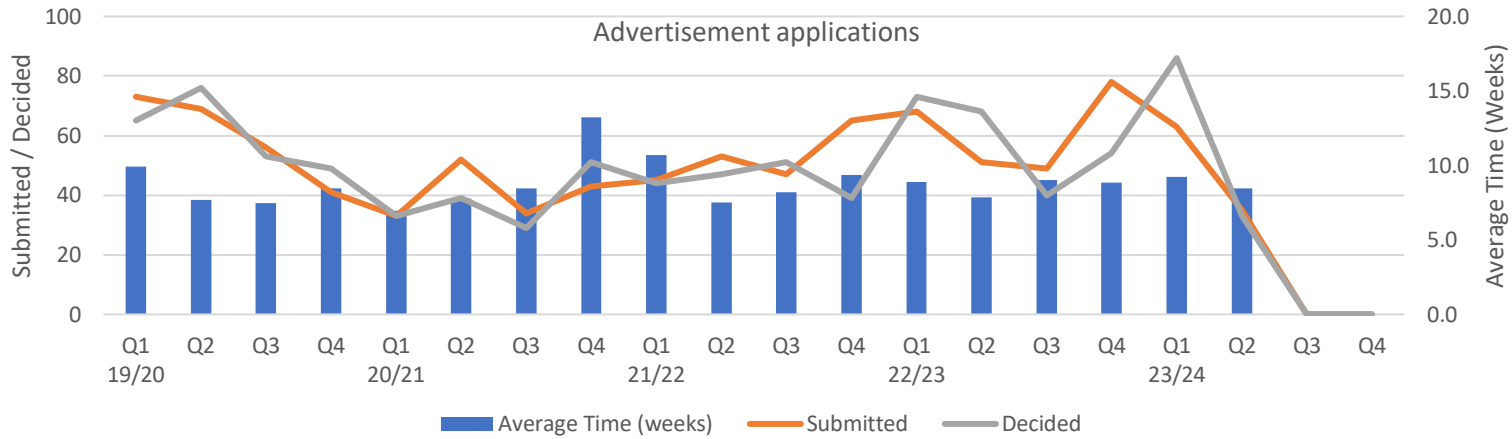
Major																				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20			20/21	20/21			21/22	21/22			22/23	22/23			23/24	23/24			23/24
Average Time (weeks)	61.5	33.4		124.0	35.1	81.0		232.5		107.9	73.8	30.1	49.1			52.5			20.6	
Submitted	10	7	1	7	3	3	6	5	2	8	4	3	6	7	3	6	6	2	0	0
Decided	6	5	0	3	2	3	0	2	0	4	7	2	1	0	0	3	0	1	0	0
12 Month Totals:									Sub: 17 Dec: 13				Sub: 22 Dec: 4				Sub: 8 Dec: 1			
Decided over 2 months (no agreements / extensions)	6	3	0	3	2	3	0	2	0	4	6	2	1	0	0	3	0	1	0	0
Appears against non determination										0	0	1	0	1	0	1	0	1	0	1



There were no major applications determined during Q1. The major application that was determined in Q2 thusfar was determined in 20.6 weeks. This is better than previous average timescales.

Note: Figures for Q2 2023/24 are up to 28 August 2023 Only

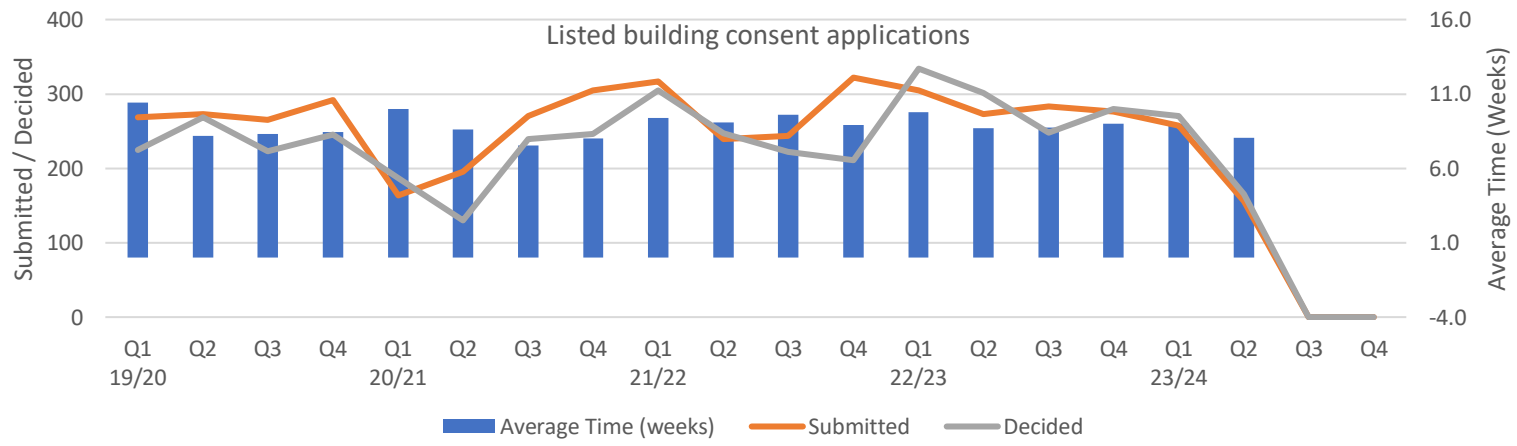
Advertisements																				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20				20/21				21/22				22/23				23/24			
Average Time (weeks)	9.9	7.7	7.5	8.5	6.9	7.8	8.5	13.2	10.7	7.5	8.2	9.4	8.9	7.8	9.0	8.8	9.2	8.5		
Submitted	73	69	56	41	33	52	34	43	45	53	47	65	68	51	49	78	63	35	0	0
Decided	65	76	53	49	33	39	29	51	44	47	51	39	73	68	40	54	86	33	0	0
12 Month Totals:	Sub: 239 Dec: 243				Sub: 162 Dec: 152				Sub: 210 Dec: 181				Sub: 246 Dec: 235				Sub: 98 Dec: 119			
Decided over 2 months (no agreements / extensions)	17	15	7	7	4	8	4	22	14	13	12	19	21	16	10	17	43	12	0	0



Average timecales for determining adevertisement applications is relatively stable at 9.2 weeks for Q1 and 8.5 so far for Q2.

Note: Figures for Q2 2023/24 are up to 28 August 2023 Only

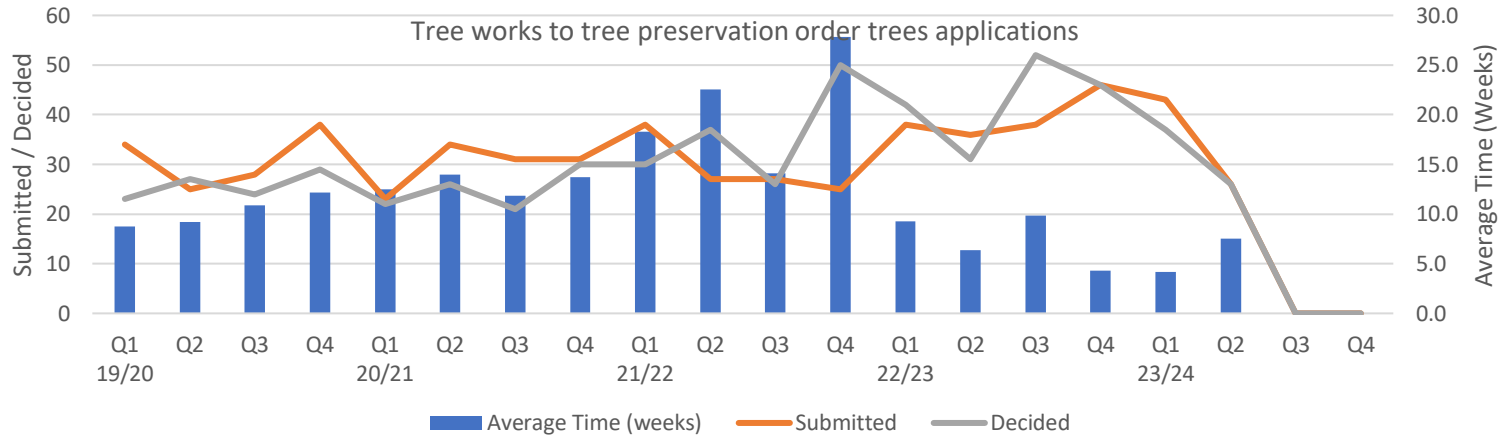
Listed Building Consents																				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20				20/21				21/22				22/23				23/24			
Average Time (weeks)	10.4	8.2	8.3	8.4	10.0	8.6	7.5	8.0	9.4	9.1	9.6	8.9	9.8	8.7	8.7	9.0	9.0	8.0		
Submitted	269	273	265	292	164	195	270	305	317	239	244	322	305	273	283	276	257	156	0	0
Decided	225	269	223	245	187	130	239	246	305	247	222	211	334	301	248	280	270	165	0	0
12 Month Totals:	Sub: 1099 Dec: 962				Sub: 934 Dec: 802				Sub: 1122 Dec: 985				Sub: 1137 Dec: 1163				Sub: 413 Dec: 435			
Decided over 2 months (no agreements / extensions)	68	60	35	48	92	39	53	62	77	86	65	63	132	84	73	98	108	46	0	0
Appears against non determination									1	0	0	0	3	0	0	0	0	1	2	3



Average timecales for determining listed building consent applications was stable for Q1 at 9 weeks. So far for Q2, the average timescale has improved to 8 weeks.

**Note: Figures for Q2 2023/24 are up to 28 August 2023 Only**

Tree works to Tree Preservation Order Tree																				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20				20/21				21/22				22/23				23/24			
Average Time (weeks)	8.7	9.2	10.9	12.2	12.5	14.0	11.9	13.7	18.3	22.5	14.1	27.8	9.2	6.4	9.8	4.3	4.2	7.5		
Submitted	34	25	28	38	23	34	31	31	38	27	27	25	38	36	38	46	43	26	0	0
Decided	23	27	24	29	22	26	21	30	30	37	26	50	42	31	52	46	37	26	0	0
12 Month Totals:	Sub: 125 Dec: 103				Sub: 119 Dec: 99				Sub: 117 Dec: 143				Sub: 158 Dec: 171				Sub: 69 Dec: 63			

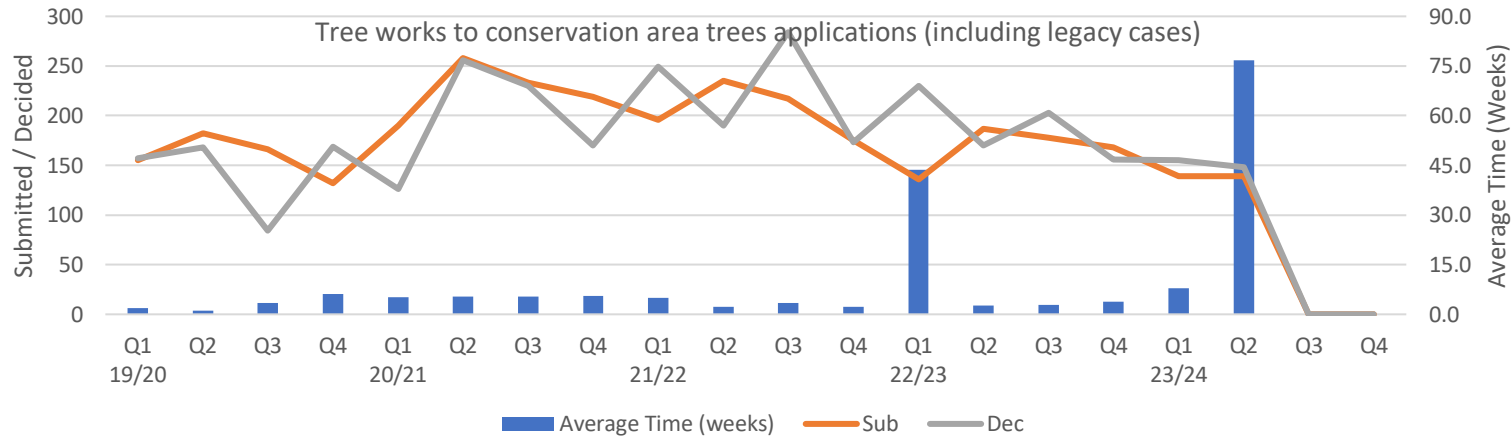


**Commentary:**

The average time taken to determine applications for trees which are subject of a tree preservation order was 4.2 week for Q1 although has increase for Q2 so far to 7.5 weeks.

**Note: Figures for Q2 2023/24 are up to 28 August 2023 Only**

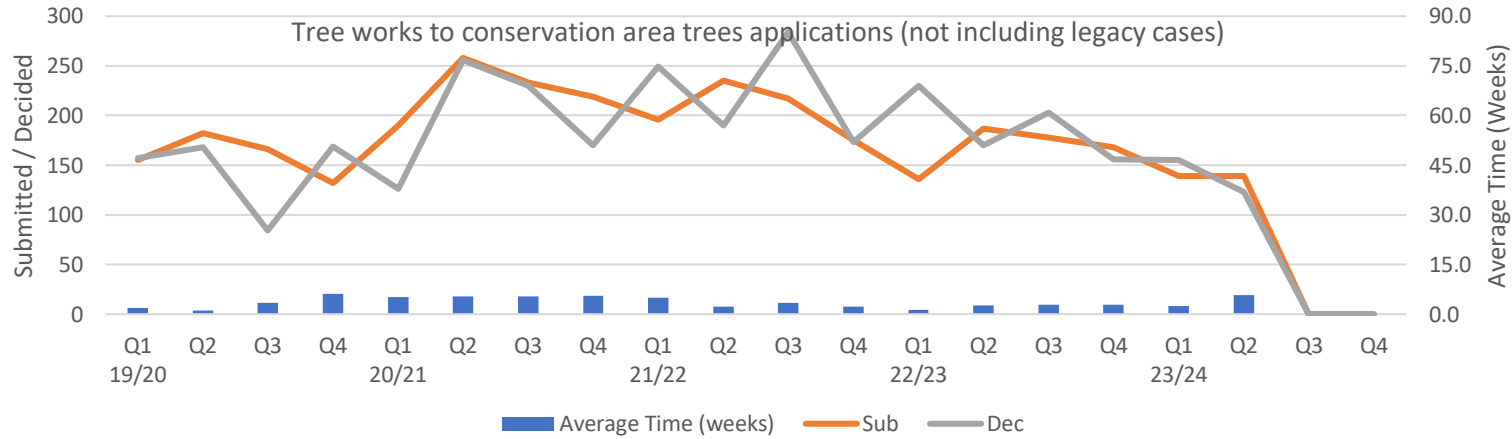
Tree works to Conservation Area Tree																					
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
	19/20				20/21				21/22				22/23				23/24				
Average Time (weeks)	1.9	1.2	3.5	6.2	5.2	5.4	5.3	5.5	4.9	2.4	3.4	2.3	43.7	2.7	2.9	3.8	7.8	76.7			
Sub	155	182	166	132	190	258	233	219	196	235	217	175	136	187	178	168	139	139	0	0	
Dec	157	168	84	169	126	256	230	170	249	190	284	173	230	170	203	156	155	148	0	0	
12 Month Totals:	Sub: 635 Dec: 578				Sub: 900 Dec: 782				Sub: 823 Dec: 896				Sub: 669 Dec: 759				Sub: 278 Dec: 303				



Average timescale so for tree works applications for those trees that are in a conservation area increased significantly this quarter due to legacy cases being cleared from the computer system. The table below shows the average timescales once legacy cases are omitted from the count.

Note: Figures for Q2 2023/24 are up to 28 August 2023 Only

Tree works to Conservation Area Tree					Legacy cases omitted															
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	19/20				20/21				21/22				22/23				23/24			
Average Time (weeks)	1.9	1.2	3.5	6.2	5.2	5.4	5.3	5.5	4.9	2.4	3.4	2.3	1.4	2.7	2.9	2.8	2.4	5.8		
Sub	155	182	166	132	190	258	233	219	196	235	217	175	136	187	178	168	139	139	0	0
Dec	157	168	84	169	126	256	230	170	249	190	284	173	230	170	203	156	155	123	0	0
12 Month Totals:	Sub: 635 Dec: 578				Sub: 900 Dec: 782				Sub: 823 Dec: 896				Sub: 669 Dec: 759				Sub: 278 Dec: 278			



Average timescale so for tree works applications for those trees that are in a conservation area increased to 5.8 weeks once legacy cases were removed from the count.



**Note: Figures for Q2 2023/24 are up to 28 August 2023 Only**

Enforcement Overall																				
	Q1 19/20	Q2	Q3	Q4	Q1 20/21	Q2	Q3	Q4	Q1 21/22	Q2	Q3	Q4	Q1 22/23	Q2	Q3	Q4	Q1 23/24	Q2	Q3	Q4
Received	258	286	195	195	116	267	188	160	259	225	169	156	198	235	202	185	272	173	0	0
Closed	62	116	86	88	39	69	93	57	136	107	198	175	174	191	221	192	194	89	0	0
Notices served	13	17	31	23	0	0	3	0	14	10	14	27	24	20	30	23	31	12	0	0
Served within target time	8	11	13	15	0	0	3	0	10	7	1	10	19	6	19	18	16	11	0	0
% in target time	62%	65%	42%	65%			100%		71%	70%	7%	37%	79%	30%	63%	78%	52%	92%		

Enforcement Short-term Lets																				
	Q1 19/20	Q2	Q3	Q4	Q1 20/21	Q2	Q3	Q4	Q1 21/22	Q2	Q3	Q4	Q1 22/23	Q2	Q3	Q4	Q1 23/24	Q2	Q3	Q4
Received	68	67	52	44	6	64	19	6	26	52	19	13	31	66	52	40	74	51	0	0
Closed	6	20	29	17	16	5	19	6	5	12	26	37	12	25	52	51	36	24	0	0
Notces served	5	9	12	15	0	0	3	0	11	10	0	18	13	4	17	18	24	12	0	0
Served in 6 month target	3	9	6	13	0	0	3	0	9	7	0	9	13	3	16	17	16	11	0	0
% in target time	60%	100%	50%	87%			100%		82%	70%		50%	100%	75%	94%	94%	67%	92%		

Enforcement Other cases - not short-term lets																				
	Q1 19/20	Q2	Q3	Q4	Q1 20/21	Q2	Q3	Q4	Q1 21/22	Q2	Q3	Q4	Q1 22/23	Q2	Q3	Q4	Q1 23/24	Q2	Q3	Q4
Received	190	219	143	151	110	203	169	154	233	173	150	143	167	169	150	145	198	122	0	0
Closed	56	96	57	71	23	64	74	51	131	95	172	138	162	166	169	141	158	65	0	0
Notices served	8	8	19	8	0	0	0	0	3	0	14	9	11	16	13	5	7	0	0	0
Served in 3 month target	5	2	7	2	0	0	0	0	1	0	1	1	6	3	3	1	0	0	0	0
% in target time	63%	25%	37%	25%					33%		7%	11%	55%	19%	23%	20%	0%			

In Q1 there was a very large number of enforcement cases received. This trend is continuing into Q2 so far. There were more notices served for Q1 23/24 than for any of the previous quarters back to 2019/20.

**Appendix 2 - Planning Appeals Summary – April 2022 to March 2023**

April 2022 to March 2023						
Total No. of CEC Appeals	Appeals Dismissed (Refused)	Appeals Upheld (Approved)		Development Management Sub-Committee Decisions against officer recommendation leading to Appeal	Appeals Dismissed (Refused)	Appeals Upheld (Approved)
98	54	44		10	2	8
				Development Management Sub-Committee Decisions in line with officer recommendation leading to Appeal	Appeals Dismissed (Refused)	Appeals Upheld (Approved)
				6	5	1

\*Note figures reflect decision date on Appeal Decision Notice per April 2022 to March 2023 period

## Appendix 3 - Response ID ANON-1FA5-8JZ5-X

Submitted to Scottish Government Review of Permitted Development Rights - Phase 3  
Submitted on 2023-08-23 12:07:11

### 2.1 Domestic Renewables: Solar energy equipment

1 Do you agree with the proposed permitted development rights for solar panels attached to domestic properties in conservation areas?

No

Please comment in support of your answer:

The City of Edinburgh Council's planning service (the Council) recognises the importance that domestic renewables and solar panels can play in addressing climate change. While there is a role for increased permitted development rights, the particular proposals may harm conservation areas if implemented. Retaining the requirement for applications for planning permission allows impacts to be carefully considered on a case-by-case basis.

So that those in conservation areas are not unduly financially impacted, there may be a case for a further reduction of application fees for developments in conservations areas that if in other areas would otherwise be permitted development.

Current controls allow the planning authority to make a detailed assessment of the potential impact of such development and assess whether the wider planning merits of such development is ultimately acceptable on balance. The current controls also allow the Council to mitigate the possible visual impact of such developments, such as by requiring adjustments to their coverage, position, or design. The requirement for planning permission in restricted areas also affords interested parties such as members of the public and elected members the opportunity to provide their own input into the planning process.

The Council urges caution and thinks there needs to be consideration of both the character and appearance of individual buildings and settings of historic complexes beyond their curtilages together with appropriate consideration for the broader urban townscape setting or landscape context of conservation areas which need to be taken into account.

