

# Planning Committee

2.00pm, Wednesday, 3 February 2021

## Accessibility of New Buildings

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

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- 1.1 It is recommended that Committee notes that planning applications are considered against planning policies and guidance which promote accessibility and that the Building Regulations ensure that technical requirements for access to and within buildings are met.

**Paul Lawrence**

Executive Director of Place

Contact: David Givan, Planning and Building Standards Service Manager

E-mail: [david.givan@edinburgh.gov.uk](mailto:david.givan@edinburgh.gov.uk) | Tel: 0131 529 3679

## Accessibility of New Buildings

### 2. Executive Summary

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- 2.1 At its meeting of 10 December 2020, the City of Edinburgh Council requested a report to Planning Committee on 3 February 2020 setting out how accessibility is considered through Building Standards and the planning system and how compliance with the Building Regulations is ensured. Appendix 1 shows the agreed motion in full.
- 2.2 This report sets out the how these matters are considered through both systems and explains how compliance with the Building Regulations is ensured.

### 3. Background

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- 3.1 Planning and Building Standards operate under two separate statutory regimes. The two regimes are complementary to one another and consider different aspects development. In this sense they provide a holistic approach to the regulation of development.
- 3.2 The purpose of planning is to manage the development and use of land in the long term public interest. The Building Standards system regulates technical aspects of the design of buildings. Through the Building Regulations it secures the health, safety, welfare and convenience of persons, the conservation of fuel and power and the achievement of sustainable development.

#### **Planning**

- 3.3 Decisions on planning applications are required to be made in accordance with the development plan unless material considerations indicate otherwise.
- 3.4 The Edinburgh Local Development Plan promotes accessibility at a strategic level through promoting sites with good levels of access to public transport and amenities. Applications are considered against the policies within it.
- 3.5 In relation to accessibility, planning can consider where development is located, layout, the position of buildings and how developments are accessed. Internal alterations to buildings are not development and so are outwith the scope of planning applications.

## **Building Standards**

- 3.6 The building standards system considers the technical aspects of building. In relation to accessibility, it considers access to buildings (from, but not including, the road) and access within buildings. To build a building in Scotland a Building Warrant is needed.
- 3.7 The Scottish Government publishes technical standards. If these are met, then buildings meet the relevant building regulation. If the building regulations are met, the Council must grant a building warrant.
- 3.8 Before a building is occupied, the developer needs to have a completion certificate accepted.

## **4. Main Report**

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### **Planning**

- 4.1 Decisions on planning applications need to take account of development plan policies which promote accessibility. There are policies on access in and around development, future adaptability, housing mix including those for older people and those with special needs. Extracts from these are contained in Appendix 2.
- 4.2 The plan also sets development principles for a number of development sites and includes requirements for walking and cycling routes within the developments and to neighbouring sites.
- 4.3 The [Edinburgh Design Guidance](#) explains the policies further.
- 4.4 It also states that Design and Access statements are expected for all major planning applications as well as other significant or complex proposals. In relation to access, these should include a section about how issues relating to access to the development for people with disabilities have been addressed. The statement must explain the policy or approach in relation to adopted access. The Design Guidance is a material planning consideration for assessing planning applications.
- 4.5 Numerous factors, including accessibility, will be considered when making planning decisions. Generally, the requirements of policy on accessibility are met. If, however, it was thought that a policy was not being met and the proposal should still be granted planning permission, the reasons for this would be set out in the planning report.
- 4.6 The Planning Act has been amended to require certain public buildings to be granted planning permission subject to a condition requiring them to include a changing places toilet (CPT). CPTs are facilities suitable for use by people that have more complex care needs and will also assist many other people for whom standard accessible sanitary facilities, for reasons of form or size, are not adequate. In addition to standard facilities they provide additional space for assistants, an adult-sized changing bench and a hoist.

