

# Business Bulletin

## Planning Committee

**2.00pm, Wednesday 26 February 2020**

Dean of Guild Room, City Chambers, High Street, Edinburgh

## Planning Committee

Convener:	Members:	Contacts:
<p>Councillor Neil Gardiner</p>  <p>Vice-Convener Councillor Maureen Child</p> 	<p>Councillor Chas Booth Councillor George Gordon Councillor Joan Griffiths Councillor Cameron Rose Councillor Max Mitchell Councillor Joanna Mowat Councillor Rob Munn Councillor Hal Osler Councillor Mary Campbell</p>	<p>Veronica MacMillan Committee Services 0131 529 4283 <a href="mailto:veronica.macmillan@edinburgh.gov.uk">veronica.macmillan@edinburgh.gov.uk</a></p> <p>David Givan Service Manager Building Standards 0131 529 367 <a href="mailto:david.givan@edinburgh.gov.uk">david.givan@edinburgh.gov.uk</a></p> <p>David Leslie Chief Planning Officer 0131 529 3948 <a href="mailto:david.leslie@edinburgh.gov.uk">david.leslie@edinburgh.gov.uk</a></p>

### Building Standards Performance

Since the last Business Bulletin of 29 January 2020, which reported sustained performance for Quarter 3 of 2019/20, performance in January has improved to its highest level in over 10 years. 97.5% of first reports were issued within the 20-working day timescale. This exceeds the Scottish Government target of 95%. In addition, 88.5% of warrants were granted within the target timescale of 10 working days once satisfactory information was received. This is just below the Government target of 90%.

The service will continue to focus on improving the timescales for granting warrants over the remainder of the Quarter 4. Alongside this, it remains a priority to enhance digital processes and procedures. These new processes, combined with a continued transformation of the workforce profile (where staff have retired and new surveyors have been recruited, trained and developed) will help to ensure that performance standards are maintained.

### Contact:

David Givan  
0131 529 3679  
[david.givan@edinburgh.gov.uk](mailto:david.givan@edinburgh.gov.uk)

### Scottish Government Appeal Decisions During Quarter 3 of 2019/20

In Quarter 3, there were 18 appeal decisions issued by the Planning and Environmental Appeals Division (DPEA) on applications refused by the Council. Of these, 11 were dismissed, six were allowed and one was allowed in part. Of these, five applications which Committee refused were contrary to officer recommendation; and three were allowed on appeal. Further details are provided in Appendix 1 to this Bulletin.

### Contact:

David Givan  
0131 529 3679  
[david.givan@edinburgh.gov.uk](mailto:david.givan@edinburgh.gov.uk)

### Scottish Ministers' Feedback on Planning Performance Framework 2018/19

Since 2012 the Council has submitted its annual Planning Performance Framework (PPF) to Scottish Ministers. The PPF is designed to give a balanced narrative on the range of activities delivered by the Planning service.

The Scottish Ministers provide feedback to local authorities after a period of analysis to identify national trends. This feedback uses a red, amber, green scoring system against 15 criteria.

### Contact:

Ben Wilson  
0131 469 3411  
[ben.wilson@edinburgh.gov.uk](mailto:ben.wilson@edinburgh.gov.uk)

The feedback letter for 2018/19 was received on 11 February 2020 (Appendix 2). The decision making timescales information has been available since July 2019. It confirms that the Council's application time performance for the year up to the end of March 2019 was significantly below national averages and with the exception of householder applications was slower than the Council's own time performance in the previous year (2017/18).

The feedback also confirms that in 2018/19 there had not been improvement in legal agreement timescales, or clearing legacy cases, both marked as red. There had not been sufficient improvement in indicators identified as amber – continuous improvement and developer contributions.

A new amber indicator relates to whether the Local Development Plan is on course to be replaced within five years. This is due to the delay to the City Plan 2030 project which arose from the extensive time Scottish Ministers took to consider Strategic Development Plan 2, which they eventually rejected.

It is anticipated that the measures introduced in the Planning Improvement Plan will result in improved performance for 2019/20. It should be noted that Scottish Government measures decision making timescales in terms of average weeks for different application types. It is intended to switch to this measure for 2020/21, to help target improvements, and align better with national practice.

### **Planning Time Performance Figures - Quarter 3 19/20**

The time performance figures for applications, enforcement cases and legal agreements for Quarter 3 (Appendix 3) show mixed but generally positive trends, particularly with regards to householder, local (non-householder) and listed building cases and legal agreements. The figures also a strong trend in handling short term let enforcement cases, despite an increased volume of queries received in the spring and summer months.