Conservation areas are places of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance. The character of an area is the combination of features and qualities which contribute to the intrinsic worth of an area and make it distinctive. Conservation area designation is the means of recognising the importance of all these factors and of ensuring that interventions address these qualities. Appearance is more limited and relates to the way individual features within the Conservation Area look. Care and attention should be paid in distinguishing between the impact on both the character and appearance of the conservation area.

Limiting the PDR for solar panels to less conspicuous positions upon buildings (from streets) wouldn't necessarily remove their visual impact on the appearance of a conservation area. This is especially important when considering the view of the building and wider conservation area from neighbouring properties or communal areas such rear gardens and green public spaces. Furthermore, as stated above, character isn't simply defined as what can be seen. The roofscape of Edinburgh's conservation areas is also, widely regarded as comprising a constituent part of their essential character of which it is desirable to preserve or enhance.

The topography of Edinburgh has shaped the way the city has evolved. The city is often described as a 'city of seven hills' with its spatial, townscape and architectural character also defined by the manner in which it responds to its varied topography in framing and defining views, vistas and settings to natural landscape features, townscape and individual buildings and defines what is special about Edinburgh. In order to protect these aspects of Edinburgh's character, the city's most striking visual features and views to them from a number of public vantage points have been identified as key views and a policy and guidance framework has been developed to protect them. With such topographical variation in the city makes viewing significant parts that are otherwise more obscured at street level possible from varying elevated positions.

In addition to this, the distinctive and contrasting spatial, townscape and architectural character of the Old and New Towns of Edinburgh is recognised through its World Heritage Site status where the three-dimensional view or 'fifth elevation' of buildings and the wider townscape is material to the consideration of the impact of the development proposals in terms of the assessing proposals against the Sites 'Outstanding Universal Value'. Furthermore, a 2015 'Direction' from the Chief Planner supported by Historic Environment Scotland letter state that, householder applications will not be considered to impact on OUV. However this Direction was made on the basis of a strong and robust policy and guidance framework used to assess planning applications. This would no longer be the case with the proposed PDR and OUV could therefore be negatively impacted by this change.

With no limit defined for their coverage on an elevation or roof, it would be possible to completely cover the rear and side roof pitches or elevations with what would look like a new roof or newly clad elevation of a different colour and texture. This could substantially alter the character of the whole building and the integrity of the design, to adversely impact on special character and appearance of the conservation area. The proposals do not differentiate the considerations that would apply on flat roofs with no condition relating to them being at least 1 metre from the edge of the roof. The new PDR proposals will allow solar panels to be angled to the sun provided they do not exceed one metre in height, but, with no coverage limits, would allow them to cover the entirety of the flat roof to each of the roof's edges. This would carry implications for the interpretation of each elevation of the property including the principal front elevation.

Furthermore, there is no distinction between flatted and non-flatted properties. The installation of solar panels on the walls of tenements and other buildings containing flats raises additional issues compared to installations on houses. A multitude of different installations on the same facade would be likely to affect the amenity of other residents and further negatively implicate the unity of the design.

The proposed new PDR could potentially lead to an adverse impact on such and could potentially harm the character and appearance of conservation

areas and the Outstanding Universal Value of the World Heritage Site, as well as on other designated heritage assets and their settings.

2 Do you agree with the proposed permitted development rights for the installation of solar panels on outbuildings ancillary to, and within the curtilage of, a dwellinghouse?

No

Please comment in support of your answer:

While the limitations specified, to only include 'dwelling houses' and not 'buildings containing flats' with positional criteria specifying the use of outbuildings within the rear curtilage of a dwelling house within a conservation area only, would help minimise the impact on the special character and appearance of conservation areas, the City of Edinburgh Council's planning service (the Council) would urge some measure of caution. As discussed in response to question 1, with 50 conservation areas and two UNESCO World Heritage Sites designated, much of the city is recognised for its outstanding built and natural heritage.

As such, the character of a conservation area is defined by the complex inter-relationship between buildings, open space, trees, and wider curtilage features, which all combine to create a sense of place. However, the features that contribute to the character of conservation areas are extremely fragile and even minor change can have a significant effect on the overall character and appearance of the area. Loss of character can happen incrementally unless there are effective controls. The proposed PDR wouldn't provide sufficient protection to maintain or enhance the essential character of conservation areas, and retaining the requirement for planning permission within conservation areas is considered an appropriate mechanism for the effective management of development.

Edinburgh city centre is also internationally recognised in terms of its UNESCO World Heritage status. While the Site comprises the Old Town Conservation Area, the New Town Conservation Area and includes parts of five others, without acknowledgement / removal of world heritage sites, the proposed PDR for conservation areas could result in insensitive development. As discussed in response to question 1, this could individually or cumulatively have a significant negative impact on the 'Outstanding Universal Value' of the Old and New Towns of Edinburgh World Heritage Site.

Any proposed installation of microgeneration equipment on a listed building would require an application for listed building consent under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. However, while the proposed new PDR relating to solar panels on dwelling houses and flats make reference to the requirement for planning permission when located within the curtilage of a listed building, the additional PDR proposed for outbuildings make no reference to listed buildings. Situations may, therefore, arise for detached curtilage building constructed after July 1948 that are not (unless specified otherwise) considered as part of the listed building. The installation of solar panels could therefore be carried out under the proposed PDR. This would have the potential to adversely affect the setting of a listed building.

## 2.2 Domestic Renewables: Air source heat pumps

3 Do you agree with the proposed amendments to permitted development rights for air source heat pumps?

No

Please comment in support of your answer:

The City of Edinburgh Council's planning service (the Council) recognises the importance that domestic renewables and Air Source Heat Pumps can play in addressing climate change. While there is a role for increased PDR, these particular proposals may harm conservation areas if implemented. Retaining the requirement for applications for planning permission allows impacts to be carefully considered on a case-by-case basis.

As noted above, so that those in conservation areas are not unduly financially impacted, there may be a case for a further reduction of application fees.

The Council acknowledges that there is difficulty in finding the right balance between simplifying the consenting regime to support delivery of micro renewable technology to meet net-zero targets ensuring conservation areas retain their high qualities. However, the proposed removal of restrictions and conditions relating to the number of ASHP's per building and the level at which they are attached has potential to generate significant impacts on individual buildings and surrounding areas. With 50 designated conservation areas and two UNESCO world heritage sites, the proposals could potentially, generate adverse impacts for the City of Edinburgh.

As noted above, if the need for planning permission is retained, consideration could be given to reduced fees for installations that would otherwise be permitted development if they were not in a conservation area.

The removal of the one ASHP per building restriction is further supplemented by removal of the ground floor level installation requirement within conservation areas. The removal of these requirements / conditions could lead to the installation of multiple AHSP's on the walls of tenements and other buildings containing flats and raises additional issues compared to installations on houses. A multitude of different installations on the same facade could negatively implicate the unity of the building's design, its surrounding context within conservation areas, and generate the potential to adversely affect the recognised special character and appearance of the City's designated Conservation Areas.

Furthermore, character is not solely defined as what can be viewed from the road. The City's varied topography and its built form, that has evolved to relate to it, makes its three-dimensional form viewable and therefore more vulnerable, as it can be appreciated from a number of different vantage points.

## 2.3 Domestic Renewables: Ground and water source heat pumps

4 Do you agree that classes 6D and 6E should be amended to include reference to the installation etc of pipework and associated connections required to operate a ground or water source heat pump?

Yes

Please comment in support of your answer:

Ground source heat pumps which need trenches or boreholes could potentially affect archaeological sites. For those which are Scheduled Ancient Monuments, the separate requirement to get Consent will remain. It is also the case that the size of garden required to dig a large trench within the curtilage of a dwelling house or flat will act as a constraint on the exercise of PDR. In view of these factors, it is not envisaged that PDR should be restricted for archaeological reasons.

## 2.4 Domestic Renewables: Free-standing wind turbines

5 Do you agree with the proposed amendments to permitted development rights for free-standing domestic wind turbines?

Yes

Please comment in support of your answer:

There are a number of issues relating to wind turbine developments that need to be considered including noise, vibration, potential interference with radar and aircraft communications, visual impact and effects on biodiversity. While the existing locational restrictions in terms of designated heritage, archaeological and scientific assets are retained within the proposals, the proposed amendments raise concerns primarily relating with the potential impact on the city's setting.

While the majority of the City of Edinburgh Council's local authority area is urban in its nature, and the restrictions relating to size of curtilage would effectively preclude wind turbines within the majority of urban sites, the local authority area has a designated green belt and countryside policy area protecting the green setting to the city. Within this setting there exists listed country houses often with designed landscapes designated. Often, these designated assets have been designed within spacious settings and orientated to relate and take in views to the wider context of the city; its features; and its focal points such as Edinburgh Castle, Calton Hill, Arthur's Seat as well as the Pentland Hills and the Firth of Forth.

However, within the City of Edinburgh's local authority boundary, there have been very little in the way of proposals for wind turbines either through prior notification or through formal application for planning permission. Furthermore, the retention of the requirement for prior notification and approval, ensures that the City of Edinburgh Council as the Planning Authority can exercise some degree of control where a particular proposed development could have potentially unacceptable impact on amenity.

6 Do you agree with the current list of designated areas where the permitted development rights do not apply, noting that the list does not currently include national parks or National Scenic Areas?

Yes

Please comment in support of your answer:

The City of Edinburgh Council's mostly agrees with the current list of designated areas where PDR do not apply. Furthermore, The Council's local authority area boundary does not contain any 'National Parks or 'National Scenic Areas' within it. It should be noted there may be circumstances that a domestic property sits within/adjacent to a 'historic garden or a designed landscape' and whilst the majority of these properties where this is the case are likely to designated listed buildings and therefore protected, inclusion of 'historic gardens and designed landscapes' is felt appropriate to protect them from potentially insensitive development when this is not the case.

## 2.5 Domestic Renewables: Wind turbines attached to a dwelling

7 Do you agree with the proposed new permitted development rights for wall or roof-mounted wind turbines attached to a dwellinghouse?

Yes

Please comment in support of your answer:

The Council deals with a negligible number of applications for wind turbines mounted on dwellings owing to the predominantly urban character of the area and the limited open countryside which would allow maximum efficiency. However, we generally support the expansion of PDR provided restrictions for sensitive areas are kept in place, as is proposed.

## 2.6 Domestic Renewables: Flues for certain heating systems

8 Do you have any comments on the potential removal of permitted development rights for flues for wood burning stoves (including wood burners and log burners), biomass boilers and biomass heating systems?

No

Please comment in support of your answer:

The Council as planning authority does not support introducing criteria into class 2B and 4A which explicitly links whether a flue is PDR to the type of heating system which exhausts into the flue. Edinburgh is a Clean Air City and matters relating to air quality are controlled under Environmental Protection legislation which is better suited to controlling such issues. We do not require applicants to specify the specific type of boiler on their drawings and doing so would create an unnecessary administrative burden, delay the processing of applications, and likely create unnecessary confusion amongst applicants and officers.

9 Noting that current permitted development rights (PDR) cover the installation, alteration or replacement of flues, should any removal of these PDR be limited to installation of new flues, or also prevent existing flues being altered or replaced under PDR?

Please comment:

Any curtailment of PDR should be limited to new flues. Attempting to prevent the replacement of existing flues through PDR on the grounds that they serve a particular type of boiler will create extensive confusion for applicants and officers and is highly likely to place an unnecessary administrative burden on planning authorities.

### 3.1 Non-Domestic Renewables: Solar panels

10 Do you agree with the proposed amendments to class 6j permitted development rights for solar panels attached to non-domestic buildings?

No

Please comment in support of your answer:

The City of Edinburgh contains a dense mix of domestic and non-domestic buildings within its historic centre and its surrounding suburbs of which, the vast majority sit within designated conservation areas. The Council's response discussed in the response to question 1 therefore applies in response to this question with regard to the amendments allowing PDR for solar panels in conservation areas for non-domestic properties.

Furthermore, the proposed removal of the restrictions in relation to wall mounted solar panels to enable them to be installed to the edge of a wall and effectively wrap around corners where the side elevation doesn't front a road could potentially, raise further implications for the special character and appearance of the city's conservation areas.

The proposals for non-domestic solar panel refer to their alignment with the proposals contained with section concerning domestic solar panels. However, this only relates to outbuildings of dwelling houses and not the roofs or elevations belonging to dwelling houses or flats. Whilst these restrictions would mitigate the impact somewhat, it is questioned why this hasn't been included as a restriction for the proposals set out for domestic properties within conservation areas as discussed in the response to question 1.

11 Do you have any comments on the potential to amend the current restrictions that apply to solar panels on non-domestic properties (class 6j) and solar canopies in parking areas (class 9M) within 3km of airports and technical sites associated with civilian and military air traffic services?

No

Please comment in support of your answer:

12 Do you agree with the proposed new permitted development rights for solar panels within the curtilage of non-domestic buildings?

No

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority refers to the content of the discussion contained within response to questions 1 and 2 are applicable to the response to this question.

### 3.2 Non-Domestic Renewables: Solar canopies in parking areas

13 Do you agree with the proposal to extend the Class 9M permitted development rights to allow these to apply to solar canopies generally, rather than only those for which the primary use is charging of electric vehicle?

No

Please comment in support of your answer:

The Council as Planning Authority has no objection to these proposed changes

14 Do you agree that any extension of Class 9M permitted development rights to be for the purposes of producing electric power generally, should not have a maximum power generation capacity?

No

Please comment in support of your answer:

The Council as Planning Authority has no objection to these proposed changes

### 3.3 Non-Domestic Renewables: Air source heat pumps

15 Do you agree with the proposed permitted development right for air source heat pumps on non-domestic buildings?

No

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority refers to the content of the discussion contained within response to question 3 that is applicable to the response to this question.

### 3.4 Non-Domestic Renewables: Ground source and water source heat pumps

16 Do you agree with our proposed amendments to class 6I permitted development rights for ground and water source heat pumps on non-domestic buildings?

Yes

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority refers to the content of the discussion contained within response to question 4 that is applicable to the response to this question.

## 4. Thermal Efficiency: Replacement windows

17 Do you agree with the proposed permitted development rights for replacement windows of domestic buildings located in conservation areas?

No

Please comment in support of your answer:

Windows make a substantial contribution to the character, authenticity and physical integrity of the City of Edinburgh's historic buildings and also, to the special character and appearance of its 50 conservation areas. In simple vernacular or plainer buildings common to many of the city's conservation areas, a considerable amount of the character and visual prominence of a building can derive from the windows. Their contribution to the essential characteristics and the uniformity exhibited in many of the city's conservation areas is very important.

The City of Edinburgh Council (Council) understands the motivation and policy driven importance behind the provision of PDR for improving the thermal efficiency of buildings within conservation areas. It is also acknowledged that, there is difficulty in finding the right balance between simplifying the consenting regime and ensuring that conservation areas retain their high qualities.

The Council's planning authority receives large numbers of applications for replacement windows in conservation areas. Applicants will often cite prohibitive costs of replacement timber windows and the need to improve energy efficiency as the reason for choosing uPVC. While there is generally a presumption against the use of uPVC units within conservation areas, the Council do not wholly oppose it. The current controls allow the planning authority to make a detailed assessment of the potential impact of such development and assess whether the wider planning merits of such development is ultimately acceptable on balance. The requirement for planning permission in conservation areas also affords interested parties such as members of the public and elected members the opportunity to provide their own input into the planning process.

While the carbon-saving credentials of new double-glazed windows against the carbon saved through retention (carbon cost of new fabric (including its lifespan) and the manufacturing, transportation and instalment processes), in meeting net-zero targets is appreciated (to a degree), further work to fully understand the longer-term carbon-saving credentials of each is required. The retention and adaptation of windows not only retains historically important fabric and character but is sustainable. Historic timber windows often used high-quality close-grained softwood, not easily available today, and with maintenance, have frequently lasted hundreds of years. Crucially though, existing timber windows can be retrofitted to accommodate double glazing to significantly improve their thermal efficiency. The Council does not deem such an intervention (including wholesale replacement with matching timber double glazed windows) as development and thus, does not require planning permission.

Research carried out by Heriot Watt University in 2013 looked at the life cycle assessment and whole life cost of a timber window in comparison to a uPVC window. The findings stated that there was inherently less embodied carbon contained within good timber sash and case windows due to their ability to be maintained and repaired, which gives them a long-life span of 60 plus years. The findings suggested that the installation of uPVC would deliver the opposite impact in terms of sustainability and the carbon used in the manufacturing process. Furthermore, uPVC windows are a whole unit and generally the component parts are not able to be replaced, resulting in the unit having a finite lifespan of approximately 20 years, before having to be replaced.

Furthermore, Historic Environment Scotland (HES) is presently undertaking a fresh research project to consider and make comparisons between the life cycle assessment and whole life cost of a traditional timber casement window and a modern replacement uPVC window. Dependant on the findings from this project, and in collaboration with HES, our current guidance on replacement windows will be reviewed.

The Council has a robust conservation planning policy framework through the local plan, non-statutory planning policy guidelines and dedicated Conservation Area Character Appraisals for each of its 50 conservation areas.

Between March and June this year, the Council undertook a city-wide public consultation for owners of listed building and/or conservation areas. The results of the consultation were then analysed by the University of Edinburgh and the findings presented in a report. The findings are now informing the work, of a short-term working group which has now been established, including a wide range of specialist organisations from the heritage, energy saving and fuel poverty sectors including local community representatives, to address the additional barriers homeowners face when trying to adapt their properties to address the impacts of the climate change and the cost-of-living crises.

These issues and the ongoing projects aimed at addressing them emphasise that interventions, even if they aim to support climate change, should be considerate and relevant to the context in which they are proposed. The proposed PDR would generate the potential to remove this contextual consideration and undermine the decades of careful conservation practice (and related successes) undertaken within the City of Edinburgh. The English Heritage report "Heritage at Risk: Conservation Areas" explains how "small changes to things like doors, windows, roofs and fences, which, unchecked, lead to slow but irreversible decline" in the qualities of a Conservation Area. Local authorities, in this interim period of change, have a key role to play in terms of leadership - setting the right precedents to avoid maladaptation and future damages to the historic environment. The proposed PDR for replacement windows is very likely to diminish this role and has the potential to lead to irreversible damage to the unique qualities of the city's numerous conservation areas.

18 Do you have any comments on the conditions that we propose the permitted development rights for replacement windows would be subject to?

No

Please comment in support of your answer:

The City of Edinburgh Council as the Planning Authority refers to the content of the discussion contained within response to questions 1, 3, and 18 that are applicable to the response to this question.

19 Do you agree with the proposal to align non-domestic buildings with domestic buildings, as regards permitted development rights for replacement windows? Are there any types of non-domestic building that should be excluded?

No

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority refers to the content of the discussion contained within response to questions 1, 3, and 18 that are applicable to the response to this question.

## 5.1 Electricity Undertakings: Overview

20 Do you agree that class 40 permitted development rights should be amended to clarify that they can be applied by statutory undertakers for the purposes of 'smart meter communications' and the 'distribution' and 'interconnection' of electricity as well as its 'generation', 'transmission' and 'supply'?

Yes

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority has no objection to the proposed changes.

## 5.2 Electricity Undertakings: Class 40

## 5.4 Electricity Undertakings: Substation infrastructure

21 Do you agree with the proposed amendments to the provisions of class 40 permitted development rights which relate to new or replacement substations?

Yes

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority has no objection to the proposed changes.

## 5.5 Electricity Undertakings: Communications Lines

22 Do you agree with the proposal to allow the replacement of communications lines in National Scenic Areas and Sites of Special Scientific Interest under class 40 permitted development rights provided that the design, height or position of the replacement line matches the original?



No

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority would not support changes to allow the replacement of communications lines in SSSI locations. While we have three SSSI's within our boundary, one of these is the Arthur's Seat Volcano which encompasses Arthur's Seat, Edinburgh Castle and Calton Hill. All these locations have significant biodiversity, historical, cultural and archaeological considerations which mean that even underground cabling raises implications which could warrant examination through the plan led system.

23 Do you have any thoughts on the potential to provide for the installation or replacement of communications lines of a greater length than 1,000m under class 40? If so, do you have a view on an appropriate alternative threshold?

No

Please comment in support of your answer:

No comment.

## 5.6 Electricity Undertakings: Site Investigation Works

24 Do you agree with the proposal to extend the range of site investigation works that can be carried out under class 40?

Yes

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority has no general objection to the expansion in rights for class 40 (3) (c).

25 Do you consider that there are any designated areas where permitted development rights for certain site investigation works should be restricted? Should there be any limitations on the scale of certain intrusive site investigation works permitted, for example, the size of trial pits?

No

Please comment:

Site investigations should not be permitted under PDR in SSSI or a site of archaeological interest.

## 5.7 Electricity Undertakings: Fences, gates, walls and other means of enclosures

26 Do you agree with the proposed introduction of specific permitted development rights enabling electricity undertakers to erect, construct, maintain or improve gates, fences, walls or other means of enclosure up to 3m in height?

Yes

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority has no general objection to these changes given the particular safety and security considerations which apply to sites related to electricity undertakers. However, we would strongly caution that such rights do not apply to sensitive areas including Conservation Areas and World Heritage Sites

## 5.8 Electricity Undertakings: Development of Operational Land

27 Do you agree with the proposed removal of prior approval requirements that apply to certain works under class 40 permitted development rights?