## **Building Standards**

- 4.7 Building Warrant proposals are assessed against the Scottish Government's [Technical Standards](#). The documents explain and illustrate how the mandatory standards including those on access (Appendix 3) are met. Sections in the guidance include the following:
- Enhanced apartments (a requirement for at least one large rooms in dwellings) (Technical Standard 3.11.2);
  - Manoeuvring spaces in kitchens (3.11.3);
  - Accessible sanitary accommodation (3.12.3);
  - Accessible car parking to flats or maisonettes (4.1.1);
  - Car parking within the curtilage of a dwelling (4.1.2);
  - Accessible routes (4.1.3);
  - Accessible entrances (4.1.7);
  - Space standards for common entrances (4.1.8);
  - Accessible Thresholds (4.1.9);
  - Circulation routes and lobbies in common areas of domestic buildings (4.2.1-3);
  - Doors within common areas of domestic buildings (4.2.4);
  - Lifts (4.2.5); and,
  - Accessibility within dwellings (4.2.6).
- 4.8 When the standards are met, the Council must grant a building warrant. If the regulations are not met, the Council cannot grant a warrant.
- 4.9 To ensure compliance, the Council is required to verify that what is constructed meets the building regulations. Completion certificates state that the building has been constructed in accordance with the Building Regulations and the building warrant. They are signed by the developer. If the Council is satisfied through its inspection of the works that the works meet the Regulations and the warrant, they must accept the completion certificate. The building can then be occupied. If the regulations are not met, the Council cannot accept a completion certificate and the building should not be occupied.
- 4.10 There are no recorded trends of accessibility non-compliance with the building regulations in the Building Standards service. Anecdotal evidence suggests that minor matters of non-compliance identified during site inspections are rectified prior to the Acceptance of a Completion Certificate being issued.

## **Other matters**

- 4.11 As noted in the motion agreed by Council on 10 December 2020, the Council is committed to delivering accessible homes. The report to Housing, Homelessness and Fair Work Committee of [14 January 2021](#) on Strategic Housing Investment

Plan (SHIP) 2021-2026 sets out the approach to delivering accessible housing (Section 6).

- 4.12 The Edinburgh Access Panel is supported by Council officers. It meets regularly to consider planning applications for public buildings and make comments in relation to any accessibility issues. It also acts as consultees in relation to large development projects, and advise the developers, at an early stage, about improvements in access arrangements.

## **5. Next Steps**

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- 5.1 Planning will continue to consider accessibility when deciding and making recommendations on planning applications.
- 5.2 The planning policy context will be considered when Planning Committee considers the proposed City Plan 2030 as a replacement for the adopted Edinburgh Local Development Plan.
- 5.3 Building Standards will continue to ensure accessibility requirements of the Building Regulations are met when granting Building Warrants and accepting completion certificates.
- 5.4 At the present time there are no plans within the Scottish Government - Building Standards Division divisional business plan to review access standards. There is awareness that the Scottish Government's Housing service have committed to review access standards for affordable housing. Any evidence gathered as part of the review may inform a review of access provisions in the Technical Handbooks.
- 5.5 The Scottish Government, in collaboration with stakeholders from across the construction sector, have a Compliance Plan workstream that will improve the outcomes of the application of access standards set by the building regulations. Contractors will be expected to work in accordance with Compliance Plans and the Building Standards service will monitor these once they are put into place.

## **6. Financial impact**

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- 6.1 There is no financial impact arising from this report.

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

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- 7.1 Stakeholders and communities are notified about planning applications in accordance with legislative requirements including neighbour notification and weekly lists and as appropriate, advertisements.
- 7.2 Stakeholders and communities are consulted in the preparation of Council policy documents including the Local Development Plan. Stakeholders and communities have been engaged in the preparation of the forthcoming City Plan 2030.

- 7.3 Stakeholders and the public are consulted about changes to the Technical Handbooks that the government publishes in relation to the Building Regulations.

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

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- 8.1 Motion 9.10 to City of Edinburgh Council on [10 December 2020](#) by Councillor Booth
- 8.2 Amendment to Motion 9.10 by the Coalition – Accessibility of New Buildings: The link to this is found at the via the “Motions and Amendments” PDF at the bottom of the above webpage.
- 8.3 [Edinburgh Local Development Plan](#)
- 8.4 [Edinburgh Design Guidance](#)
- 8.5 [Non Domestic Technical Handbook](#)
- 8.6 [Domestic Technical Handbook](#)
- 8.7 [Planning Circular 1/2020 Town and Country Planning \(Changing Places Toilet Facilities \(Scotland\) Regulations 2020.](#)

## **9. Appendices**

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- 9.1 Appendix 1 – Motion agreed by City of Edinburgh Council on 10 December 2020.
- 9.2 Appendix 2 - Extracts from Edinburgh Local Development Plan Policies concerning accessibility.
- 9.3 Appendix 3 - Extracts from the Building Standards Technical Handbooks.