### **Contact:**

Ben Wilson  
0131 469 3411  
[ben.wilson@edinburgh.gov.uk](mailto:ben.wilson@edinburgh.gov.uk)

## APPENDIX 1

### Scottish Government Appeal Decisions (1 October 2019 – 31 December 2019)

In Quarter 3, there were 18 appeal decisions issued by the DPEA on applications refused by the City of Council. Of these 11 were dismissed, 6 were allowed, and 1 was allowed in part. There were five applications which Committee refused contrary to officer recommendation. Three of these were allowed on appeal.

Case Reference	Case Type	Site Address	Decision Type	Date Decision Issued	Committee or Delegated decision? Contrary to officer recommendation (Yes/No/Not applicable)	Costs sought by appellant? Costs awarded?
PPA-230-2266	Planning Permission Appeal	27 Lanark Road	Appeal Allowed	16/10/19	Committee Yes	No N/A
ADA-230-2041	Advertisement Consent Appeal	49 Eastfield Road	Appeal dismissed	28/10/19	N/A N/A	No N/A
LBA-230-2184	Listed Building Consent Appeal	98 Dundas Street	Appeal allowed	29/10/19	Delegated N/A	No N/A
LBA-230-2182	Listed Building Consent Appeal	2F2 5 Royal Crescent	Appeal dismissed	01/11/19	Delegated N/A	No N/A

<b>Case Reference</b>	<b>Case Type</b>	<b>Site Address</b>	<b>Decision Type</b>	<b>Date Decision Issued</b>	<b>Committee or Delegated decision?  Contrary to officer recommendation (Yes/No/Not applicable)</b>	<b>Costs sought by appellant?  Costs awarded?</b>
PPA-230-2285	Planning Permission Appeal	62 Broughton Road [land 35m SE of]	Appeal dismissed	12/11/19	Committee  No	No  N/A
ENA-230-2161	Enforcement Notice Appeal	1F, 11 Royal Circus	Appeal allowed in part <i>* see note at end of table</i>	15/11/19	Delegated  N/A	No  N/A
PPA-230-2263	Planning Permission Appeal	1-5 Osborne Terrace	Appeal allowed	21/11/19	Committee  Yes	No  N/A
LBA-230-2185	Listed Building Consent Appeal	137 George Street	Appeal dismissed	26/11/19	Delegated  N/A	No  N/A
ADA-230-2042	Advertisement Consent Appeal	137 George Street	Appeal dismissed	26/11/19	Delegated  N/A	No  N/A
PPA-230-2286	Planning Permission Appeal	540A Lanark Road	Appeal dismissed	27/11/19	Delegated  N/A	No  N/A

<b>Case Reference</b>	<b>Case Type</b>	<b>Site Address</b>	<b>Decision Type</b>	<b>Date Decision Issued</b>	<b>Committee or Delegated decision?  Contrary to officer recommendation (Yes/No/Not applicable)</b>	<b>Costs sought by appellant?  Costs awarded?</b>
ADA-230-2043	Advertisement Consent Appeal	60 Grassmarket	Appeal dismissed	02/12/19	Delegated N/A	No N/A
CLUD-230-2011	Certificate of Lawful Use & Development Appeal	1 Crighton Place	Appeal allowed	03/12/19	Delegated N/A	No N/A
ENA-230-2162	Enforcement Notice Appeal	1F1 33 Milton Street	Appeal dismissed	04/12/19	Delegated N/A	No N/A
PPA-230-2288	Planning Permission Appeal	3F2 17 Bruntsfield Gardens	Appeal allowed	05/12/19	Committee Yes	Yes No
ENA-230-2164	Enforcement Notice Appeal	5/9 Castle Wynd South	Appeal dismissed	12/12/19	Delegated N/A	No N/A
PPA-230-2274	Planning Permission Appeal	106-162 Leith Walk	Appeal dismissed	20/12/19	Committee Yes	No N/A
CAC-230-2004	Conservation Area Consent Appeal	106-162 Leith Walk	Appeal dismissed	20/12/19	Committee	No

<b>Case Reference</b>	<b>Case Type</b>	<b>Site Address</b>	<b>Decision Type</b>	<b>Date Decision Issued</b>	<b>Committee or Delegated decision?  Contrary to officer recommendation (Yes/No/Not applicable)</b>	<b>Costs sought by appellant?  Costs awarded?</b>
					Yes	N/A
PPA-230-2280	Planning Permission Appeal	4 Currievale Farm	Appeal allowed	30/12/19	Committee No	No N/A

\* *The principle of refusal for short-stay visitor accommodation was upheld by the Reporter. The appeal was allowed in part as a short extension to the date of the enforcement notice was allowed.*

Further information on the seven appeals that were allowed, or allowed in part, is set out below.