Yes

Please comment in support of your answer:

Prior approval relating to existing operational land does not improve planning outcomes and is an unnecessary administrative burden for authorities and applicants.

28 Please provide any further views you may have on the proposals in Chapter 5 on the permitted development rights associated with electricity undertakings.

Please comment:

n/a

## 6.1 Reverse vending machines

29 Do you agree with the proposed amendments to permitted development rights for reverse vending machines?

No

Please comment in support of your answer:

The City of Edinburgh Council as Planning Authority does not agree with the proposed changes. The requirement to ascertain approval under a separate legislative regime as part of being considered PDR is likely to lead to confusion for applicants and place an unnecessary administrative burden on the planning authority to cross check whether a section 59 consent is in place when processing CLUD applications

## 6.2 Temporary use of land: Shooting ranges

30 Do you have any comments on the potential exclusion of the use of land as a target shooting range from class 15 PDR (permitted development right)? If such a change were taken forward, do you have views on the potential justification for exempting the activities discussed in paragraphs 6.2.4 and 6.2.5?

No

Please comment:

n/a

## 7. Assessment of Impacts

31 What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A?

Please comment:

No comment.

32 Do you have any comments on the partial and draft impact assessments undertaken for Phase 3?

No

Please comment:

No comment.

33 Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

No

Please comment:

No comment.

## About you

What is your name?

Name:

Daniel Lodge

What is your email address?

Email:

daniel.lodge@edinburgh.gov.uk

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

City of Edinburgh Council (Planning Authority)

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

## Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Slightly satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Slightly satisfied

Please enter comments here.:

## Appendix 4

### 20 Minute Neighbourhood Guidance: Consultation Draft (CEC Response)

#### Question 1

How helpful is Part 1 of the guidance to further the understanding of local living and 20 minute neighbourhoods in a Scottish context?

#### **Additional information for question 1:**

*Part 1 - Local living, the benefits of local living and 20 minute neighbourhoods.*

*Part 1 of the guidance explains that local living and 20 minute neighbourhoods in Scotland have the potential to contribute to global, national as well as local goals around climate action, decreased health inequalities, improved local economy and improved liveability/quality of life.*

*It explains how local living and 20 minute neighbourhoods can be a means of tackling the interrelated environmental, social and economic challenges we face in Scotland through the alignment with policy context, the place context and the rural and island contexts.*

*More information can be found in part 1 of the guidance document.*

Very helpful

Somewhat helpful **X**

Not at all helpful

Please explain your response explaining what else could be helpful

**The Council considers this section covers the main issues, setting out the global and national context of the 20 min neighbourhoods clearly. It highlights the importance in terms of climate change, health and wellbeing and economy which is in line with all work streams. However, the rural context section gives the impression that it was a late addition and therefore it would be helpful to see the rural and urban context integrated more within the text. It would also be helpful to strengthen and clarify references to density to support or enable such neighbourhoods.**

**The Council's main concern is with regard to the purpose of the guidance. The guidance should more clearly articulate who it is for and what it is aimed at achieving. In particular, is it to be used by developers or development management planning officers and if so, how should it be used? For example, is it expected that there will be an assessment against NPF4 Policy 15 and if that is the case what form would that take? Furthermore, at what scale would that requirement kick in? For a large master plan site or for a site of a particular scale without a place brief? In addition, should the Local Development Plan have different parameters i.e. link to qualitative and quantitative data sections.**

#### Question 2

Please refer to the Local Living Framework Diagram on page 19 of the guidance. How helpful is the framework diagram in encouraging flexible, place-based approaches to support local living?

*Part 2 of draft guidance - local living framework diagram*

*20 minute neighbourhoods are one method of achieving 'local Living' and the benefits that flow from it. The way in which 'local living' works will vary from place to place and should evolve, over time as a result of place-based activity with communities and across sectors. 72*

*The local living framework diagram was developed to support and encourage the type of flexible, place-based approach when considering the daily needs in a place that supports local living - whilst avoiding tick box approaches.*

*More information can be found in part 2 of the guidance document.*

Very helpful

Somewhat helpful **X**

Not at all helpful

Please explain your response explaining what else could be helpful

**The Council supports the definitions that have been included, as a minimum, however, it considers that Part 2 should more clearly articulate what a 20 minute neighbourhood means in the context of a compact and densely populated city such as Edinburgh, i.e. that a 20 minute round trip metric is what is envisaged. In a compact city, a 20 minute round trip metric is particularly appropriate given the existing level of provision and the density of population. Less tightly defined metrics would be more appropriate in rural areas and the text should highlight this contrast more clearly. For urban areas there is a need to emphasise that high density is critical to attracting and sustaining services and businesses. It would be helpful to have some reference to examples or research into the relationship of density with sustainable 20 minute neighbourhoods. This should be considered in all relevant parts of the document.**

### **Question 3**

Looking at part 2 of the draft guidance: how helpful are the 'categories' and 'key considerations for local living' that are captured within this part of the document?

#### ***Additional Information for question 3:***

*Part 2: Categories and key considerations*

*The 'categories' - Movement, Space, Resources, Civic, and Stewardship, and the related key considerations support the local living framework and are detailed in part 2 of the guidance. They provide detail on the important issues that should be considered and where appropriate, addressed for successful local living.*

*More information can be found in part 2 of the guidance document.*

Very helpful **X**

Somewhat helpful

Not at all helpful

Please explain your response explaining what else could be helpful:

**The Council is supportive of the approach set out in the guidance.**

### **Question 4**

How helpful is the proposed 'structured approach' for use?

#### ***Additional Information for question 4:***

*A structured approach to delivering local living.*

*Part 3 of the draft guidance offers a structured approach that can assist with delivering local living. Three 'key steps' are detailed that can be repeated for incremental change. These are:*

1. *understand context - understanding the context of the place through the use of quantitative and qualitative information*
2. *collaborate, plan, design- developing collaborative models of working to inform place-based planning and design processes*
3. *implement and review - aligning investment, developing delivery capacity and supporting new ways of working*

*More information can be found in part 3 of the guidance document.*

Very helpful **X**

Somewhat helpful

Not at all helpful

Please explain your response explaining what else could be helpful:

**The Council is supportive of the structured approach set out in the guidance. Previous comments on density in Q1 and Q2 apply.**

### **Question 5**

Does part 3 of the guidance clearly communicate the importance of both qualitative and quantitative data in establishing a baseline for a place?

#### **Additional Information for question 5:**

**Part 3 - Ways to support local living and 20 minute neighbourhoods; key step 1 - understand the context**

*Part 3 of the draft guidance offers a structured approach to support local living. Three 'key steps' are detailed that can be repeated for incremental change.*

**Key step 1: Understand context - understanding the context of the place through the use of quantitative and qualitative information.**

*This step explains that gaining a full understanding of the context of a place, at the outset, is critical for forming a baseline and for understanding a place.*

*This part of the guidance aims to communicate and emphasise that while quantitative data is important in this regard, the gathering of qualitative information and the way in which this informs action is equally as critical.*

*More information can be found in part 3 of the guidance document.*

Very useful

Somewhat useful **X**

Not at all useful

Please explain your response explaining what else could be useful:

**The Council agrees that there is a need for a balance between qualitative and quantitative data gathering and that both are required when understanding a 'place' as well as designing or planning changes to a 'place'. However, the Council considers there are still some matters requiring further clarification, specifically how this information is gathered and the expectations in terms of where and how it is applied. For example, it would be useful if the guidance could set out a comparison between how the approach would apply to a master planned site versus the development of a Local Place Plan. Earlier comments on density in Q1 and Q2 responses clearly apply here.**

## Question 6

How helpful is the 'collaborate, plan, design' section of part 3 in supporting collaborative practices?

### **Additional Information for question 6:**

*Part 3 - Ways to support local living and 20 minute neighbourhoods - key step 2 - collaborate, plan, design*

**Key step 2: Collaborate, plan, design** - developing collaborative models of working to inform place-based planning and design processes.

*Land-use planning is a fundamental tool for embedding local living and 20 minute neighbourhood principles in our places. National Planning Framework 4 (NPF4) provides a new approach to planning by combining the long term spatial strategy with national planning policies to form part of the statutory development plan.*

*This section explains the context for the delivery of local living and 20 minute neighbourhoods beyond planning mechanisms.*

*Local living requires input from a broad range of stakeholders and a cross sector commitment to collaborative working, informing place based planning and design. It involves coordination across investment plans and opportunities and the bringing together of the knowledge and skills of different organisations and sectors.*

More information can be found in part 3 of the guidance document.

Very helpful **X**

Somewhat helpful

Not at all helpful

Please explain your response explaining what else could be helpful:

**The Council is supportive of the approach set out in the guidance.**

## Question 7

How helpful is the 'implement and review' section of part 3 in assisting the delivery of collaborative approaches to support local living?

### **Additional Information for question 7:**

*Part 3 - Ways to support local living and 20 minute neighbourhoods - key step 3 - implement and review*

**Key step 3: implement and review** - aligning investment, developing delivery capacity and supporting new ways of working.

*This is the stage at which the action identified in the previous steps could be taken forward or planned for. This section of the guidance explains that while a number of cross government policies, strategies and investments are aligned to support local living and 20 minute neighbourhoods, there needs to be a cross sectoral alignment of knowledge, skills and resources, local knowledge, insights and capacity to maximise the benefits of local living.*

*The 'trip chain' diagrams in this section demonstrate the issues that can arise for local services when decisions about key infrastructure are made and local living is not prioritised.*

More information can be found in part 3 of the guidance document.

Very helpful **X**

Somewhat helpful

Not at all helpful

Please explain your response explaining what else could be helpful

**The Council is supportive of the approach set out in the guidance.**

### **Question 8**

Looking at part 4 of the draft guidance: do the case studies provide a useful and appropriate range of examples of good practice?

#### ***Additional Information for question 8:***

*The case studies in part 4 of the document are included to demonstrate real place-based action being undertaken that helps support local living and 20 minute neighbourhood principles.*

*More information can be found in part 4 of the guidance document.*

Very useful **X**

Somewhat useful

Not at all useful

Please explain your response explaining what else could be useful:

**The Council considers there is a good range of studies identified and commends the Scottish Government for including two Edinburgh studies.**

### **Question 9**

Looking at the impact assessment update report: do you have any views about the initial conclusions of the impact assessment update report that accompany and inform this guidance?

#### ***Additional Information for question 9:***

*The impact assessment report update relates to the draft guidance on Local living and 20 Minute Neighbourhoods, produced to support the fourth National Planning Framework (NPF4). 77*

**The Council has no comments on the impact assessment update report.**

### **Question 10**

Please provide any further comments on the draft guidance document in the box below.

**The success in delivering 20 minute neighbourhood is tied to the resources, including financial, required to provide the facilities needed to allow local living. Whilst delivering new 20 minute neighbourhoods in the context of new housing developments could be funded directly by developers it is less clear how they can be delivered in existing built up areas where public sector organisations are under significant financial constraints. A useful example of this is the provision of new GP practices in Edinburgh. Most of these**



**practices are now at maximum capacity, and require extending, or as is usually the case new practices to accommodate the expanding population. Due to lack of funding, new measures to address the expanding population are currently on hold. Without the necessary funding it will not be possible to deliver the facilities and services that are required to support the 20-minute neighbourhood concept.**

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## Planning Committee

2.00pm, Wednesday, 13 September 2023

### Development Plan Scheme September 2023

Executive/Routine  
Wards

All

#### 1. Recommendations

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- 1.1 It is recommended that Planning Committee:
  - 1.1.1 Approves the new Development Plan Scheme for publication (Appendix 1);
  - 1.1.2 Approves the commencement of the City Plan 2040 process under the new Development Planning legislation and guidance, to enable officers to engage with and seek the views of the public on the content of the Participation Statement and have regard to them;
  - 1.1.3 Approves the draft Participation Statement for that engagement (Appendix 1 part 2); and
  - 1.1.4 Agrees that there be a formal call for Local Place Plans (LPP).

**Paul Lawrence**

Executive Director of Place

Contact: Iain McFarlane, Programme Director City Plan

E-mail: [iain.mcfarlane@edinburgh.gov.uk](mailto:iain.mcfarlane@edinburgh.gov.uk) | Tel: 07579 188051

## Development Plan Scheme September 2023

### 2. Executive Summary

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- 2.1 The Council is required to update its Development Plan Scheme (DPS) annually. This update provides an update on progress of the Examination of the City Plan to date and sets out the next steps. The report also sets out the expectation in the new Development Planning legislation and guidance to have a 'new style' Local Development Plan (LDP) in place within five years of the new (May 2023) Development Planning Regulations. Within this, there is a requirement at the outset to seek the views of the public on the content of the Participation Statement and have regard to them. There is also a requirement to invite the submission of Local Place Plans and for the next plan to have regard to them. The 2024 update to the DPS will give further detail on the process and timescales for City Plan 2040.

### 3. Background

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- 3.1 Scottish Government legislation requires Councils to prepare a local development plan for their area. A local development plan contains a 10-year strategy for the future development of an area and set out policies and proposals to guide decision making on planning applications.
- 3.2 It is important that all stakeholders, including individual members of the public and community groups, have opportunities to influence the content of a LDP. There are several stages in the preparation when people can make statutory written representations to the Council. Councils need to give all parties advance notice of when these engagement periods will take place. Accordingly, Councils have to publish a development plan scheme at least once a year.
- 3.3 City Plan 2030 has been through its statutory stages of engagement, consultation and representation and is now at going through its Examination by the Reporters appointed by the Scottish Government.
- 3.4 New development planning legislation and guidance is in place, founded in the Planning (Scotland) Act 2019 and further set out in regulations and guidance published in May 2023. Local development plans must now commence with seeking the views of the public on the content of the Participation Statement as to how they wish to be engaged with in the subsequent plan process.

- 3.5 It is also a requirement to make a call for the submission of Local Place Plans which appropriately constituted community groups can bring forward.
- 3.6 New local development plans will then be made through the stages of the Evidence Report, including seeking the views of stakeholders, a 'Gate Check' of the Evidence Report by a Reporter, and the Proposed Plan, which is subject to formal consultation with a statutory minimum 12 week period before submission for Examination. The Evidence Report and Proposed Plan require the approval of the City of Edinburgh Council to progress. New local development plans should have regard to the National Planning Framework and any valid Local Place Plans.

## 4. Main report

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### **Purpose of Development Plan Scheme and Timetable**

- 4.1 The purpose of a DPS is to set out publicly a planning authority's programme for preparing its development plan. This is intended to help communities, individuals and organisations know in advance about formal opportunities to engage with the planning process. A DPS must include a 'Participation Statement' for that purpose.
- 4.2 A new DPS is attached for approval (Appendix 1) and:
- 4.2.1 Explains its purpose, and what development plans are;
  - 4.2.2 Describes the context in which the existing and new plans are being prepared;
  - 4.2.3 Sets out a timetable and dates for the existing City Plan 2030 and the process for the next plan with an indication of time scales;
  - 4.2.4 Sets out a draft Participation Statement, which is described in more detail below and will enable officers to seek the views of the public and other stakeholder on the draft; and
  - 4.2.5 Provides contact details for further information including social media details to help people follow planning activities.

### **City Plan 2030**

- 4.3 The proposed City Plan and its supporting documents were submitted to Scottish Ministers for Examination on 8 December 2022 following Planning Committee approval on [30 November 2022](#).
- 4.4 The new Development Planning Regulations include Transitional Arrangements. These set out that where a Proposed Plan has been published prior to 12 February 2023 then that Plan should continue under the existing (2006) legislation. Proposed City Plan 2030 was approved in September 2021 and therefore continues through Examination.
- 4.5 The Directorate for Planning and Environmental Appeals has a target date for the Reporters of 21 November 2023. The Lead Reporter was appointed on 20 February 2023. On 9 March 2023, the Reporter confirmed that Stage one of the Examination

had concluded, in that consideration of the Report of Conformity with the Participation Statement was complete. No further action on participation was recommended and as such the Council is seen to have carried out engagement and consultation as it committed to.

- 4.6 The Examination period is determined by the Reporter and timescales take this into account. The Council can only influence this by responding quickly and fully to the Further Information Requests from the Reporter. Details of this to date are set out in Appendix 1. Only in two cases has the Council requested more than the 10 working days normally given to respond, due to either the complexity of the questions or the absence of key staff for that issue when received.
- 4.7 A hearing session is scheduled for 26 and 27 September 2023. At this stage it is known to cover housing target and land supply matters, but the agenda has not been finalised and the Reporter may add other matters. The agenda must be published five days before the date of the Hearing.
- 4.8 The appended DPS sets out the next steps for City Plan 2030 once the Examination is concluded, including consideration of timescales based on when the Report on Examination might be received.
- 4.9 Once received, the Council must decide whether or not to accept the recommendations of the Reporter. In terms of the legislation, the recommendations are 'largely binding' and good reason is needed if any are not to be accepted. A good reason would be if a recommendation is contrary to some other legislation or policy.
- 4.10 From receipt of the Report of Examination, the Council has three months within which to resolve to adopt the plan with those recommendations.
- 4.11 As well as checking whether there is any legal issue with the recommendations, a further check is required to establish whether or not there is a need for any consequential amendments because of the changes before reporting to Committee/Council for a resolution to adopt. Following that, the Plan must be submitted to Ministers, who will either confirm that the Council can adopt the Plan, or direct changes to it. They have 28 days to consider the Plan but have powers to extend this period.
- 4.12 Once adopted, there is six week period for legal challenge.

### **City Plan 2040**

- 4.13 The new development plan system (effective from May 2023 under new regulations and guidance) expects that 'new style' LDPs will be in place within five years of the adoption of National Planning Framework 4 (i.e. by February 2028).
- 4.14 The DPS therefore also considers the general arrangements for the next local development plan, including a draft Participation Statement in terms of the requirement to seek the views of the public on how they wish to be engaged in the plan process.

- 4.15 In terms of the process, that plan will have to follow through from how we engage, the call for LPPs, the Evidence Report and Gateway Check stages, the Proposed Plan and its consultation period, and Examination. A new DPS next year will set out these stages more definitively, with intended timescales.
- 4.16 Further details of City Plan 2 process will be brought to Planning Committee in an updated DPS, responding to the outcome of the City Plan Examination and timeframes for conclusion of that Plan and next steps for City Plan 2040.

## 5. Next Steps

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- 5.1 If approved, the appended DPS will be published in designed form on the Council's website and circulated to the project mailing list.

## 6. Financial impact

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- 6.1 The DPS is a statutory requirement, and the work is delivered from existing resources. There are no revenue or capital costs associated with the report. The plan process itself has costs in terms of commissioning technical studies and Examination. These are generally met from existing budgets. There are no financial implications for any other aspect of Council operations from the DPS.

## 7. Equality and Poverty Impact

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- 7.1 The DPS process has no direct impact on equalities or poverty. Any impact would be from the Plan itself.

## 8. Climate and Nature Emergency Implications

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- 8.1 As a public body, the Council has statutory duties relating to climate emissions and biodiversity. The Council

*“must, in exercising its functions, act in the way best calculated to contribute to the delivery of emissions reduction targets”*

(Climate Change (Emissions Reductions Targets) (Scotland) Act 2019), and

*“in exercising any functions, to further the conservation of biodiversity so far as it is consistent with the proper exercise of those functions”*

(Nature Conservation (Scotland) Act 2004)

- 8.2 The City of Edinburgh Council declared a Climate Emergency in 2019 and committed to work towards a target of net zero emissions by 2030 for both city and corporate emissions and embedded this as a core priority of the Council Business Plan 2023-27. The Council also declared a Nature Emergency in 2023.

## **Environmental Impacts**

- 8.3 The DPS process has no direct impact. Any impact would be from the Plan itself.

## **9. Risk, policy, compliance, governance and community impact**

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- 9.1 City Plan has been through its statutory stages of consultation and engagement and the Statement of Conformity with the Participation Statement considered by the Reporter with no further actions required of the Council. It is accompanied by an Integrated Impact Assessment and an Environmental Report.
- 9.2 City Plan 2040 will commence with the engagement on consultation for the Participation Statement and this will shape how communities and stakeholders will be engaged and consulted on in the process, subject to the statutory requirements also. A call for Local Place Plans will also engage with communities. LDP strategies, policies and land allocation can help to meet Council priorities for affordable housing, active travel, public transport and economic growth.
- 9.3 The LDP process is a statutory one. Not adopting City Plan post Examination or adopting it without recommendations could risk legal challenge. Not starting City Plan 2040 process would risk delay in meeting the 'new style' plan expectations of being in place five years after NPF4 adoption.
- 9.4 The recommendations in the report do not impact on existing policies of the Council.
- 9.5 There are no health and safety, governance, compliance or regulatory implications that elected members need to take into account when reaching their decision, other than as referred to in 9.2.
- 9.6 The City Plan project has a risk register, and the next plan will also have one. These are updated regularly for the City Plan Project Board.

## **10. Background reading/external references**

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- 10.1 [Planning \(Scotland\) Act 2019](#)
- 10.2 [The Town and Country Planning \(Development Planning\) \(Scotland\) Regulations 2023](#)
- 10.3 [The Planning \(Scotland\) Act 2019 \(Commencement no.12 and Saving and Transitional Provisions\) Regulations 2023](#)
- 10.4 [Local Development Planning Guidance May 2023](#)

## **11. Appendices**

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- 11.1 Appendix 1 - Development Plan Scheme 2023 and draft Participation Statement.