## Appendix 1 - Motion agreed at by City of Edinburgh Council on 10 December 2020

1. Notes that for new build council homes current policy is that a minimum of 10% should be fully wheelchair accessible and that all homes are built to the Housing for Varying Need (HFVN) standard making ground floor properties accessible for wheelchair users including doorways that are wide enough to accommodate a wheel chair, level entry access, space for a wheelchair turning manoeuvre in both the kitchen and at least one bathroom and a wheel chair accessible path through property. The 10% that are fully wheelchair accessible include further specialist adaptations and where feasible plans are discussed with relevant professionals including Occupational Therapists during the design process to allow additional specialist adaptations for example lowered work surfaces, wet floor shower room or stair lifts. Further notes that a study has been commissioned into future need and demand for wheelchair accessible housing to feed into the updated Housing Needs and Demand Assessment for the city region and target setting as part of the Strategic Housing Investment Plan (SHIP) process.
2. Notes that many buildings can be made at least partially and more easily accessible for disabled people, including wheelchair users by, for example, alterations to the minimum standards for width/sizes of front doors as well as all ground floor room doors, thereby enabling disabled people to enter the accommodation and move around the ground floor. Being able to reach the front door of the accommodation via ramping would be a further important factor in facilitating greater access.
3. Recognises that by building to the HVN standard and investing in increased ease of access for all ground floor new build council homes the demand for full adaption at a later date is reduced, leading to a reduction on pressure on the council's adaptations budget.
4. Notes that the commitment to delivering accessible homes was increased from 3000 to 4500 and that the SHIP report, which will be at the next Housing, Homelessness and Fair Work Committee, will contain a detailed update on the council's strategy for maximising delivery of new build accessible housing as part of the council's new build programme. Agrees that this report should include information on the current and anticipated future demand for accessible housing and a plan for how the council will this.
5. Requests a report to Planning Committee on 3 February 2020 setting out how accessibility is considered through Building Standards and the planning system and how compliance with the Building Regulations is ensured.

Notes: the matter of accessibility has been the subject of a City Plan Leadership Forum meeting. This issue will be considered as part of a policy approach to the proposed City Plan 2030 and will be set within the context of the legislative powers of the planning system. This matter will be addressed, in some measure, as part of the proposed City Plan and presentation to Planning Committee on 24 February 2021 (2 cycles).

## **Appendix 2 - Extracts from Edinburgh Local Development Plan Policies concerning accessibility.**

1. “Planning permission will be granted where... safe and convenient access and movement in and around the development will be promoted, having regard especially to the needs of people with limited mobility or special needs” (Policy Des 7 – Layout Design).
2. “Planning permission will be granted where... the design will facilitate adaptability in the future to the needs of different occupiers”. (Policy Des 5 – Development Design – Amenity).
3. “The Council will seek the provision of a mix of house types and sizes where practical, to meet a range of housing needs, including those of families, older people and people with special needs, and having regard to the character of the surrounding area and its accessibility” (Policy Hou 2 – Housing Mix).

## **Appendix 3 - Extracts from the Building Standards Technical Handbooks**

The Technical Handbooks are Scottish Government documents.

### **Standard 3.11**

Every building must be designed and constructed in such a way that:

- a. the size of any apartment or kitchen will provide a level of amenity that ensures the welfare and convenience of all occupants and visitors, and
- b. an accessible space is provided to allow for the safe, convenient and sustainable drying of washing.

*Limitation:*

This standard applies only to a dwelling.

### **Standard 3.12**

Every building must be designed and constructed in such a way that sanitary facilities are provided for all occupants of, and visitors to, the building in a form that allows convenience of use and that there is no threat to the health and safety of occupants or visitors.

### **Standard 4.1**

Every building must be designed and constructed in such a way that all occupants and visitors are provided with safe, convenient and unassisted means of access to the building.

*Limitation*

There is no requirement to provide access for a wheelchair user to:

- a. a house, between either the point of access to or from any car parking within the curtilage of a building and an entrance to the house where it is not reasonably practicable to do so, or
- b. a common entrance of a domestic buildings not served by a lift, where there are no dwellings entered from a common area on the entrance storey.

### **Standard 4.2**

Every building must be designed and constructed in such a way that:

- a. in non-domestic buildings, safe, unassisted and convenient means of access is provided throughout the building;
- b. in residential buildings, a proportion of the rooms intended to be used as bedrooms must be accessible to a wheelchair user;
- c. in domestic buildings, safe and convenient means of access is provided within common areas and to each dwelling;

- d. in dwellings, safe and convenient means of access is provided throughout the dwelling, and
- e. in dwellings, unassisted means of access is provided to, and throughout, at least one level.

*Limitation*

There is no requirement to provide access for a wheelchair user:

- a. in a non-domestic building not served by a lift, to a room, intended to be used as a bedroom, that is not on an entrance storey, or
- b. in a domestic building not served by a lift, within common areas and to each dwelling, other than on an entrance storey.”