<b>Case</b>	<b>Proposal</b>	<b>Key Points from Reporters' Decision Notice</b>
Planning Permission Appeal at Lanark Road	Demolition of public house and erection of residential apts.	The proposal would not only avoid harm to the rural character and landscape quality of the green belt, it would significantly improve those features, to the benefit of the site, the remainder of this part of the Water of Leith corridor and the street scene on Lanark Road.
Listed Building Consent Appeal at Dundas Street	Internal alterations	The harm to the building and its features would be minimal and reversible, and insufficient to outweigh the benefits of the proposal to living conditions.
Enforcement Notice Appeal at Royal Circus	c/u from residential to SSCVA	<p>Appeal dismissed on grounds that a change of use has occurred with the use of the property as a commercial use (short-term let). Noise and activity associated with guests and service staff would affect the permanent residents of the flats.</p> <p>An extended period of time from 1 month to 7 weeks for compliance with the enforcement notice was upheld.</p>
Planning Permission Appeal at 1-5 Osborne Terrace	c/u office to hotel	Appeal against committee refusal allowed as development complies with LDP policies subject to conditions relating to transport, noise and ventilation and a tram contribution.
Certificate of Lawful Use & Development Appeal at 1 Crighton Place	c/u from residential to SSCVA	Appeal allowed concluding use would be unlikely to disrupt permanent residents. The property has its own access directly onto the street and there is no direct interaction between the occupants of the property and those of the upper flats.
Planning Permission Appeal at 3F2 17 Bruntsfield Gardens	New dwelling in attic space	The proposed flat is of an acceptable standard and location and would not

		have a detrimental impact on residential amenity or road safety. The proposed rooflights would not adversely impact the appearance of the property and surrounding area.
Planning Permission Appeal at 4 Currievale Farm	Demolition and erect new kennels	<p>The kennels would relate visually to the former farm steading and would not cause significant damage to the appearance of this part of the green belt.</p> <p>The house would reuse a brownfield site, at the same time removing an eyesore.</p> <p>The solid construction of the kennels and distances from the houses means it is unlikely that significant disturbance would occur.</p>

T: 0300 244 4000  
E: scottish.ministers@gov.scot

Andrew Kerr  
Chief Executive  
City of Edinburgh Council

11 February 2020

Dear Andrew,

## **PLANNING PERFORMANCE FRAMEWORK FEEDBACK 2018-19**

I am pleased to enclose feedback on your authority's 8<sup>th</sup> PPF Report for the period April 2018 to March 2019.

I believe that good progress continues to be made by authorities. Although there has been a small drop in the number of green ratings awarded this year and there remains some variation across some authorities and markers. I have been particularly impressed by the speed of determination of major applications in some authorities.

We are now pressing ahead with our programme of reform. In September 2019 we published "Transforming Planning in Practice" our work programme for implementing the provisions of the Planning (Scotland) Act 2019 and wider planning improvements. We have also just launched our [www.transformingplanning.scot](http://www.transformingplanning.scot) website where you can keep up to date and involved with Scotland's fourth National Planning Framework (NPF4), Digital Planning and the Planning Reform programme.

This is an exciting time for the planning system in Scotland with the preparation of NPF4 underway and the changes to the development planning and management systems to follow. We really value the input of your staff as expert users of the system and welcome their continued support in developing and implementing the planning system that we all want to see.

One of the first things I'm keen to address is planning resources, which is why we are consulting on increasing planning fees, moving them towards covering the full cost of determining applications and extending the range of services which authorities can charge for in exercising their planning functions. The consultation is due to close on 14<sup>th</sup> February and I hope that you will submit your views. I know applicants will expect to see continued improvement in performance and those increased fees invested in the planning service. This is why we are also consulting on how we measure and monitor the performance of the planning system at the same time.

If you would like to discuss any of the markings awarded below, please email [chief.planner@gov.scot](mailto:chief.planner@gov.scot) and a member of the team will be happy to discuss these with you.

Kind Regards



**KEVIN STEWART**

**CC: David Leslie**

## PERFORMANCE MARKERS REPORT 2018-19

Name of planning authority: **City of Edinburgh**

The High Level Group on Performance agreed a set of performance markers. We have assessed your report against those markers to give an indication of priority areas for improvement action. The high level group will monitor and evaluate how the key markers have been reported and the value which they have added.