11.2 Appendix 2 - City Plan Examination Further Information Request Register.

## DEVELOPMENT PLAN SCHEME, SEPTEMBER 2023

### 1. What is a Development Plan Scheme?

A development plan scheme sets out how a future local development plan will be prepared. It includes:

- an explanation of what a development plan is,
- a timetable for preparing the future local development plan, and
- details on how to get involved.

The Council needs to publish a development plan scheme at least once a year. The Council's last development plan scheme was published in September 2022.

### What is a Development Plan?

How we plan our places has an effect on everyone. Our lives are shaped by the places where we live, work and visit and these are shaped by planning decisions. Development plans set out the strategy and policies to guide those decisions.

The statutory 'development plan' comprises the [National Planning Framework \(NPF4\)](#) which covers the whole country, and the local development plan (LDP) for the planning authority area.

Scottish Government legislation requires Councils to prepare a local development plan for their area. A local development plan contains a 10-year strategy for the future development of an area and sets out policies and proposals which are used to determine planning applications. It is accompanied by a statutory Action Programme which is used to ensure delivery of the plan's policies and proposals, including necessary infrastructure. Our Local Development Plan is the [Edinburgh Local Development Plan 2016](#).

There is a new legislative framework for development planning provided by the [Planning \(Scotland\) Act 2019](#). This outlines new procedures on how to prepare plans. The expectation is for a new style of local development plan and [new regulations](#) add to this. [New local development planning guidance](#) was issued in May 2023 and this sets out the aims and expectations for the new style plan and provides a step by step guide. There is an expectation that new style local development plans will be in place 5 years after the new regulations published in May 2023.

## Appendix 1

This means that our [City Plan 2030](#), will be the last plan made under the previous plan system. Further information on changes to the planning system is available on the Scottish Government [webpage](#).

### **Proposed City Plan 2030 – Update**

City Plan 2030 is the name for Edinburgh’s updated local development plan under the previous system and transitional arrangements allow it to carry through to adoption. The proposed plan has been prepared and following approval at Planning Committee on 30 November 2022, it was submitted to the Scottish Government for examination on 9 December 2022.

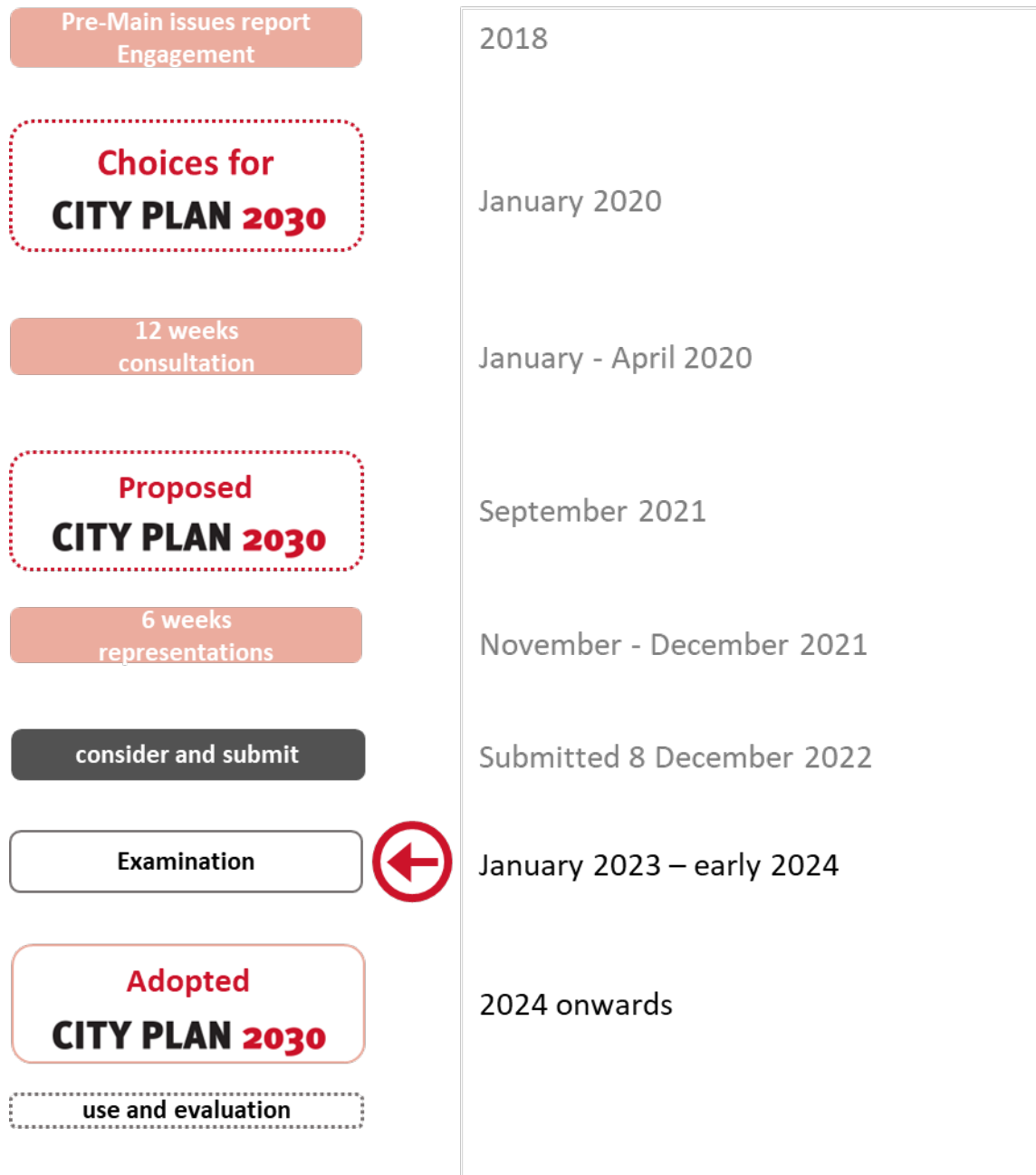
A team of reporters from the Scottish Government’s Planning and Environmental Appeals Division (DPEA) has been appointed; and the development plan examination began in February this year. Details can be found on the DPEA’s [website](#).

As part of the examination a hearing is scheduled to take place on 26-27 September 2023. It is due to consider housing land, business and infrastructure. The reporters are gathering further evidence to inform the hearing and examination process.

Once the examination is complete, a Report of Examination is sent to the planning authority. The Council will then consider adopting the plan, including the recommendations of the Report which could include proposed modifications to the plan.

Appendix 1

**Timetable: City Plan 2030**



Project Stage	Timeframe
<b>Choices for City Plan consultation</b>	Consultation took place January to March 2020, with responses accepted to end April 2020 due to Covid-19 pandemic
<b>Proposed Plan reported to Planning Committee</b>	Proposed City Plan 2030 was reported to Planning Committee in September 2021 and approved for its Representation period
<b>Period for representations on Proposed Plan</b>	Period for Representations took place from 6 November to 20 December 2021
<b>Submit Plan and representations to Scottish Ministers</b>	City Plan 2030 and the Representation documents were approved by Planning Committee for submission to Ministers on 30 November 2022. The full submission was lodged on 8 December 2022.
<b>Examination and Report of Examination</b>	Reporters have been appointed and the Examination started on 8 December 2022. A series of Further Information Requests have been issued to gather further evidence. The Hearing will take place on 26-27 September 2023.
<b>Plan as Modified</b>	The Report of Examination is now likely to be published early 2024. The Council must resolve whether or not to adopt the plan with recommendations from the Report of Examination within 3 months of the report being published.
<b>Notify Scottish Ministers of intention to adopt</b>	
<b>Adoption</b>	

## Appendix 1

After the examination, the City Plan 2030 should be adopted early to mid 2024, depending on when the Council receives the Report on Examination from the DPEA.

When adopted, City Plan 2030 will replace the Edinburgh Local Development Plan (2016).

The Edinburgh Local Development Plan (2016) is accompanied by 12 Supplementary Guidance documents. These also form part of the overall development plan. They cover the following matters:

- Town Centres, guidance covering 9 town centres including the City Centre Retail Core (adopted);
- Developer Contributions and Infrastructure Delivery (finalised, not adopted);
- Edinburgh BioQuarter and Little France Park (finalised, not adopted); and
- Heat Opportunities Mapping (adopted).

When City Plan 2030 is adopted, these documents will be superseded along with the Edinburgh Local Development Plan (2016). New non-statutory guidance will be developed and existing non-statutory guidance will be reviewed in respect of National Planning Framework 4 and City Plan 2030.

### **Edinburgh's Next Plan after City Plan 2030: City Plan 2040**

As we approach the adoption of City Plan 2030, we need to start thinking about the subsequent local development plan.

City Plan 2040 will be prepared under the [new legislation](#) and [guidance](#), published in May 2023. There are three main stages to this new process:

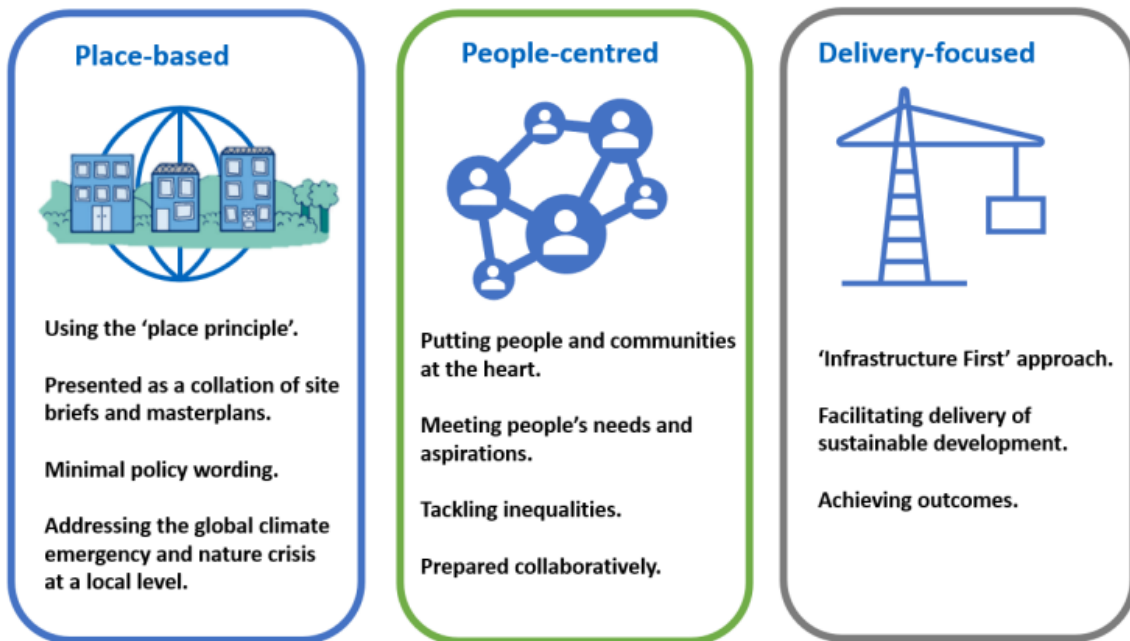
- 1) Evidence Gathering**
- 2) Plan Preparation**
- 3) Delivery**

Under the new process, local development plans should be prepared within 5 years of the publication of the new development planning regulations and guidance. The expectation is that every planning authority in Scotland will have a new style plan in place by May 2028. There is then a 10 year cycle for preparing subsequent plans.

In preparing City Plan 2040, we will need to consider many things including [National Planning Framework 4](#), [Regional Spatial Strategy](#), Local Place Plans as well as other Council strategies and plans.

#### New Style Plans

As well as a new process, the expectation is that the new style plans will be more place based, people-centred and delivery-focused as outlined below.



City Plan 2040 needs to tell a clear and compelling story about the future of places. It is expected that the next plan will focus on the place-based and on visual plans rather than text and policies, given the role of NPF4 policies. This focus on place will help to encourage public engagement.

### Stage 1 - Evidence Gathering

We are currently at the Evidence Gathering stage which is made up of the following:

#### Early Preparation

- Preparation of Development Plan Scheme (DPS) including Participation Statement.
- Invitation to local communities to prepare Local Place Plans.
- Early thinking about delivery programme.

#### Evidence Report

- Gather and collate appropriate evidence.
- Seek the views of key agencies, children and young people, disabled people, Gypsies and Travellers, community councils and the public at large in the preparation of the Evidence Report.
- Prepare Evidence Report for approval by full Council and submission to Scottish Ministers.

#### Gate Check

## Appendix 1

- The Scottish Ministers appoint a person to assess Evidence Report – to determine whether the planning authority has enough information to prepare the local development plan.



### **2. Draft Participation Statement**

This Development Plan Scheme and the draft Participation Statement is the first step of the Evidence Gathering stage.

We need to consider how the new style plan can best meet the needs and aspirations of the different people who have an interest in a place. Good engagement is therefore critical.

The Participation Statement is a summary of when and how the Council is likely to engage the public on City Plan 2040. It considers who is to be included and how we will intend to involve different people within the process. Edinburgh is made up of many different communities and it is important that we reach out and listen particularly to those who find it more challenging to engage with planning.

We must seek the views of the public on what the content of the Participation Statement should be; and have regard to any views expressed. We will therefore engage on the draft Participation Statement to allow stakeholders to have their say in how they can be most effectively consulted so we can take this into account.

In the new plan process, there will be different opportunities when people and communities can influence the shape of City Plan 2040.

### **Engagement Opportunities**

#### Evidence Gathering: Early Preparation

- We will engage on the Participation Statement – end of 2023.
- We will issue an invitation for the preparation of Local Plan Plans following approval of this DPS. These can be submitted to the Council for the Evidence Report Stage or the Proposed Plan Stage.

#### Evidence Gathering: Evidence Report

- We will seek the views of people to help inform the preparation of the Evidence Report including key agencies, children and young people, disabled people, Gypsies and Travellers, community councils and the public at large.

#### Plan Preparation

- We will put out a call for ideas to inform the plan based on themes and sites.
- We will work collaboratively with key agencies and stakeholders.
- We will take into account valid Local Place Plans.
- There will be a formal public consultation and representation period.

## Appendix 1

### **How we will inform and raise awareness of engagement activities**

Web pages for next plan.

Social media campaigns.

Local advertising (for example: lamp post wraps)..

Local newspapers and newsletters.

Local and targeted advertising to help capture harder to reach groups including at local libraries, community centres/halls, special schools and faith locations.

Targeted e-mails to stakeholders and interest groups including community councils.

Notifying neighbours and owner/occupiers of sites included in the Proposed Plan.

Development of project mailing list.

### **How we will consult, involve and collaborate**

On-line tools which would include surveys/questionnaires and also interactive place based activities if resource is available.

Drop-in sessions/workshops spread throughout the city to target a range of socio-economic areas.

Webinars based on either themes or place.

A range of events to reach across the community including people with 'protected characteristics' and their representative organisations. These include older people, disabled people, Gypsies and Travellers, ethnic minorities and women. We will ensure the right support is in place so people can attend events and express their views.

Children and young people engagement programme including place standard sessions.

Community workshops focussing on community councils and communities who have submitted local place plans.

Stakeholder and key agency discussion sessions.

### **Local Place Plans**

Another significant change introduced by 2019 Planning Act are Local Place Plans (LPPs). There is guidance on how these should be prepared, submitted and registered which is outlined in [Circular 1/2022: Local Place Plans](#) There is also more information on [Our Place](#).

## Appendix 1

Local Place Plans give communities the right to produce their own plans for the development and use of land, taking account of the LDP. Planning authorities are required to take registered local place plans into account in preparing the local development plan. These should be prepared in time to inform the following stages of the local development plan.

An invitation will be issued to community bodies to invite them to prepare a Local Place Plan.

A website will be set up to provide guidance to help communities to prepare a Local Place Plan including a suggested template. This will also host registered Local Place Plans.

Along with the Participation Statement, this call for Local Place Plans forms part of the early preparation stage for City Plan 2040.

### **How to stay up to date**

Follow us on Twitter: [@planningedin](https://twitter.com/planningedin)

Blog: [planningedinburgh.com](http://planningedinburgh.com)

View the project webpage at: [www.edinburgh.gov.uk/cityplan2040](http://www.edinburgh.gov.uk/cityplan2040)

To find out more about engagement in the City Plan 2030 project or add yourself to the mailing list: [cityplan2040@edinburgh.gov.uk](mailto:cityplan2040@edinburgh.gov.uk)

Questions about the content of the current LDP: [localdevelopmentplan@edinburgh.gov.uk](mailto:localdevelopmentplan@edinburgh.gov.uk)

Contact us by post:

City Plan 2030, G3, Freepost CITYPLAN

You can get this document on tape, in Braille, large print and various computer formats if you ask us. Please contact Interpretation and Translation Service (ITS) by email: [its@edinburgh.gov.uk](mailto:its@edinburgh.gov.uk) and quote reference number: tbc. ITS can also give information on community language translations.

Further Information Request number	Date rec'v	Response draft due	Response due before	Issue / Plan section	Information requested	Reply info sent
001	21-Feb	N/A	Tue 7 Mar	Statement of conformity	Request additional evidence (various)	Statement and appendices submitted via Objective
002	05-May	19-May	Sat 20 May	Issue 1 – Introduction and Aims	National Developments, Heat, Marine Plan, Airport	CEC reply sent 19/05/2023. Response to comments
003	09-May	19-May	Tue 23 May	Issue 24 – Mixed Communities, HOU 3 Mixed Communities	Housing Strategy, accessible housing info., HOU 3 changes	reply sent 22/5/2023
004	10-May	22-May	Wed 24 May	Issue 12 - Density, ENV 26, HOU 4	Green Belt density NPF4 Policy 8	reply sent 17/05/2023
005	11-May	22-May	Thu 25 May	Issue 13 – Sustainable Design, ENV 8	Net Zero beyond NPF4	reply sent 23/5/23
006	15-May	25-May	Mon 29 May	Issue 28 – Infrastructure Delivery – Community Facilities, Policy INF 1	Is the council justified in adapting the concept of a 20-minute	reply sent via Objective Connect 25/5/23
007	23-May	N/A	Tue 6 Jun	Issue 8 - Proposed Sites South East Edinburgh	Edinburgh BioQuarter Partners (0478) to provide DPEA with a copy of Diagram 1- Development Principles and Diagram 2 - Datum Heights as referred to in document RD105.	N/A - City of Edinburgh Council notified for information purposes only
008 - Stage 1	30-May	23-Jun	Mon 26 June	Issue 019 - Housing Supply Target and Land Requirement	Issue 020	reply and supporting documents sent 23/06/23
008 - Stage 2	01-Aug	17-Aug	Tues 22 Aug	Issue 019 - Housing Supply Target and Land Requirement	Issue 020 - Housing target and housing land requirement, Housing land	submitted by email on supporting docs uploaded
008 - Stage 3						
008 - Stage 4						
009	07-Jun	19-Jun	Wed 21 June	Issue 009a - Suggested Additional Greenfield Sites – West Edinburgh	<u>Site 12 East of Millburn Tower - Table 2 – Housing Proposals;</u>	reply sent 16/06/23
010	09-Jun	04-Jul	Thurs 6 July	ISSUE 002 SPATIAL STRATEGY and ISSUE 003 DELIVERY OF THE	(Various) both evidence and CEC views	reply sent 04/07/23. DPEA advised Action to Protect
011	27-Jun	20-Jul	24-Jul	Issue 034 – Resources and Services	Scottish Government (0309) to provide DPEA with to this issue	19/7-2023 - CEC comments on Scottish Governmnet
012	12-Jul	04-Aug	14-Aug	ISSUE 006 – PROPOSED SITES WEST EDINBURGH	Issue 027 - Infrastructure Delivery and Developer	Extensions deadline clarified by DPEA on 9-8-

FIRs and Dates

013	18-Jul	04-Aug	09-Aug	Issue 008 - Proposed Sites South East Edinburgh	Issue 008 - Proposed Sites South East Edinburgh; including Issue 001 - Introduction and Aims	submitted by email 9-8-23
014	25-Jul	03-Aug	08-Aug	ISSUE 034 – RESOURCES AND SERVICES	Issue 039 - Consultation To which site is the council referring when it states: "Land at second paragraph of proposed Policy Inf 16 Sustainable Energy	reply sent 2/8/23
015	01-Aug	11-Aug	15-Aug	ISSUE 034 – RESOURCES AND SERVICES	please place your responses in the context of the current policy	submitted by email 14-8-23
016	02-Aug	15-Aug	Thur 17 August	ISSUE 038 – RETAIL AND LEISURE	Is criterion g. of proposed Policy Inf 7 Private Car Parking	submitted by email 16-8-23
017	09-Aug	21-Aug	23-Aug	ISSUE 032 – TRANSPORT POLICY	The council is asked to comment on any inconsistencies between	submitted by email 21/8/2023
018	09-Aug	21-Aug	23-Aug	ISSUE 023 – AFFORDABLE HOUSING	The purposes of including land within a green belt were set out	submitted by email with 2 supportiing documents 23-8-
019	24-Aug	04-Sep	06-Sep	ISSUE 015 – NATURAL ENVIRONMENT POLICIES		Submitted by e-mail 5-09-23

No.	Issue Title	Owner
1	Introduction and Aims	Lindsay
2	Spatial Strategy	Lynne
3	Delivery of the Strategy	Keith
4	Proposed Sites - Central Edinburgh	Lindsay
5	Proposed Sites - North and East Edinburgh	Alex
6	Proposed Sites - West Edinburgh	Robert
7	Proposed Sites - South West Edinburgh	Robert
8	Proposed Sites - South East Edinburgh	Keith
9	Suggested additional greenfield sites	Keith
10	Other sites	Keith
11	Design and Placemaking Policies	Alex
12	Density	Alex
13	Sustainable Design	Alex
14	Historic Environment Policies	Alex
15	Natural Environment Policies	Alex
16	Blue Green Infrastructure, Water and Amenity Policies	Alex
17	Open Space Policies	Alex
18	Blue Green Network Proposals	Alex
19	Housing Supply Target and Land Requirement	Lindsay
20	Assessment of Housing Land Supply	Lindsay
21	Housing Land Supply Policy	Lindsay
22	Housing Development Policy	Lindsay
23	Affordable Housing	Lindsay
24	Mixed Communities	Lindsay
25	Student Accommodation	Lindsay
26	Housing Policies	Lindsay
27	Infrastructure Delivery and Developer Contributions	Keith
28	Infrastructure Delivery - Inf 1 Community facilities (includes 20 min neigh)	Keith
29	Infrastructure Delivery - Education	Alex
30	Infrastructure Delivery - Transport	Robert/Keith
31	Transport Strategy	Robert
32	Transport Policy	Robert
33	Transport Proposals	Robert
34	Resources and Services	Robert
35	Economy Policies	Keith
36	Commercial Development	Keith
37	Economy Proposals	Keith
38	Retail and Leisure	Keith
39	Other Issues	Lynne

Place 1 - Edinburgh City Centre Policy  
Place 2 - Fountainbridge  
Place 3 - Astley Ainslie  
Place 4 - Edinburgh Waterfront  
Place 5 - Royal Victoria Hospital  
Place 6 – Crewe Road South  
Place 7 – Stead's Place  
Place 8 – Jane Street  
Place 9 West Bowling Green Street  
Place 10 Newhaven Road 1  
Place 11 Newhaven Road 2  
Place 12 Bangor Road  
Place 13 South Fort Street  
Place 14 Stewartfield  
Place 15 Seafeld  
Place 16 West Edinburgh  
Place 17 Edinburgh Airport  
Place 18 RBS Gogarburn  
Place 19 Edinburgh Park/South Gyle  
Place 20 Royal Highland Centre  
Place 21 Riccarton University Campus and Business Park  
Place 22 Maybury  
Place 23 Builyeon Road  
Place 24 Curriemuirend  
Place 25 Gorgie Road East  
Place 26 Stevenson Road (A)  
Place 27 Broomhouse Terrace  
Place 28 Murrayburn Road  
Place 29 Dumbryden Drive  
Place 30 Redford Barracks  
Place 31 Edinburgh BioQuarter  
Place 32 Newcraighall  
Place 33 Brunstane  
Place 34 Liberton Hospital/Ellen's Glen Road  
Place 35 Moredunvale Road  
Place 36 Edmonstone  
Env 1 Design Quality and Context  
Env 2 Co-ordinated Development  
Env 3 Development Design – Incorporating and Enhancing Existing and Potential Features  
Env 4 Development Design – Impact on Setting  
Env 5 Alterations, Extensions and Domestic Outbuildings  
Env 6 Green Blue Infrastructure  
Env 7 Sustainable Developments  
Env 8 New Sustainable Buildings  
The Historic Environment  
Env 9 World Heritage Sites  
Env 10 Listed Buildings - Demolition  
Env 11 Listed Buildings - Setting  
Env 12 Listed Buildings and structures – Alterations and Extensions  
Env 13 Conservation Areas – Demolition of Buildings

## Policy List

Env 14 Conservation Areas - Development  
Env 15 Historic Gardens and Designed Landscapes  
Env 16 Protection of Important Archaeological remains and the historic environment  
Env 17 Development of Sites of Archaeological Significance  
Env 18 Development in the Green Belt and Countryside  
Env 19 Special Landscape Areas  
Env 20 Protection of Trees and Woodlands  
Env 21 Protection of Biodiversity  
Env 22 Pentlands Hills Regional Park  
Env 23 Protection of Open Space Protection  
Env 24 Protection of Outdoor Sports Facilities  
Env 25 Layout Design  
Env 26 Housing Density  
Env 27 Public Realm, New Planting and Landscape Design  
Env 28 Urban Edge Development  
Env 29 Waterside Development  
Env 30 Building Heights  
Env 31 Useable Open Space in new Development  
Env 32 Useable Communal Open Space and Private Gardens in Housing Development  
Env 33 Amenity  
Env 34 Pollution and Air, Water and Soil Quality  
Env 35 Reducing Flood Risk  
Env 36 Designing for surface water  
Env 37 Designing-in Positive effects for Biodiversity  
Env 38 - Shopfronts  
Hou 1 Housing Development  
Hou 2 Affordable Housing  
HHou 4 Housing Land Supply  
Hou 5 Conversion to Housing  
Hou 6 Student Accommodation  
Hou 7 Loss of Housing  
Hou 8 Inappropriate Uses in Residential Areas  
Hou 9 Sites for Gypsies, Travellers and Travelling Showpeople  
Inf 1 Access to Community Facilities  
Inf 2 Loss of Community Facilities  
Inf 3 Infrastructure Delivery and Developer Contributions  
Inf 4 Provision of Transport Infrastructure  
Inf 5 Location of Major Travel Generating Development  
Inf 6 Cycle Parking  
Inf 7 Private Car Parking  
Inf 8 Design of Car Parking  
Inf 9 City Centre Public Parking  
Inf 10 Cycle and Footpath Network  
Inf 11 Public Transport Proposals and Safeguards  
Inf 12 Park and Ride  
Inf 13 Road network infrastructure  
Inf 14 Rail Freight  
Inf 15 Edinburgh Airport Public Safety Zones  
Inf 16 Sustainable Energy and Heat Networks  
Inf 17 Safeguarding of Existing Waste Management Facilities



## Policy List

Inf 18 Provision of New Waste Management Facilities  
Inf 19 Waste Disposal Sites  
Inf 20 Minerals  
Inf 21 Telecommunications  
Inf 22 Water Supply and Foul Waste Water  
Econ 1 Supporting inclusive Growth, innovation and culture  
Econ 2 Commercial development  
Econ 3 Office Development  
Econ 4 Business and Industry Areas  
Econ 5 Employment Sites and Premises  
Econ 6 Hotel Development  
Econ 7 Goods distribution hubs  
Re 1 Town Centres First Policy  
Re 2 City Centre Retail Core  
Re 3 Town Centres  
Re 4 Alternative Use of Shop Units in the City Centre and Town Centres  
Re 5 Local Centres  
Re 6 Commercial Centres  
Re 7 Out-of-Centre Development  
Re 8 Alternative Use of Shop Units in Other Locations  
Re 9 Entertainment, Leisure and café/restaurant Developments – Preferred locations  
Re 10 Entertainment, Leisure and café/restaurant Developments – Other Locations  
Re 11 Food and Drink Establishments

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## Planning Committee

2.00pm, Wednesday, 13 September 2023

### Planning Controls over Construction

Executive/routine  
Wards

All

#### 1. Recommendations

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- 1.1 It is recommended that Committee notes that:
  - 1.1.1 Planning controls over construction are limited but that the Council does exercise some control to ensure adverse impacts of construction are mitigated in relation to noise and on the road network; and
  - 1.1.2 The information provided with planning decision notices is reviewed to better signpost developers to expectations around good working practices in relation to neighbours.

**Paul Lawrence**

Executive Director of Place

Contact: David Givan, Chief Planning Officer and Head of Building Standards

E-mail: [david.givan@edinburgh.gov.uk](mailto:david.givan@edinburgh.gov.uk) | Tel: 07525618478

## Planning Controls over Construction

### 2. Executive Summary

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- 2.1 This report responds to a request from the Council on 22 June 2023 in respect of control and amendments to permissions which would reduce the impact of construction works on nearby residents.

### 3. Background

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- 3.1 Planning has only limited controls over how construction should be carried out. Planning permission is required for the carrying out of any development of land and can be granted with or without conditions. Conditions should be imposed on a grant of planning permission to enable development proposals to proceed where it would otherwise be necessary to refuse planning permission. Planning conditions need to meet the Scottish Government's six tests of being necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 3.2 Imposing conditions which limit how building works are carried out can be very difficult to enforce effectively and could increase overall construction time. The Council can control adverse impacts of noise under other legislation and it has control over the extent to which roads are occupied. Due to this other legislation, conditions to control construction may not be relevant to planning and should therefore not be imposed.
- 3.3 On 22 June 2023, the Council [agreed](#) an adjusted motion by Councillor McKenzie on Haymarket Square Construction. One of the actions agreed was that Planning Committee would receive a report in one cycle to consider any actions of additional controls or amendments to permissions which would reduce the impact of construction work to nearby residents for all new developments, to establish a more neighbour-friendly pattern of working for major construction and active sites.

### 4. Main report

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- 4.1 Most large construction sites are likely to have an impact on those living nearby, due to noise and disruption to the road network. Developers and contractors will

normally wish to build as quickly as possible. Working hours are normally weekday daytimes and Saturday mornings (unless operations require late or Sunday working e.g. installation of large cranes that require road closures).

- 4.2 However, contractors sometimes seek to extend their hours if they are falling behind schedule.
- 4.3 The Council has authority to restrict the hours of operation of construction sites under the Control of Pollution Act 1974 ('the 1974 Act') which is enforced by Environmental Health. There are no automatic time restrictions are placed upon construction sites in Edinburgh, as it is recognised that restrictions are likely to extend the time period for the works or mean that during the restricted hours the works are more intensive and possibly noisy.
- 4.4 When Environmental Health receives complaints from affected residents, officers can intervene and seek resolution. Normally the first approach would be informal and would usually include discussions with the contractor, leading to an agreement about working hours. Should works be required to be undertaken outwith daytime hours (e.g. for safety or significant traffic management reasons, when no other solution is possible) Environmental Health will consider such timing on a case by case basis, in order to minimise the impact on residents. This could include consideration of evening working, followed by Sunday working, and nighttime working only where no other option is possible.
- 4.5 If no informal solution can be found, Environmental Health may serve a notice on the contractor under the Act to restrict noisy work activities to between 7am and 7pm, Monday to Saturday so that all noise is inaudible at the site boundary outwith those hours. These hours are taken from the Code of Practice that was released shortly after the introduction of the Act. This restriction allows quiet work activities to continue beyond these hours. Restrictions on noisy construction work are a balance between providing suitable protection to residents and not making it unreasonably difficult for contractors to carry out legitimate and, in many cases, essential activities.
- 4.6 Planning Permission is granted for development and can be granted conditionally or unconditionally.
- 4.7 As set out in the Scottish Government's *Planning Circular 4/1998: the use of conditions in planning permissions*, conditions should only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 4.8 In relation to enforceability, some planning authorities have imposed conditions to require Construction Management Plans. These are however very difficult to enforce. Where there are possible breaches of planning control reported to the Council, it could require considerable officer time to investigate.
- 4.9 In relation to relevance to planning, it is important to consider whether there is other legislation that can be used to achieve the outcome desired. Because as outlined

above, the Council can take action under other legislation, conditions to control construction noise may not be relevant to planning.

- 4.10 Noise can also occur from vehicles on roads surrounding sites. It has been found that sometimes vehicles can be parked with their engines idling while awaiting building sites to open up. The noise and air pollution associated with this is not a relevant matter relevant to planning and idling can be controlled under other legislation (the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003).
- 4.11 In relation to disruption to the road network, to achieve good urban design, buildings are often located on the heel of the footway. In tight urban sites there can be very little room to carry out construction works, and it is necessary to provide welfare facilities for operatives as well as, on larger sites, site offices. These are important for health and safety. So that they are near enough to the construction sites, often contractors will seek permits to use road space to do this. Permits are also needed for scaffolding over footways and carriageways. Contractors are encouraged to engage with Transport officers early so that such installations can be carefully planned. These aspects are controlled under roads legislation and therefore not considered relevant to planning.
- 4.12 Many large contractors are part of the Considerate Contractors Scheme. It has a code of considerate practice which includes headings of: respect for the community, care for the environment and value their workforce. As part of this, there are expectations around how contractors will engage with communities and allow complaints and comments to be addressed.
- 4.13 Once a planning permission is granted, the Council cannot reasonably revisit the permission to impose additional conditions for matters in relation to construction.
- 4.14 While it is not recommended that the Council starts imposing planning conditions on construction, planning can have a role in signposting developers to expected good practice including advising on expectations around construction operation hours in relation to noise, the need for early engagement with Transport officers and the potential for contractors to be part of the Considerate Contractors Scheme. The Planning service will work with colleagues to prepare information that can be provided with planning permission decision notices to set this out and will use its pre application process to advise of these matters.

## **5. Next Steps**

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- 5.1 The planning service will review the potential to provide advice on expectations around construction as set out above.

## **6. Financial impact**

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- 6.1 There are no financial impacts arising from this report.

## **7. Equality and Poverty Impact**

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- 7.1 There are no impacts on equality, human rights or socio-economic disadvantage arising from this report.

## **8. Climate and Nature Emergency Implications**

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- 8.1 There are no impacts on climate change and the nature emergency arising from this report.
- 8.2 There are environmental impacts from construction. It is the developer's duty to manage these in accordance with the environmental legislation.

## **9. Risk, policy, compliance, governance and community impact**

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- 9.1 Improved signposting to developers at planning decision notice stage should help mitigated impacts of large construction on communities.
- 9.2 The risk of imposing conditions on planning permissions which are not practicably enforceable is to unduly raise public expectation of what can be achieved. Planning conditions that do not meet the government's requirements may also be successfully appealed.
- 9.3 There is the risk that applying conditions to limit construction hours could result in an increase in the overall duration of construction. The disruptive effects of construction could therefore be inadvertently prolonged for neighbouring residents.

## **10. Background reading/external references**

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- 10.1 Planning: [Circular 4/1998](#) the use of conditions in planning permissions

## **11. Appendices**

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11. None.

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# Planning Committee

2.00pm, Wednesday 13 September, 2023

## Response to Motion by Councillor O'Neill–Edinburgh's Monuments and Commemoration- referral from the Culture and Communities Committee

Executive/routine  
Wards  
Council Commitments

### 1. For Decision/Action

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- 1.1 The Culture and Communities Committee has referred a report on Edinburgh's Monuments and Commemorations to the Planning Committee for information.

**Dr Deborah Smart**  
Executive Director of Corporate Services

Contact: Louise Williamson, Assistant Committee Officer  
Legal and Assurance Division, Corporate Services Directorate  
E-mail: [louise.p.williamson@edinburgh.gov.uk](mailto:louise.p.williamson@edinburgh.gov.uk) | Tel: 0131 529 4264

# Referral Report

## Response to motion by Councillor O'Neill - Edinburgh's Monuments and Commemoration - referral from the Culture and Communities Committee

### 2. Terms of Referral

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2.1 On 11 August 2023 the Culture and Communities Committee considered a report by the Executive Director of Place which set out the current process for how new statues, monuments and commemorative structures were decided upon in the city, and the report also covered what role the Council played in this together with options for establishing a new policy and process for new statue /monument / commemorative structure proposals, to ensure that these contributed to the objectives set out in 3.1.5 of the report by the Executive Director of Place, including further options for improving representation amongst commemorative structures erected in the city.

#### 2.2 Motion

- 1) To note the options presented to develop a Public Art Strategy (to encompass public art, monuments and commemorations) for the city.
- 2) To agree to proceed with the development of this strategy in-house.
- 3) To note that, if 2) above was agreed, it was expected that the policy would be presented to the Policy and Sustainability Committee in August 2024 for approval, before being referred to the Culture and Communities Committee for information.
- 4) To note that an audit of existing public art, monuments and commemorations would be produced as part of the development of the strategy.
- 5) To refer the report by the Executive Director of Place to the Planning Committee for information.

- moved by Councillor Walker, seconded by Councillor Lezley Marion Cameron

#### Amendment 1

- 1) To note the options presented to develop a Public Art Strategy (to encompass public art, monuments and commemorations) for the city and agree that this Strategy should also aim to incorporate a mechanism to support local businesses, community groups and participatory community art

projects to navigate the permissions, considerations and process should they express an interest in installing public realm works such as murals.

- 2) To agree to proceed with the development of this strategy in-house.
- 3) To note that, if 2) above was agreed, it was expected that the policy would be presented to the Policy and Sustainability Committee in August 2024 for approval, before being referred to the Culture and Communities Committee for information.
- 4) To note that an audit of existing public art, monuments and commemorations would be produced as part of the development of the strategy.
- 5) To refer the report by the Executive Director of Place to the Planning Committee for information.

- moved by Councillor McFarlane, seconded by Councillor McNeese-Mechan

### **Amendment 2**

- 1) To note the options presented to develop a Public Art Strategy (to encompass public art, monuments and commemorations) for the city.
- 2) To agree to proceed with the development of this strategy in-house in addition to what was set out in 5.1.4 of the report by the Executive Director of Place, regular updates would be provided in the Culture and Communities Business Bulletin
- 3) To note that, if 2) above was agreed, it was expected that the policy would be presented to the Policy and Sustainability Committee in August 2024 for approval, before being referred to the Culture and Communities Committee for information.
- 4) To note that an audit of existing public art, monuments and commemorations would be produced as part of the development of the strategy and would be provided to the Culture and Communities Committee.
- 5) To refer the report by the Executive Director of Place to the Planning Committee for information.

- moved by Councillor Osler, seconded by Councillor Thornley

### **Amendment 3**

- 1) To note the options presented to develop a Public Art Strategy (to encompass public art, monuments and commemorations) for the city.
- 2) To agree to continue the decision for one cycle to allow for more detail to be provided on Section 6, including estimated costs, and officer numbers and time required, for a best-value and better-informed decision.
- 3) To note that, if 2) above was agreed, it was expected that the policy would be presented to the Policy and Sustainability Committee in August 2024 for approval, before being referred to the Culture and Communities Committee for information.

- 4) To note that an audit of existing public art, monuments and commemorations would be produced as part of the development of the strategy.
- 5) To refer the report by the Executive Director of Place to the Planning Committee for information.

- moved by Councillor Mitchell, seconded by Councillor Munro

In accordance with Standing Order 22(12), Amendments 1 and 2 were accepted as amendments to the Motion.

### **Voting**

The voting was as follows:

For the Motion (as adjusted)	-	9 votes
For Amendment 3	-	2 votes

For the Motion (as adjusted): Councillors Lesley Marion Cameron, Glasgow, Heap, McFarlane, McNeese-Mechan, Osler, Staniforth, Thornley and Walker

For Amendment 3: Councillors Mitchell and Munro.)

### **Decision**

To approve the following adjusted motion by Councillor Walker

- 1) To note the options presented to develop a Public Art Strategy (to encompass public art, monuments and commemorations) for the city; and agree that this Strategy should also aim to incorporate a mechanism to support local businesses, community groups and participatory community art projects to navigate the permissions, considerations and process should they express an interest in installing public realm works such as murals.
- 2) To agree to proceed with the development of this strategy in-house in addition to what is set out in 5.1.4 of the report by the Executive Director of Place, regular updates would be provided in the Culture and Communities Business Bulletin.
- 3) To note that it was expected that the policy would be presented to the Policy and Sustainability Committee in August 2024 for approval, before being referred to the Culture and Communities Committee for information.
- 4) To note that an audit of existing public art, monuments and commemorations would be produced as part of the development of the strategy and would be provided to the Culture and Communities Committee.
- 5) To refer the report by the Executive Director of Place to the Planning Committee for information.

## **3. Background Reading/ External References**

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Minute of the Culture and Communities Committee of 11 August 2023.

## 4. Appendices

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Appendix 1 – Report by the Executive Director of Place

# Culture and Communities Committee

10.00am, Thursday 11 August 2023

## Response to motion by Councillor O'Neill - Edinburgh's Monuments and Commemoration

Executive/routine Wards Council Commitments	Executive All
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### 1. Recommendations

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- 1.1 It is recommended that Committee:
  - 1.1.1 Note the options presented to develop a Public Art Strategy (to encompass public art, monuments and commemorations) for the city;
  - 1.1.2 Agree to proceed with the development of this strategy in-house;
  - 1.1.3 Note that, if recommendation 1.1.2 is agreed, it is expected that the policy will be presented to Policy and Sustainability Committee in August 2024 for approval, before being referred to Culture and Communities Committee for information;
  - 1.1.4 Note that an audit of existing public art, monuments and commemorations will be produced as part of the development of the strategy; and
  - 1.1.5 Refer this report to Planning Committee for information.

**Paul Lawrence**

Executive Director of Place

Contact: Karl Chapman, Head of Heritage, Cultural Venues, Museums and Galleries

E-mail: [karl.chapman@edinburgh.gov.uk](mailto:karl.chapman@edinburgh.gov.uk) | Tel: 07795 121243

# Report

## Response to motion by Councillor O'Neill - Edinburgh's Monuments and Commemoration

### 2. Executive Summary

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- 2.1 This report responds to the motion by Councillor O'Neill, which was approved by the Council on 16 March 2023, on Edinburgh's Monuments and Commemorations.

### 3. Background

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- 3.1 On [16 March 2023](#), the Council approved the following motion by Councillor O'Neill on Edinburgh's Monuments and Commemorations:
- 3.1.1 Notes that there are over 130 structures of public art or monuments across the city of Edinburgh.
  - 3.1.2 Regrets that of those structures, 79 represent or commemorate men with just 8 representing women, less than the total number of structures dedicated to animals (15).
  - 3.1.3 Recognises the cultural significance of statues and what values and ideas they commemorate.
  - 3.1.4 Notes the motion by Councillor Cameron agreed at full council on 22 August 2019 and the subsequent report to Planning Committee, which agreed that, "when a street is named after a person, a woman's name is given priority.", further notes that this policy does not currently apply to public art or monuments.
  - 3.1.5 Notes the work of the Edinburgh Slavery and Colonialism Legacy Review, and in particular recommendation 2 that that structures "...associated with slavery and colonialism are retained and re-presented in accordance with a new, dedicated interpretation strategy which explains the nature and consequences of that involvement, , and recommendation 7, that "a significant public artwork be commissioned acknowledging Edinburgh's links with slavery and colonialism", and that this "initiates the development of a city-wide strategy for public art that fairly represents the diversity of the city...".
  - 3.1.6 Notes that this is a live discussion, and that it is therefore in the best interests of the public that the council position on this is clear and unambiguous.

- 3.1.7 Agrees that new statues, monuments, buildings and street names should reflect the diverse history of Edinburgh and the Council wishes to see better representation in our placemaking.
- 3.1.8 Also agrees that this representation goes further than statues, for example in Leith's Pride Bridge which is the only cultural landmark to LGBT+ people in Edinburgh.
- 3.1.9 Therefore, requests a report within 2 cycles to Culture & Communities committee, and thereafter be referred to Planning Committee which sets out:
  - 3.1.9.1 The current process for how new statues, monuments and commemorative structures are decided upon in the city, and what role the Council plays in this;
  - 3.1.9.2 Options for establishing a new policy and process for new statue / monument / commemorative structure proposals, to ensure that these contribute to the objectives set out in 3.1.5, including further options for improving representation amongst commemorative structures erected in the city.

## 4. Main report

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- 4.1 Monuments, commemorations and public art is a significant part of Edinburgh's built heritage. They contribute to (and define) the sense of place, add visual interest to public spaces and can enhance the image of the city. Edinburgh has a significant collection of public art - statues, monuments and sculptures - created, carved and cast by artists, architects and sculptors. Most statues were erected by public subscription to commemorate individuals and events, and ultimately gifted to the Council at their inauguration. There are many beyond the highly visible statues - war memorials, sundials, fountains, boundary markers, ancient stones and modern artistic structures.
- 4.2 The Council does not have a single, dedicated policy on the subjects listed above. Responsibilities sit across service areas for various aspects in the decision-making process. Planning considers the issues (e.g. public art works which have fixed foundations, or are fixed to buildings) requiring planning permission and/or listed building consent and possible building warrant requirements. The Museums and Galleries service provide advice, when requested, on materials, specialist suppliers and ongoing conservation and maintenance.
- 4.3 Overview of the of the city's monuments sits with the Museums and Galleries service, within the role of the Curatorial and Conservations Manager (their primary duties are ongoing exhibition and conservation programmes). The officer is often consulted on new proposals, but the overall decision-making lies with Planning based on statutory criteria. The cost for ongoing maintenance is met by the Council from the budget for Facilities Management.



- 4.4 It is proposed to create a Public Art Strategy for the city which should include not only statues, monuments, and permanent structures but also things like street furniture, temporary or time-based installations, and art / installations inside the Council's public buildings. There are other examples of cities with public art strategies in place, characterised by pro-active commission processes and dedicated staff resources. Other cities also have a specialist advisory board / forum / group who consider new proposals, provide guidance from a range of perspectives, and oversee the public art programme in line with wider council strategies and development plans.
- 4.5 A new Public Art Strategy for the city would allow the Council to be more involved not just in who or what is commemorated, but also which artists are chosen and where works are sited. It would also enable the Council to work much more closely with communities so that proposals / options are made democratically, locally, and with inclusion at the heart of the process. For instance, it could work with the recommendations made in the Edinburgh Slavery and Colonialism Legacy Review.
- 4.6 There are two options available to progress the development of a Public Art Strategy and associated policy:
- 4.6.1 The first is to develop the policy and subsequent strategy in-house. An officer working group could be established with representation from Culture and Wellbeing, Asset Management, Facilities Management, Parks and Openspaces, and Planning. Desk-based research looking at models from other cities will be required, along with an audit of existing monuments, public consultation, benchmarking on investment and subsidy for public art and monuments, the scope of Planning and Cultural criteria, and options on funding of strategic and operational delivery; or
- 4.6.2 The second is to commission an external body to develop to undertake the above policy and strategy, appointing based on experience and skill set working in this field. A brief would be agreed and procurement exercise carried out to appoint the most suitable company and this would require a budget. Making reasonable estimates on 20 days of work, the cost is expected to be in the region of £20-25,000, with the Council responsible for undertaking public engagement actions.
- 4.7 The first option is considered the most affordable. Acknowledging the time required to develop the Strategy and associated policy alongside other work, engagement and consultation exercises, it is expected that the draft strategy will be presented to Policy and Sustainability Committee in August 2024.
- 4.8 To support the development of the strategy, an updated audit of existing public, monuments, commemorations under the Council's ownership will be produced with an asset cost survey indicating current investment needs.
- 4.9 It is proposed to incorporate the actions from Councillor McFarlane's motion on International Overdose Awareness Day on establishing a policy and process for formal memorials or places of remembrance into the new policy.

## 5. Next Steps

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- 5.1 If Committee agree the approach set out in this report:
  - 5.1.1 An officer working group will be established to drive the engagement, strategy and policy development. Membership will consist of representatives from Culture and Wellbeing, Parks and Openspaces, Planning, Public Safety, and Asset Management;
  - 5.1.2 Desk based research will begin to collect details of public art policies from other cities;
  - 5.1.3 Officers will progress design of a consultation programme and an audit of existing public art, monuments and commemorations. The audit is expected to be completed by December 2023;
  - 5.1.4 Regular updates and briefings will be provided to the Culture and Wellbeing Spokespersons Briefing, along with wider Elected Member briefings as required; and
  - 5.1.5 A draft strategy, with associated policy, is expected to be presented to Policy and Strategy Committee for approval in August 2024. This will include details of how the Council intends to improve representation. The decision of Policy and Sustainability will be referred to Culture and Communities Committee for information.

## 6. Financial impact

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- 6.1 The budget will be contained within the Place budget, acknowledging the additional officer time to the project.
- 6.2 It is expected that implementing a policy and strategy for developing and managing public art, monuments and commemorations will require additional financial resources for management, commissioning and maintenance.

## 7. Stakeholder/Community Impact

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- 7.1 This will impact all wards and communities and consultation will be commissioned in line with the Council's [Consultation Policy](#).

## 8. Background reading/external references

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- 8.1 None.

## 9. Appendices

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- 9.1 None.

# Planning Committee

2pm, Wednesday 13 September 2023

## Short-term Lets Licensing Scheme – Update

Executive/routine  
Wards  
Council Commitments

### 1. For Decision/Action

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- 1.1 The Regulatory Committee has referred a report on Short-term Lets Licensing Scheme – Update to the Planning Committee for noting.

**Dr Deborah Smart**  
Executive Director of Corporate Services

Contact: Carolanne Eyre, Assistant Committee Officer  
Legal and Assurance Division, Corporate Services Directorate  
Email: [carolanne.eyre@edinburgh.gov.uk](mailto:carolanne.eyre@edinburgh.gov.uk)

# Referral Report

## Short-term Lets Licensing Scheme – Update

### 2. Terms of Referral

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2.1 On 7<sup>th</sup> August 2023, the Regulatory Committee considered a report on the Short-term Lets Licensing Scheme – Update. The report provided an update on the outcome of a Judicial Review of the Council’s Short-term Lets Licensing Policy and Conditions Framework in Court of Session. The report also proposed the next steps for the Short-term Lets licensing scheme following the Court’s judgement, and the Council’s decision not to lodge an appeal. Planning Committee is asked to consider the recommendation of the Regulator Committee as set out in the decision below.

#### 2.2 Motion

- 1) To note the outcome of the Judicial Review of the Council’s Short-Term Lets Licensing Policy and Conditions.
- 2) To note that the Council had decided not to appeal the judgement.
- 3) To note that the Short-Term Lets Licensing Policy and Conditions in Appendix 2 of the report by the Executive Director of Place had been amended to take the Court’s decision into account.
- 4) To agree the Short-Term Lets Policy and Conditions would be reviewed commencing no later than June 2024 as set out in paragraphs 4.26 and 4.27.
- 5) To note that a separate legal advice paper was previously provided by the Council’s Legal Service prior to agreement of the Policy and Conditions on 29 September 2022.
- 6) To discharge the actions arising from the motions agreed by the Council on 22 June 2023 and by this Committee on 6 February 2023 and agree to refer the report to the Planning Committee for noting.

- moved by Councillor Neil Ross, seconded by Councillor Caldwell

#### Amendment

- 1) To note the outcome of the Judicial Review of the Council’s Short-Term Lets Licensing Policy and Conditions.

- 2) To note that the Council had decided not to appeal the judgement.
- 3) To note that the Short-Term Lets Licensing Policy and Conditions in Appendix 2 of the report by the Executive Director of Place had been amended to take the Court's decision into account.
- 4) To agree the Short-Term Lets Policy and Conditions would be reviewed commencing no later than June 2024 as set out in paragraphs 4.26 and 4.27.
- 5) To note that a separate legal advice paper was previously provided by the Council's Legal Service prior to agreement of the Policy and Conditions on 29 September 2022.
- 6) To discharge the actions arising from the motions agreed by the Council on 22 June 2023 and by this Committee on 6 February 2023 and agree to refer the report to the Planning Committee for noting.
- 7) To note that paragraphs 4.25 to 4.41 of the amended policy and conditions dealt with compliance and enforcement, and to request a briefing to members setting out further detail about how compliance and enforcement would be managed, and in particular how members of the public may report suspected unlicensed Short Term-Lets and whether, and in what circumstances, the Council would consider proactive enforcement.
- 8) To note, as set out in paragraph 4.28 of the report by the Executive Director of Place, that a further report would be presented to Committee on points around the policy which were raised subsequent to the judicial review, and agree that this report should be presented to Committee within two cycles, and that the report should, in addition to those points, also set out further details on the Council's approach to compliance and enforcement.

- moved by Councillor Rae, seconded by Councillor Dixon

In accordance with Standing Order 22.12, the Amendment was accepted as an addendum to the motion.

### **Decision**

To approve the following adjusted motion by Councillor Ross:

- 1) To note the outcome of the Judicial Review of the Council's Short-Term Lets Licensing Policy and Conditions.
- 2) To note that the Council had decided not to appeal the judgement.
- 3) To note that the Short-Term Lets Licensing Policy and Conditions in Appendix 2 of the report by the Executive Director of Place had been amended to take the Court's decision into account.
- 4) To agree the Short-Term Lets Policy and Conditions would be reviewed commencing no later than June 2024 as set out in paragraphs 4.26 and 4.27.

- 5) To note that a separate legal advice paper was previously provided by the Council's Legal Service prior to agreement of the Policy and Conditions on 29 September 2022.
- 6) To discharge the actions arising from the motions agreed by the Council on 22 June 2023 and by this Committee on 6 February 2023 and agree to refer the report to the Planning Committee for noting.
- 7) To note that paragraphs 4.25 to 4.41 of the amended policy and conditions dealt with compliance and enforcement, and to request a briefing to members setting out further detail about how compliance and enforcement would be managed, and in particular how members of the public may report suspected unlicensed Short Term-Lets and whether, and in what circumstances, the Council would consider proactive enforcement.
- 8) To note, as set out in paragraph 4.28 of the report by the Executive Director of Place, that a further report would be presented to Committee on points around the policy which were raised subsequent to the judicial review, and agree that this report should be presented to Committee within two cycles, and that the report should, in addition to those points, also set out further details on the Council's approach to compliance and enforcement.
- 9) To circulate a briefing note to all elected members summarising the current scheme with reference to the report.
- 10) To provide communication on temporary licences to residents in buildings which contain secondary lettings.
- 11) To provide communication on temporary licences to residents in buildings which contain secondary lettings.

### **3. Background Reading**

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- 3.1 Finance and Resources Committee – 14 June 2023 - [Webcast](#)
- 3.2 Minute of the Regulatory Committee – 7 August 2023

### **4. Appendices**

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- 4.1 Appendix 1 – report by the Executive Director of Place

# Regulatory Committee

10.00am, Monday, 7 August 2023

## Short-term Lets Licensing Scheme - Update

Executive/routine Wards Council Commitments	All
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### 1. Recommendations

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- 1.1 Regulatory Committee is asked to:
  - 1.1.1 Note the outcome of the Judicial Review of the Council's Short-Term Lets Licensing Policy and Conditions;
  - 1.1.2 Note that the Council has decided not to appeal the judgement;
  - 1.1.3 Note that the Short-term Lets Licensing Policy and Conditions at Appendix 2 have been amended to take the Court's decision into account;
  - 1.1.4 Agree the Short-Term Lets Policy and Conditions will be reviewed commencing no later than June 2024 as set out in paragraphs 4.25 and 4.26;
  - 1.1.5 Note that a separate legal advice paper was previously provided by the Council's Legal Service prior to agreement of the Policy and Conditions on 29 September 2022; and
  - 1.1.6 Discharge the actions arising from the motions agreed by the Council on [22 June 2023](#) and by this Committee on [6 February 2023](#) and agree to refer this report to the Planning Committee for noting.

**Paul Lawrence**

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

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## Short-term Lets Licensing Scheme - Update

### 2. Executive Summary

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- 2.1 This report provides an update on the outcome of a Judicial Review of the Council's Short-term Lets (STL) Licensing Policy and Conditions Framework in the Court of Session, following the issuing of the Court's opinion on 8 June 2023 and subsequent interlocutor setting out its decision on 22 June 2023. The report also addresses the terms of the amended motion agreed by the Council on [22 June 2023](#).
- 2.2 The report also sets out proposed next steps for the STL licensing scheme following the Court's judgement, and the Council's decision not to lodge an appeal. It explains the amendments to the licensing policy and conditions necessary to reflect the Court's opinion and subsequent interlocutor setting out its decision.
- 2.3 An update is also provided on other items which have taken place at a national level in respect of STLs, including updated guidance issued by Scottish Government and seeks to discharge any outstanding remit from the Council and Committee relating to the STL Licensing Scheme.

### 3. Background

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- 3.1 The Council has previously called for additional regulation of the STL sector through changes to planning classifications and the introduction of a licensing system. The relevant factors are set out more fully in previous Committee reports and there remains significant public interest about the operation of the STL sector.
- 3.2 Following the commencement of the [Civic Government \(Scotland\) Act 1982 Licensing of Short Term Lets \(Order 2022\) \(the 2022 Order\)](#), which brings short-term letting within the scope of licensable activities covered by the statutory provisions of the Civic Government (Scotland) Act 1982 ('the 1982 Act'), on 29 September 2022 the Council adopted a licensing policy and additional conditions for STLs.
- 3.3 The STL licensing scheme opened for applications on 1 October 2022. Initially operators who were already operating a short-term let at that date had until 1 April 2023 to apply for a licence, but the Scottish Government extended this date until 1 October 2023. Where an application is received from such an operator prior to 1 October 2023, the operator can continue to operate the short-term let until the application is finally determined.



- 3.4 Committee had agreed to keep the STL licence system under regular review and made a commitment to review the position with respect to the duration of STL secondary let licences within 18 months of commencement of the licensing scheme (i.e. March 2024). That 18 month period commitment reflected the original deadline date of 1 April 2023 for applications from existing operators. In practice very few existing operators have applied thus far. Anecdotal information suggests that this may have been due to operators awaiting the outcome of the judicial review proceedings. Appendix 1 shows the number of applications received and determined as at 1 August 2023.

## 4. Main report

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### Outcome of Judicial Review

- 4.1 Following adoption of the STL Licensing Policy by Regulatory Committee on 29 September 2022, a number of businesses operating in that sector (‘the petitioners’) raised a legal challenge in the form of a judicial review (JR). The JR hearing took place on 11 and 12 May 2023 at the Court of Session, and on 8 June 2023 the Court issued its opinion. The Council was successful in defending large parts of the STL policy, however the petitioners were successful in challenging certain aspects of the policy, as explained below.
- 4.2 The legal challenge to the policy largely focused on how the Council intended to treat applications for secondary letting (STLs where the property is not the host’s primary residence). The Council had agreed to adopt measures which included restricting the ability of STL operators in tenemental and shared main door properties to obtain STL licences on the basis that such premises were considered to be unsuitable for use as STLs. This policy measure was set out in the policy as a “rebuttable presumption”, explaining to applicants that STL licences for tenemental and shared main door properties would only be granted in exceptional circumstances. This approach and other measures were aimed at protecting residents from long-standing concerns about the negative impacts of secondary letting, particularly in tenemental properties.
- 4.3 The key aspects of the policy dealing with secondary letting which were challenged were as follows:
- 4.3.1 The presumption against the grant of STL secondary letting licences in tenemental and shared main door properties;
  - 4.3.2 The presumption against issuing temporary STL licences for all secondary letting;
  - 4.3.3 The restriction of STL secondary letting licences to a one year period only when other licence types had a duration of three years;
  - 4.3.4 The difference in fees charged by the Council between House in Multiple Occupation (HMO) licences and those charged for STL licences;
  - 4.3.5 The Council’s approach to licensing was oppressive given the planning controls available; and
  - 4.3.6 The lawfulness of the condition requiring carpets in secondary letting properties.
- 4.4 The Council’s planning controls on STLs were not challenged as part of the JR and the judgement has no effect on them.

- 4.5 The Council was successful in defending large parts of the policy and the Court did not criticise any aspect of the Council's consultation or the evidence base which it used to reach its decision. The challenges in relation to the different fees set for HMO licences and STL licences, the period of the licence and how the licensing and planning systems work together were unsuccessful (4.3.3 to 4.3.5 above).
- 4.6 The Court ruled that the presumption against secondary letting in tenemental, and shared main door properties went too far, particularly as these properties would in any event require planning permission. The Court also considered that the rebuttable presumption in the policy stating that the grant of STL licences for secondary letting in tenemental property would be exceptional, did not reflect the evidence provided by the Council that any well-run property would have a reasonable prospect of being granted a licence. The Court also ruled that the restriction on issuing temporary licences went too far and could not be justified. Finally, the Court agreed that the 'carpet condition' as originally worded was unduly onerous and disproportionate and could not be justified (4.3.1, 4.3.2 and 4.3.6 above).
- 4.7 A further court hearing on the terms of the Court's order took place on 22 June 2023. This followed on from the issue of the Court's opinion on 8 June 2023. Counsel for the Council were successful in persuading the Court to grant an order as proposed by the Council, rather than the wider order sought by the petitioners which would have resulted in the Council's entire policy on secondary letting being declared unlawful. The Council was also successful to a more limited degree in reducing the amount of expenses sought by the petitioners.
- 4.8 The Council gave an undertaking to the Court that it would clarify its position regarding how renewal applications would be dealt with, and this information has now been published on the Council's website [Licences-permits-applications](#). In effect, the clarification is consistent with the long-standing position that unless there is a material change in circumstances or complaint, the Council would expect to grant a renewal unless there had been a change of policy.
- 4.9 The Council also gave an undertaking to update the STL policy with information on renewal applications, and the policy (as amended to take account of the court order) now includes information on renewals at paragraphs 4.31 to 4.34 (of the Policy) to reflect the undertaking given to the Court.
- 4.10 Following the Court's decision, the Council sought legal advice on the prospects of success should it seek to appeal. Following consideration of that advice, consultation with Group Leaders and licensing spokespersons from each group, and taking account of the fact that any appeal would create continued uncertainty with regard to the STL licensing scheme, the Council decided not to lodge an appeal. Accordingly the Council must now implement the steps necessary to comply with the Court's decision.

### **Current STL Licensing Policy**

- 4.11 The Court's decision means that the Council's STL policy remains intact. However, there is a requirement to delete all references to the following three areas in the policy, since these have been quashed by the court:

- 4.11.1 The presumption against the grant of STL secondary letting licences in tenemental and shared main door properties;
- 4.11.2 The presumption against issuing temporary STL licences for all secondary letting;
- 4.11.3 The condition requiring carpets in secondary letting.
- 4.12 The following paragraphs of the policy originally agreed on 29 September 2022 are therefore deleted: 2.9, 4.13 - 4.16, 4.18 - 4.20. So too is Standard Condition 9 in Appendix 2. The remaining sections of the policy have been renumbered accordingly.
- 4.13 Taking account of these deletions and the additional text on renewals, the updated policy which is currently in effect is set out at Appendix 2.
- 4.14 The remainder of the STL policy remains intact. It is important to note that this means that the Council has an STL licensing policy in effect and can continue to process and determine applications for STL licences without being required to consult on, and thereafter agree, the terms of a new STL policy.

#### **Revised STL Licensing Policy**

- 4.15 The fact that the policy remains largely intact and has not been struck down provides options for next steps. Taking each aspect of the policy that was successfully challenged in turn, the undernoted paragraphs explain what this means in practice and sets out the intended next steps, subject to Committee agreement.

#### **Suitability of Tenemental Property for Secondary letting**

- 4.16 The issue which has been most contentious, and which was subject to the most scrutiny in the JR hearing, is whether tenemental and shared main door properties would be suitable for STL licences. The aspect of the policy which has been struck down would have required any applicant for secondary letting in such properties to overcome a rebuttable presumption in the Council's policy against the grant of STLs in tenemental and shared main door properties. Applicants would have had to persuade Committee of the exceptional circumstances which applied in their individual cases and why a STL licence should be granted, taking into account the presumption against the grant of a STL licence. The Court ruled that this went too far and that ordinarily it would be for the Council exercising its planning functions to determine whether a particular property was suitable for short-term letting. The Court ruled that the Council could consider individual cases, but should not adopt a general position against these properties within its licensing policy.
- 4.17 Any application for secondary letting in a tenemental or shared main door property will not now have to show that it is suitable. Rather the onus will be on the Council to demonstrate why it considers that the property should not be granted a licence, having regard to the terms of the Council's policy and the statutory grounds of refusal set out in the 1982 Act. Typically, any such consideration would come from dealing with an objection or representation in relation to a licence application. If there was no such objection or representation there would generally be no reason for the Council not to grant the application, having regard to the Council's policy and statutory grounds for refusal of an application.

- 4.18 Any application for secondary letting, including in a tenemental or shared main door property, will still be required to demonstrate that they have the requisite planning permission which would ordinarily have already dealt with issues of amenity. Any complaints about the impact of a STL licence having been granted for secondary letting (including in a tenemental or shared main door property) can be responded to by enforcement activity and/or at renewal of the licence.
- 4.19 The Licensing service therefore intends to operate the licensing system for STL letting and, in particular, secondary letting without any further review of the licensing policy at this time. As set out below this will be kept under review.

### **Temporary Licences for Secondary Letting**

- 4.20 The previous policy stated that temporary licences were not suitable for secondary letting. That aspect of the policy has been deleted following the Court ruling. This means that the Council is obliged to accept such applications and must consider them against the revised policy and the terms of the 1982 Act.
- 4.21 It is anticipated that the most likely category of applicants for temporary licences will be owners of Houses of Multiple Occupation (HMOs) who are seeking to let their properties as STLs during the summer or other term time holidays.
- 4.22 It is therefore proposed to operate the STL system on the basis that temporary licences may be sought by all STL licence types including secondary letting, and such applications will be considered on a case by case basis and granted unless there is a clear reason to refuse an application. Further, it is important to note that there is no right under the 1982 Act for members of the public to object to the grant of a temporary licence, and therefore it is anticipated that all but exceptional cases will be granted by officers under delegated powers.
- 4.23 Where sequential applications for temporary licences are made for an individual property, meaning that it is operating over a continuous and extended period of time, the Licensing service will encourage the operator to seek an annual licence. If, as a result, there is a concern or unresolved complaints about the impact of that particular property, then such applications will be referred to Committee for determination.
- 4.24 For the avoidance of doubt, it is recommended that Committee agrees that the fee structure previously agreed on 29 September 2022 for temporary STL licences will also apply to secondary letting.

### **Additional Licence Conditions**

- 4.25 The Court's judgement struck down additional licence condition STL9, which required carpeting or similar floor covering in all secondary letting. This condition has therefore been deleted from the additional local conditions which will apply to STL licences. When considering objections or complaints on a case by case basis, the Council can consider attaching a similar condition. However, the onus will be on the Council to demonstrate that it is reasonable and proportionate to do so in the circumstances of that case, rather than as a general approach. Applicants for STLs would have the right to make representations about any such condition at the time of determination.

### **Revised STL Licensing Policy**

- 4.26 It is acknowledged there may be concern that the deletion of elements of the STL policy could cause anxiety for residents in that they may now consider that

the protections from any adverse impacts of STLs to be insufficient. Equally, it is acknowledged that the challenge to the policy has added uncertainty for STL operators seeking to understand the Council's agreed licensing scheme. If the Council were to decide to review its STL licensing policy in full at this time, then this could add to a continuation of that uncertainty at a crucial time in the run-up to the 1 October 2023 deadline for existing operators. It is therefore recommended that a review is not commenced at this time beyond the amendments required to the policy to take account of the decision in the JR and the Council's commitment to the Court to add information about the renewal of STL licences to the policy.

- 4.27 As explained above, the Council committed to review the period of grant for STL secondary licences within 18 months (i.e. by March 2024). That date was intended to be 12 months after the deadline for existing operators to have submitted an application (31 March 2023). However, this deadline has been delayed by six months due to legislative change. It is therefore recommended that any such review and its terms should be considered in a report to Committee before the summer recess of 2024. If the operation of the revised policy in respect of impact on secondary letting, temporary licences and additional licence conditions causes unforeseen concerns, then this would provide an opportunity for Committee to decide the need for a wider review at that time.
- 4.28 An issue around the correct interpretation of the paragraph in the legislation dealing with temporary exemptions has been raised with the Council subsequent to the Judicial Review. Paragraph 4.17 of the Council's STL policy reflects the relevant Scottish Government guidance to licensing authorities in that it states that only one exemption may be granted in any 12 month period. This restriction to a single exemption has been questioned. The Council has received advice on this and a further report on this point will be provided once officers have considered the advice and liaised with relevant stakeholders, including the Scottish Government.

#### **Outstanding Remit from Regulatory Committee on 6 February 2023**

- 4.29 There is an outstanding remit to update Committee on the date for existing operators to apply for a STL Licence. This was delayed by the Scottish Government amending the STL legislation and moving the effective date from 1 April 2023 to 1 October 2023. As at the date of writing, the position of Scottish Ministers is that no further delay will be required, but the Scottish Government continues to be under pressure from the STL sector to agree to a further delay. The practical effects of the revised date and the uncertainty arising from the JR in Edinburgh are that most existing operators have not yet applied for an STL licence. It is acknowledged that some will also be awaiting the outcome of planning applications, and this could be a further factor in respect of the low numbers of STL applications received.
- 4.30 The Licensing service expects (and has advised Scottish Government) that the vast majority of STL applications will be received in the final few weeks before the 1 October 2023 deadline. If there is any change to the current transitional arrangements then Committee will be so advised at the earliest opportunity.

## **Revised Guidance to Licensing Authorities**

- 4.31 The Scottish Government originally published guidance for licensing authorities in March 2022. The guidance was drafted with input from a stakeholder working group, to which the Council contributed.
- 4.32 On 30 June 2023 the Scottish Government produced revised guidance for licensing authorities, having taken on board feedback from SOLAR's short-term let working group, of which Council officers and Visit Scotland's Industry Advisory Group formed a part. Revised guidance was also issued for hosts and operators. Along with providing feedback as part of the SOLAR working group, Council officers provided feedback directly to Scottish Government on behalf of the Council. Links to the updated guidance can be found in section 8 of this report. The determination of any application will take into account all guidance which is relevant at the time of consideration.

## **5. Next Steps**

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- 5.1 The revised policy will be published and kept under review. An update report will be submitted before the summer recess in 2024 setting out the scope of any required review of the STL policy.

## **6. Financial impact**

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- 6.1 Any costs incurred for implementing policy are not currently included within the service budget, however the fees previously set by the Council are intended to recover these costs.
- 6.2 Information on the full cost of defending the JR is not yet known and will be provided to Committee once available.

## **7. Stakeholder/Community Impact**

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- 7.1 The report previously provided to Committee on [29 September 2022](#) set out the required information for this section. There has been no change to the policy other than that which is required as a result of the court judgement.
- 7.2 Paragraph 4.25 and 4.26 sets out when it is intended to further review the policy at which time a full consultation with stakeholders will be completed.

## **8. Background reading/external references**

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- 8.1 [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022](#)
- 8.2 [Short-term Lets: New Licensing Powers Consultation – Regulatory Committee – 31 March 2022](#)
- 8.3 [Short-term Letting in Edinburgh Update – Corporate Policy and Strategy Committee – 14 May 2019](#)
- 8.4 [Short-Term Lets – Part 1 – Guidance for hosts and operators – Scottish Government](#)
- 8.5 [Short-Term Lets – Part 2 – Supplementary guidance for licensing authorities, letting agents and platforms](#) [Scottish Government](#)

## **9. Appendices**

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- 9.1 Appendix 1 – Current STL Application Figures
- 9.2 Appendix 2 – Updated STL Licensing Policy following the Interlocuter of the Court dated 22 June 2023

## **Appendix 1**

Applications granted.	144
Applications refused.	0
Applications withdrawn.	12
Applications in process	123
<b>Total STL applications received.</b>	<b>279</b>

Figures as at 1 August 2023



## **Appendix 2**

# **City of Edinburgh Council Short-term Lets Licensing Policy**

## **Introduction**

- 1.1 The City of Edinburgh Council (“the Council”) is required to regulate short-term lets (STLs) through the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the 2022 Order), which brings STL within the scope of licensable activities covered by the statutory provisions of the Civic Government (Scotland) Act 1982 (the 1982 Act).
- 1.2 The Council’s Regulatory Committee agreed this policy on 29 September 2022 following two periods of public consultation.
- 1.3 The Council must prepare a statement of its policy with respect to the exercise of its functions in relation to the licensing of STL. This policy provides information on the following areas:
  - 1.3.1 Licence Duration and Renewal
  - 1.3.2 Temporary Licences
  - 1.3.3 Temporary Exemptions
  - 1.3.4 Additional Conditions which will apply
  - 1.3.5 Compliance and Enforcement
- 1.4 This policy provides guidance for prospective applicants, existing licence holders and those who may wish to object to an application. The Council will have regard to the terms of its policy when determining applications. This policy will be reviewed and revised when necessary.
- 1.5 The key aims of licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime for STL allows the Council to take into account local circumstances when setting out its licensing policy and to exercise appropriate control and regulation to ensure any STL premises licensed meet the requisite safety standard.

## **Key Dates**

- 1.6 Owners or operators of STL accommodation should note the key dates for the implementation of the STL licensing scheme set out below:

Date	Hosts operating a STL before 1 October 2022	Never operated a STL before 1 October 2022
1 October 2022	<ul style="list-style-type: none"> <li>• You can continue to operate your premises as a STL - must comply with existing laws and regulations;</li> <li>• You must apply to the Licensing Authority where your premises is situated for a STL licence before 1 April 2023; and</li> <li>• If your STL Licence application is refused by the Licensing Authority you must stop using your premises as a STL within 28 days of the decision</li> </ul>	<ul style="list-style-type: none"> <li>• Must not operate a STL without a licence being granted by the Licensing Authority where your premises is situated;</li> <li>• If you wish to operate a STL you must apply to the Licensing Authority in which your premises is situated;</li> </ul>
1 October 2023	<ul style="list-style-type: none"> <li>• Can only operate without a licence if a STL licence application has been submitted to the Licensing Authority where your premises is situated, and it has not been refused; and</li> <li>• You must stop operating as a STL if your application is refused by the Licensing Authority, subject to appeal</li> </ul>	Same as above
1 July 2024	All hosts must have a STL licence.	Same as above

## Definition of a Short-term Let as set out in the 2022 Order

- 2.1 As per the terms of the 2022 Order, “short-term let” (STL) means the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met –
- 2.1.1 The guest does not use the accommodation as their only or principal home
- 2.1.2 The STL is entered into for commercial consideration
- 2.1.3 The guest is not –
- An immediate family member of the host,
  - Sharing the accommodation with the host for the principal purpose of advancing the guest’s education as part of an arrangement made or approved by a school, college or further or higher education institution, or
  - An owner or part-owner of the accommodation
- 2.1.4 The accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host’s household
- 2.1.5 The accommodation is not [excluded premises](#), and
- 2.1.6 The STL does not constitute an [excluded tenancy](#).
- 2.2 “Secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or not part of, the licence holder’s only or principal home.
- 2.3 “Home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home.
- 2.4 “Home sharing” means a short-term let consisting of the entering of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home.
- 2.5 “Accommodation” includes the whole or any part of a premises.
- 2.6 “Host” means a person who is the owner, tenant or person who otherwise exercises control over occupation and use, of the accommodation which is the subject of a STL.
- 2.7 “Guest” means a person who occupies accommodation under a short-term let.
- 2.8 It must be noted that the above definitions are set out in legislation and the Council has no discretion in this regard.

## Types of Short-term Let Licence

- 3.1 The Council will consider licence applications for the following types:
- a. Secondary Letting
  - b. Home Letting
  - c. Home Sharing or
  - d. Home Letting and Home Sharing

## STL Application Process

- 4.1 Where appropriate, the Council will grant a STL licence for the following time periods:
- a. Secondary Letting – 1 year
  - b. Home Letting – 3 years
  - c. Home Sharing – 3 Years
  - d. Home Letting and Home Sharing – 3 Years
- 4.2 An application for the grant, variation or renewal of a full licence must be made to the Council together with the appropriate fee and layout plan, as well as providing copies of the following certification – *please only provide copies of documents as originals will not be returned*:
- a. Annual Gas Certificate (for accommodation with a gas supply)
  - b. Current Electrical Installation Condition Report
  - c. Annual Portable Appliance Test Certificate
  - d. For secondary letting only, Planning permission under the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for the use of the premises as a STL; or proof that an application for planning permission has been made under the 1997 Act, which has not yet been determined; or proof that planning permission is not required (for example, a certificate of lawfulness).
- 4.3 As part of the application process, applicants will be required to confirm, by self-declaration, that the following documentation is held for the accommodation:
- a. Current Fire Safety Risk Assessment – (required for new and any

subsequent renewal applications or where there has been a change to the number of occupants)

- b. Current Energy Performance Certificate
  - c. Current Building Insurance Certificate
  - d. Current Public Liability Insurance Certificate
  - e. Current legionella risk assessment
  - f. Annual Emergency Lighting Certificate (Secondary letting only, for accommodation with 5 occupants and above)
- 4.4 An application, whether for a new licence or the renewal of an existing licence, will only be considered as complete if it comprises of the completed application form accompanied by all copies of required certificates and layout plan. Any applications deemed to be incomplete will be returned and not processed.

Notice of Application (excluding temporary licences and temporary exemptions)

- 4.5 The applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 consecutive days from the date the application is lodged with the Council. A copy of a display notice can be downloaded from the Licensing Service website. As soon as possible after the expiry of the period of 21 days, the applicant shall submit to the Council a certificate (available online) which states that a notice was duly exhibited for the required period.
- 4.6 The notice will include the following information, as required by the 1982 Act:
- a. The type of licence applied for (Secondary Letting, Home Letting, Home Sharing or Home Letting and Home Sharing);
  - b. If applying as an individual, the applicant's full name and address. If not applying as an individual, the full name of the organisation together with the registered or principal office address, names of directors or persons responsible for the management of the premises;
  - c. Person responsible for the day to day management of the premises
  - d. Address of the STL premises;
  - e. The number of bedrooms in the premises;
  - f. The maximum number of occupants for the premises;
  - g. Details of any other SLT licences that have been granted to the applicant (included on the application form);

- h. The name and address of the owner(s) where the applicant is not the owner of the premises or on the land on which the premises is located (included on the application form);
  - i. Confirmation that the owners consent to the application for the property to be used as a STL (included on the application form);
  - j. Where objections and representations in relation to the application can be made to, the 28 day timescale for submitting an objection or representation and the statutory requirements of an objection or representation (in writing, providing name and address etc).
- 4.7 The application fee table for licence applications can be found [here](#)
- 4.8 Applicants should note that the application fee is non-refundable in the event of the licence application being refused or being withdrawn prior to determination. To view the Council's policy on refunds, click [here](#).

#### Evidence of Operation as a STL before 1 October 2022

- 4.9 Where an applicant has been operating a STL before 1 October 2022, the applicant will be required to certify this when submitting a STL licence application. Checks to confirm this may be made by the Council.

#### Links With Planning

- 4.10 On 27 July 2022, Scottish Ministers approved plans to designate the City of Edinburgh Council area as a STL control area. It requires residential accommodation owners wholly letting accommodation, which is not their principal home, as a STL in the Council area, to apply for planning permission for a 'change of use' to a STL. The designation came into effect on 5 September 2022.
- 4.11 It is a mandatory condition of licence that a host or operator has planning permission or has made an application for planning permission where all of the following conditions apply
- a. The accommodation is in a STL control area;
  - b. The accommodation is being used for secondary letting; and
  - c. It is a dwelling house. (*Notwithstanding the definition of a dwelling house in the Town and Country (Use Classes) (Scotland) Order 1997, the definition of dwelling house for the purposes of this policy shall include flatted residential accommodation*).
- 4.12 In these circumstances, the host or operator must have made an application for planning permission or already have planning permission or have proof that planning permission is not required before they apply for a licence.

### Temporary Licences

- 4.13 As per paragraph 7(1) of Schedule 1 of the 1982 Act, the Council can issue temporary licences for STL, which may be granted for a duration of up to 6 weeks. Temporary licences cannot be renewed under the 1982 Act.
- 4.14 Any temporary licence which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.15 Temporary licences will also be subject to the additional conditions set out in the Council's STL Conditions Framework.
- 4.16 The fee for temporary licence applications can be found [here](#)

### Temporary Exemptions

- 4.17 As per paragraph 1A of Schedule 1 of the 1982 Act, the Council can grant a temporary exemption to the requirement to have a STL licence. Under the terms of the 1982 Act, temporary exemptions can be issued for a specified single continuous period not exceeding 6 weeks in any period of 12 months. The 6 weeks limit on a licence is a maximum, and not a default.
- 4.18 The Council may grant temporary exemptions to the requirement to obtain a STL licence in certain circumstances as set out below:
  - a. During Edinburgh Festival Fringe and Edinburgh International Festival
  - b. During Edinburgh's Christmas & Hogmanay Festive Period
  - c. For Major Sporting Events
  - d. For Major International Events
- 4.19 Temporary Exemptions will be issued for the following types of let:
  - a. Home Letting;
  - b. Home Sharing;
  - c. Home Letting and Home Sharing; and
  - d. Secondary Letting
- 4.20 The licensing service will aim to process and determine a temporary exemption application within 3 months of the application being received.
- 4.21 Any temporary exemption which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
- 4.22 Temporary exemptions will also be subject to the additional licence conditions set out in the Council's STL Conditions Framework at appendix two.

4.23 The fee for a temporary exemption application can be found [here](#)

#### Accommodation Inspections

4.24 Inspections of STL accommodation, as part of the application process, will be undertaken on a risk-based approach.

#### Making an Objection or Representation

4.25 It is possible for any person to submit an objection or representation in respect of the grant of an application for a full STL licence. Objections must be made in writing (emails are accepted) and sent to the Licensing Service ([licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk)) within 28 days of the application being advertised. If an objection is lodged out with this period, it must explain why it has been lodged late. It would then be a matter for the Council to consider the explanation and if it is satisfied that there is sufficient reason why the objection was not made in the time required.

4.26 The 1982 Act does not provide for objections or representations in respect of temporary licence applications or temporary exemption applications.

4.27 To be considered as competent, objections or representations should include the following information:

- a. The name and address of the person or organisation making the objection or representation
- b. The accommodation to which the objection or representation relates
- c. The grounds of objection or representation, and
- d. The objection or representation must be signed by the objector, or on their behalf

#### Determining an Application

4.28 Each STL application will be considered on its own merits having regard to the terms of the relevant statutory provisions, Scottish Government guidance and this policy. The process by which an application is determined will be in accordance with the Council's Committee terms of reference and the scheme of delegation.

#### Timescale for Determining Applications

4.29 Under the terms of the 1982 Act, the Council has 9 months in which to determine a STL application from the date it is received with all the required documentation.

4.30 For those applications which were received prior to 1 April 2023 where the STL operated prior to 1 October 2022, the Council will have 12 months to determine the application.

#### Renewal Applications



- 4.31 Under the 1982 Act, if an application for a STL licence renewal application has been made to the Council before the expiry date of the current licence, the licence will continue in effect until a final decision has been made by the Council on the renewal application. Where an appeal has been lodged with the sheriff clerk within 28 days of the decision, the existing licence will remain in effect until such time as the appeal has been determined by the Sheriff Court.
- 4.32 The process for applying for a renewal of a STL licence is the same as when applying for a new STL licence, as set out above. As with new applications, the Council requires to consider applications for renewal of licences taking into consideration the statutory grounds for refusal of a licence set out in the 1982 Act. Temporary licences cannot be renewed under the 1982 Act.
- 4.33 However, an existing STL licence is likely to be renewed unless there has been a change of circumstances since the last determination of the licence. Such circumstances could include any changes to STL regulation or the Council's STL licencing policy; enforcement action by the Council in respect of the existing licence; and any objections or representations received regarding the renewal application under the 1982 Act. Where any of these circumstances apply then the renewal application may be referred to a meeting of the Licensing Sub-Committee for determination

#### Material Change in Circumstances

- 4.34 The licence holder must notify the Council in writing, as soon as is reasonable, where there is a material change in circumstances affecting the licence holder or the STL accommodation.

#### Compliance & Enforcement

- 4.35 The Council will seek to work with hosts, residents and other interested parties to ensure compliance with legislative requirements and to be satisfied the accommodation is safe for use.
- 4.36 General enforcement costs will be included in the fees for new and renewal STL licence applications. The Council will charge a separate fee to a licence holder for a visit to their accommodation, where the visit results from their failure to comply with licence conditions or a complaint relating to the accommodation. The Council notes the Scottish Government guidance on frivolous or vexatious complaints in this regard.
- 4.37 Where complaints are received in relation to the operation of a licensed STL accommodation, the Council will seek to resolve it through engagement with the host or operator in the first instance.

- 4.38 Information on how to make a complaint in against a STL licence holder or in respect of the operation of the licenced STL can be found on the Licensing Service website.
- 4.39 Where appropriate other enforcement options will be considered, which include:
- a. Additional licence conditions applied on determination of an application or through variation of an existing licence;
  - b. Compliance notices;
  - c. Variation, suspension or revocation of licence; or
  - d. Report to the Procurator Fiscal of any alleged offences under the 1982 Act.
- 4.40 A fee will be charged for an inspection following a complaint, where it is found that there are also compliance issues, whether or not those are the issues that were the subject of the complaint.
- 4.41 Where a fee is charged for inspections, the Council will produce a report of its findings to the host or operator within 28 days of the inspection.

## Conditions

- 5.1 The Council can grant or renew a STL licence on such terms and conditions as it considers appropriate. This will typically take the form of the mandatory conditions, applicable to all STL accommodation by way of the 2022 Order, as well as the additional conditions agreed by the Council's Regulatory Committee on 29 September 2022.
- 5.2 Under the 2022 Order, there are specific conditions which the Council must attach to all types of STL licence. These are known as the "mandatory conditions" and are found at appendix one of this policy. It should be noted that the Council has no power to amend these mandatory conditions.
- 5.3 The 2022 Order affords the Council the power to set certain conditions, where necessary, which can address any local concerns or issues. These are known as "additional conditions". These conditions are found at appendix two and shall apply to every full licence granted, varied or renewed by the Council, unless they have been expressly excluded or varied. The additional conditions shall also apply to every temporary licence or temporary exemption granted or varied by the Council.
- 5.4 It is an offence to operate a STL without a licence or contravene a condition of any granted licence. Licence holders alleged to be breaching the conditions of their licence may be referred to the Licensing Sub-Committee for consideration of suspension or revocation of the STL

licence.

## **Review**

6.1 This policy will be reviewed every three years or more frequently, if required

## Appendices

### Appendix 1 – Mandatory Conditions

#### Agents

1. Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.

#### Type of licence

2. The holder of the licence may only offer the type of short-term let for which the licence has been granted.

#### Fire safety

3. The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of— (a) fire or suspected fire, and (b) the presence of carbon monoxide in a concentration that is hazardous to health.
4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

#### Gas safety

5. Where the premises has a gas supply—
  - (a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises,
  - (b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

#### Electrical Safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must— (a) ensure that any electrical fittings and items are in— (i) a reasonable state of repair, and (ii) proper and safe working order, (b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person, (c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations, (d) arrange for a competent person to— (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and (ii) date label and sign all moveable appliances which have been inspected.
7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006.

#### Water Safety: Private Water Supplies

8. Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.

#### Water Safety: Legionella

9. The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.

## Safety and Repair Standards

- 10.**(1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.  
(2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

## Maximum Occupancy

- 11.** The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

## Information to be Displayed

- 12.** The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests—
- (a) a certified copy of the licence and the licence conditions,
  - (b) fire, gas and electrical safety information,
  - (c) details of how to summon the assistance of emergency services,
  - (d) a copy of the gas safety report,
  - (e) a copy of the Electrical Installation Condition Report, and
  - (f) a copy of the Portable Appliance Testing Report.

## Planning Permission

- 13.** Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either—
- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
  - (b) planning permission under the 1997 Act is in force.

## Listings

- 14.**(1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes—
- (a) the licence number, and
  - (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.
- (2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

## Insurance

- 15.** The holder of the licence must ensure that there is in place for the premises—
- (a) valid buildings insurance for the duration of the licence, and
  - (b) valid public liability insurance for the duration of each short-term let agreement.

## Payment of Fees

- 16.** The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.

## False or Misleading Information

- 17.** The holder of the licence must not provide any false or misleading information to the licensing authority.

## Interpretation for the Mandatory Conditions In this schedule—

**"Electrical Installation Condition Report"** means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected, any defect identified,
- (e) any action taken to remedy a defect.

**"Energy Performance Certificate"** means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

**"gas safety report"** means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
  - (i) the effectiveness of any flue,
  - (ii) the supply of combustion air,
  - (iii) subject to head, (iv) its operating pressure or heat input or, where necessary, both,
  - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
  - (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

**"holder of the licence"** means any person to whom a short-term let licence has been granted or jointly granted,

**"home letting"** means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host's only or principal home,

**"home sharing"** means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host's only or principal home,

**"premises"** means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

**"repairing standard"** means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

**"secondary letting"** means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder's only or principal home,

**"short-term let"** has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,

**"short-term let licence"** means a licence for a short-term let, and

**"type of short-term let"** means one of the following purposes—

- (a) secondary letting,
- (b) home letting,
- (c) home sharing, or
- (d) home letting and home sharing.

## Appendix 2 – Additional Conditions

### Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 - Additional Short-term Let Licensing Conditions

<b>STL 1</b>	The licence holder must ensure that advice to guests on action to be taken in the event of an emergency is clearly and prominently displayed within the accommodation.
<b>STL 2</b>	To secure and maintain public order and safety and to prevent undue public nuisance, the licence holder must have in place, so far as is reasonably practicable, arrangements, (such as the provision of keys or other means of entry and egress) which at all times permits the quiet and orderly entry to, and egress from, the licensed property by any persons occupying the said property as a STL.
<b>STL 3</b>	The licence holder must make the licence, including any conditions, available to guests within the accommodation where it can be conveniently read.
<b>STL 4</b>	The licence holder must take reasonable steps to manage the accommodation in such a way as to prevent and deal effectively with any anti-social behaviour by guests while in the STL or any shared areas and while entering or leaving the accommodation or any shared areas.
<b>STL 5</b>	<p>The licence holder must take all reasonable steps to manage the premises in such a way as to prevent undue nuisance to neighbours. The licence holder must have due regard to the privacy and security of neighbours.</p> <p>The licence holder must ensure:</p> <ul style="list-style-type: none"><li>• Any particular rules applying to shared areas and entrances are communicated to guests;</li><li>• Guests understand that shared doors should be quietly and securely closed after use.</li></ul>

<b>STL 6</b>	An emergency contact telephone number for the licence holder and/or management shall be available and notified to the Council for 24-hour contact purposes for emergencies or antisocial behaviour from the accommodation.
<b>STL 7</b>	The licence holder shall give a neighbour notification to every other household in the same building as the STL accommodation, and any adjoining premises within 28 days of the licence holder's receipt of the licence document, and annually thereafter while the accommodation is licensed as a STL. This will advise of the name of the licence holder or managing agent, a contact address, day-time telephone number and an emergency contact number.
<b>STL 8</b>	The licence holder shall ensure that adequate facilities are provided for the storage and disposal of refuse, and recycling. The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of bins for collection at the appropriate time and day.



# Planning Committee

2.00pm, Wednesday, 13 September 2023

## Addressing the Nature Emergency through Planning

Executive/routine  
Wards

All

### 1. Recommendations

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- 1.1 It is recommended that Planning Committee notes:
  - 1.1.1 The information provided in this report, requested by Planning Committee on [24 March 2023](#) in response to the Annual Review of Guidance report; and
  - 1.1.2 The policy and guidance framework in Appendix 1, which sets out how the Planning system and development proposals should respond to the nature emergency.

**Paul Lawrence**

Executive Director of Place

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## Addressing the Nature Emergency through Planning

### 2. Executive Summary

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- 2.1 This report sets out the context for the Planning response to the nature emergency. The information in this report was requested by an amendment to the Annual Review of Guidance report, agreed at Planning Committee on 24 March 2023. Current Planning policy and guidance relating to the nature emergency and biodiversity are contained within [National Planning Framework 4 \(NPF4\)](#), [NatureScot guidance](#), [Edinburgh Local Development Plan](#), [Edinburgh Design Guidance](#) and other Council supplementary [Planning Guidance](#). Emerging policies in the draft [City Plan 2030](#) are also outlined here, along with what is known about additional national guidance expected later in 2023.

### 3. Background

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- 3.1 The nature and climate emergencies are well documented. The need for transformational change in the responses to these is shaping legislation, policy and strategy in Scotland. In NPF4, the new policy framework gives significant weight to consideration of the climate and nature emergencies for all development proposals. The Council declared a Climate Emergency in 2019 and a Nature Emergency in February 2023. Other national responses which are relevant to the Planning system include the requirement for each local authority to have a [Nature Network](#) in place by 2026. There is also a national commitment to meet the “[30x30](#)” target to protect 30% of land for nature by 2030. Development Plans have a critical role to play to minimise impacts and create opportunities for nature recovery, by using spatial planning to guide land use, protect existing important sites for nature and emerging nature networks.

### 4. Main report

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- 4.1 This report sets out the context for the Planning response to the nature emergency. The information in this report was requested by Planning Committee on 24 March 2023.

- 4.2 The relevant documents for assessing development proposals in relation to the natural environment, are summarised below. A list of the relevant policies and guidance is contained in Appendix 1. The relevant documents are National Planning Framework 4 (NPF4), Developing with Nature guidance by NatureScot, Edinburgh Local Development Plan, Edinburgh Design Guidance and other Council supplementary Planning Guidance. Emerging policies in the draft City Plan 2030 are also outlined here, along with what is known about additional national guidance expected later in 2023. The draft [Scottish Biodiversity Strategy](#) is also important, particularly in relation to [Nature Network and 30x30 targets](#), and how these relate to Local Development Plans.
- 4.3 In response to the nature emergency, NPF4, adopted in February 2023, sets out a significant policy shift for assessing all development proposals. In particular, policies 1, 3 and 4 give significant weight to considering biodiversity when assessing development proposals. Policy 3 requires development to contribute to enhancement of biodiversity and integrate nature-based solutions. Policy 4 requires natural assets and nature rich places to be protected, restored and enhanced. NPF4 requires future Local Development Plans to support these aims, alongside Nature Networks. In addition, Policy 5 Soils and Policy 6 Forestry, Woodlands and Trees set out the requirements for these particular habitats and are summarised in Appendix 1. All of these matters can be considered at pre-app and planning application stage.
- 4.4 The adopted Edinburgh Local Development Plan policy framework is now superseded, where relevant, by NPF4. The exception to this for biodiversity policies, is that part of Policy Env 15 (Sites of Local Importance) which relates to Local Nature Reserves. This policy is not replaced by the content of NPF4 and therefore still applies.
- 4.5 The [Developing with Nature](#) guidance published by NatureScot in spring 2023 further supports these NPF4 policies. In particular, it is aimed at informing policy 3(c) and sets out how well-designed developments, which integrate nature-based solutions, can provide multiple benefits. Considering biodiversity from the outset of development proposals, and application of the [mitigation hierarchy](#), are essential. This ensures that existing biodiversity is protected. Assessing development proposals against this guidance will also help to deliver positive benefits for biodiversity. This can mean protection and restoration of existing natural areas, creating new natural features and habitats, or creating artificial homes for wildlife such as nesting bricks. Where mitigation is required, any measures should support national or local priorities. Local priorities are informed by the [Edinburgh Biodiversity Action Plan 2022-27](#).
- 4.6 The existing Edinburgh Design Guidance, along with others such as [Guidance for Householders](#), also contain information which explains how to avoid negative impacts on nature and measures which can increase biodiversity through development. For many years, Planning guidance in Edinburgh has encouraged

measures such as artificial swift bricks in new developments. The Edinburgh Design Guidance is currently under review and will be further updated, as required, to support the new NPF4 policies.

- 4.7 Biodiversity policies in the draft City Plan 2030 were created to align with NPF4 and strengthen previous Local Development Plan policies. Draft policies Env 21 and Env 37, included in Appendix 1, were developed to deliver protection and positive outcomes for biodiversity. Like NPF4, the new draft policies go further than previous policies. They seek to ensure that nature rich places are protected wherever they are found and widen the focus out from designated sites. They are similarly designed to protect a larger number of [priority species](#), and not just the small number of species with legal protection. The ability to require positive outcomes for biodiversity is strengthened by incorporation in policy for the first time, instead of guidance.

## 5. Next Steps

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- 5.1 At a recent online awareness session run by NatureScot and Scottish Government, it was announced that further national guidance on the implementation of the new NPF4 biodiversity policies is in preparation and expected later in 2023. This is expected to include information on metrics for biodiversity.
- 5.2 The Edinburgh Design Guidance review is underway and will incorporate any required updates to the biodiversity information to support NPF4 policies.
- 5.3 Consultations on the [Scottish Biodiversity Strategy](#), Delivery Plans, Framework for [30x30 and Nature Networks](#) are all expected later in 2023.

## 6. Financial impact

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- 6.1 There are no financial impacts arising from this report.

## 7. Equality and Poverty Impact

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- 7.1 There are no equality or poverty impacts arising from this report.

## 8. Climate and Nature Emergency Implications

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- 8.1 Protecting and enhancing the natural environment through development supports nature recovery and also creates resilience to the impacts of climate change.

## 9. Risk, policy, compliance, governance and community impact

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- 9.1 No impact assessment is required as a result of the information in this report.

## **10. Background reading/external references**

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- 10.1 Annual Review of Guidance [paper and amendment](#) from Planning Committee 24 March 2023.

## **11. Appendices**

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- 11.1 Appendix 1 - Policies and guidance relating to the nature emergency and biodiversity.

## Appendix 1 - Policies and guidance relating to the nature emergency and biodiversity

Table 1 summary of Policy and guidance documents

Title	Owner	Current Status and Date	Relevant policy/guidance description
Edinburgh Local Development Plan	CEC	Adopted November 2016	Environment 15 where it relates to protection of Local Nature Reserves.
National Planning Framework 4	Scottish Government	Adopted February 2023	Policy 1, Policy 3, Policy 4 relating to biodiversity. Policy 5 Soils and Policy 6 Forestry, Woodlands and Trees. See Table 3 for policy wording.
Draft City Plan 2030	CEC	Submitted for examination on 9 December 2022	See draft policy wording below in table 2.
<b>Non Statutory Planning Guidance</b>			
Developing with Nature	NatureScot	Published spring 2023	<p>This guidance sets out how well-designed developments, which integrate nature-based solutions, can provide multiple benefits. It outlines the approach required when preparing or assessing development proposals, to protect and enhance biodiversity:</p> <ul style="list-style-type: none"> <li>• Apply the mitigation hierarchy</li> <li>• Consider biodiversity from the outset</li> <li>• Provide synergies and connectivity for nature</li> <li>• Integrate nature to deliver multiple benefits</li> <li>• Prioritise on-site enhancement before off-site delivery</li> <li>• Take a place-based and inclusive approach</li> <li>• Ensure long term enhancement is secured</li> <li>• Selecting the measures that are appropriate</li> <li>• Information to include in the Planning Application</li> <li>• Determining the scale of enhancement to be delivered by development</li> </ul>

Title	Owner	Current Status and Date	Relevant policy/guidance description
			<ul style="list-style-type: none"> <li>• Include appropriate measures to enhance biodiversity, including habitat creation through planting and provisions such as nesting and roosting boxes.</li> </ul>
Edinburgh Design Guidance	CEC	Approved January 2020. Currently under review.	Contains a chapter on biodiversity which sets out the required approach relating to the mitigation hierarchy and protected sites and species assessments. The mitigation hierarchy requires that any adverse impacts are avoided where possible, minimised where unavoidable, and mitigated where required. Recommends provision for artificial structures including bat and swift bricks.
Guidance for Householders	CEC	Initially approved in December 2012 and incorporates minor amendments approved in February 2016, March 2018 and February 2019.	Includes provisions for avoiding impacts on protected species.

**Table 2 proposed City Plan 2030 policies**

<b>Policies in proposed City Plan 2030 - not yet adopted</b>			
Environment 21 - Protection of Biodiversity	CEC	Proposed City Plan 2030 not yet adopted	All proposals should safeguard habitat features of biodiversity value and priority species. This includes sites and species identified in the Edinburgh Biodiversity Action Plan (EBAP) and Green Blue Network section of the Edinburgh Design Guidance.
Environment 37 - Designing in positive effects for biodiversity	CEC	Proposed City Plan 2030 not yet adopted	So far as applicable to the scale and nature of the development, proposals must have a positive effect on biodiversity by ensuring proposals follow the sequence of principles below: a. Avoid impact wherever possible by identifying existing species, spaces and features of biodiversity on-site and including these within new developments b. Where impact cannot be avoided this effect must be minimised, for example by prioritizing the retention of the most important areas for ecological networks . Any remaining adverse impacts must be wholly mitigated by new biodiversity measures d. Additional improvements must then be included to tilt the balance of impact from neutral to an overall positive effect for biodiversity, for example through incorporating measures to improve the conservation status of notable species. Consideration of biodiversity should include, but is not limited to, soils, habitat networks and environmental quality within and linking to a site.



**Table 3 NPF4 Policies relating to biodiversity**

<b>NPF4 Policy number</b>	<b>Owner</b>	<b>Title</b>	<b>Policy wording</b>
1	Scottish Government	Tackling the climate and nature crises	When considering all development proposals significant weight will be given to the global climate and nature crises.
3a	Scottish Government	Biodiversity	Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

NPF4 Policy number	Owner	Title	Policy wording
3b	Scottish Government	Biodiversity	<p>Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:</p> <ul style="list-style-type: none"> <li>i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;</li> <li>ii. wherever feasible, nature-based solutions have been integrated and made best use of;</li> <li>iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;</li> <li>iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and</li> <li>v. local community benefits of the biodiversity and/or nature networks have been considered.</li> </ul>

NPF4 Policy number	Owner	Title	Policy wording
3c	Scottish Government	Biodiversity	Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of (b) above, are excluded from this requirement.
3d	Scottish Government	Biodiversity	Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal: <ul style="list-style-type: none"> <li>i. will support meeting renewable energy targets; or,</li> <li>ii. is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area.</li> </ul> All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration.
4a	Scottish Government	Natural places	Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.
4b	Scottish Government	Natural places	Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an “appropriate assessment” of the implications for the conservation objectives.

NPF4 Policy number	Owner	Title	Policy wording
4c	Scottish Government	Natural places	<p>Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:</p> <ul style="list-style-type: none"> <li>i. The objectives of designation and the overall integrity of the areas will not be compromised; or</li> <li>ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.</li> </ul> <p>All Ramsar sites are also European sites and/ or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.</p>
4d	Scottish Government	Natural places	<p>Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:</p> <ul style="list-style-type: none"> <li>i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or</li> <li>ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.</li> </ul>
4e	Scottish Government	Natural places	<p>The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.</p>

NPF4 Policy number	Owner	Title	Policy wording
4f	Scottish Government	Natural places	Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application.
4g	Scottish Government	Natural places	Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal: <ul style="list-style-type: none"> <li>i. will support meeting renewable energy targets; or,</li> <li>ii. is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area.</li> </ul> All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration.
5a	Scottish Government	Soils	Development proposals will only be supported if they are designed and constructed: <ul style="list-style-type: none"> <li>i. In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and</li> <li>ii. In a manner that protects soil from damage included from compaction and erosion, and that minimises soil sealing.</li> </ul>

NPF4 Policy number	Owner	Title	Policy wording
5b	Scottish Government	Soils	<p>Development proposals on prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, as identified by the LDP, will only be supported where it is for:</p> <ul style="list-style-type: none"> <li>i. Essential infrastructure and there is a specific locational need and no other suitable site;</li> <li>ii. Small-scale development directly linked to a rural business, farm or croft or for essential workers for the rural business to be able to live onsite;</li> <li>iii. The development of production and processing facilities associated with the land produce where no other local site is suitable;</li> <li>iv. The generation of energy from renewable sources or the extraction of minerals and there is secure provision for restoration; and In all of the above exceptions, the layout and design of the proposal minimises the amount of protected land that is required.</li> </ul>
5c – 5e	Scottish Government	Soils	<p>In summary, these policy sections have various requirements for development proposals in areas of:</p> <ul style="list-style-type: none"> <li>1. Peatland, carbon rich soils or peatland priority habitat</li> <li>2. New commercial peat extraction.</li> </ul>
6a	Scottish Government	Forestry, Woodlands and Trees	<p>Development proposals that enhance, expand and improve woodland and tree cover will be supported.</p>
6b	Scottish Government	Forestry, Woodlands and Trees	<p>Development proposals will not be supported where they will result in:</p> <ul style="list-style-type: none"> <li>i. Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;</li> <li>ii. Adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;</li> <li>iii. Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy;</li> </ul>

NPF4 Policy number	Owner	Title	Policy wording
			iv. Conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.
6c	Scottish Government	Forestry, Woodlands and Trees	Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered.
6d	Scottish Government	Forestry, Woodlands and Trees	Development proposals on sites which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design.

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