The Red, Amber, Green ratings are based on the evidence provided within the PPF reports. Where no information or insufficient evidence has been provided, a 'red' marking has been allocated.

No.	Performance Marker	RAG rating	Comments
1	<b>Decision-making:</b> continuous reduction of average timescales for all development categories [Q1 - Q4]	Red	<p><b>Major Applications</b> Your timescales of 61.1 weeks are slower than the previous year and are slower than the Scottish average of 32.5 weeks. <b>RAG = Red</b></p> <p><b>Local (Non-Householder) Applications</b> Your timescales of 16.8 weeks are slower than the previous year and are slower than the Scottish average of 10.7 weeks. <b>RAG = Red</b></p> <p><b>Householder Applications</b> Your timescales of 8.5 weeks are faster than the previous year but are slower than the Scottish average of 7.2 weeks. <b>RAG = Amber</b></p> <p><b>Overall RAG = Red</b></p>
2	<p><b>Processing agreements:</b></p> <ul style="list-style-type: none"> <li>offer to all prospective applicants for major development planning applications; and</li> <li>availability publicised on website</li> </ul>	Green	<p>You promote the use of processing agreements for major developments. <b>RAG = Green</b></p> <p>The availability of processing agreements is advertised on your website. <b>RAG = Green</b></p> <p><b>Overall RAG = Green</b></p>
3	<p><b>Early collaboration</b> with applicants and consultees</p> <ul style="list-style-type: none"> <li>availability and promotion of pre-application discussions for all prospective applications; and</li> <li>clear and proportionate requests for supporting information</li> </ul>	Green	<p>You provide a pre-application advice service which is promoted through the website and by staff engaging with prospective applicants. <b>RAG = Green</b></p> <p>You provide positive comments from applicants about early engagement leading to better developments . <b>RAG = Green</b></p> <p><b>Overall RAG = Green</b></p>
4	<b>Legal agreements:</b> conclude (or reconsider) applications after resolving to grant permission reducing number of live applications more than 6 months after resolution to grant (from last reporting period)	Red	Your average timescales for applications with legal agreements are slower than last year's figures and are slower than the Scottish average.

5	<b>Enforcement charter</b> updated / re-published within last 2 years	Green	Your enforcement charter was 15 months old at the time of reporting.
6	<b>Continuous improvement:</b> <ul style="list-style-type: none"> <li>• progress/improvement in relation to PPF National Headline Indicators; and</li> <li>• progress ambitious and relevant service improvement commitments identified through PPF report</li> </ul>	Amber	<p>Your decision making timescales are slower than last year, including applications with legal agreements. Your enforcement charter and LDP are up to date however it will be replaced within the required timescale. There has not been significant progress with your stalled sites figures. <b>RAG = Red</b></p> <p>You have completed 13 out of your 17 improvement commitments. You have identified 17 commitments to take forward in the year ahead which are split over 4 key themes. <b>RAG = Amber</b></p> <p><b>Overall RAG = Amber</b></p>
7	<b>Local development plan</b> less than 5 years since adoption	Green	Your LDP was 2 years and 4 months old at the end of the reporting period.
8	<b>Development plan scheme</b> – next LDP: <ul style="list-style-type: none"> <li>• on course for adoption within 5 years of current plan(s) adoption; and</li> <li>• project planned and expected to be delivered to planned timescale</li> </ul>	Amber	<p>Your LDP is not on course to be replaced within the required 5 year timescale <b>RAG = Red</b></p> <p>You have included a case study which outlines your approach to project managing the replacement of your LDP. <b>RAG = Green</b></p> <p><b>Overall RAG = Amber</b></p>
9	<b>Elected members engaged early</b> (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i>	Green	Your staff and elected members are involved in pre-MIR discussions. An LDP project overview was presented to the planning committee this year with staff workshops and community briefings also taking place.
10	<b>Cross sector stakeholders* engaged early</b> (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i> <i>*including industry, agencies and Scottish Government</i>	Green	The service has commenced early engagement with stakeholders including children and young people which is one of your case studies.
11	<b>Regular and proportionate policy advice</b> produced on information required to support applications.	Green	You have produced a range of guidance to assist applicants in submitting good quality applications. Planning advice is reviewed annually and updated. This included advertising guidance and conservation area character appraisals.
12	<b>Corporate working across services</b> to improve outputs and services for customer benefit (for example: protocols; joined-up services; single contact arrangements; joint pre-application advice)	Green	A good example of your corporate approach is ensuring close links between the City Mobility Plan, Low Emissions Zone and City Centre Transformation plan with the LDP.
13	<b>Sharing good practice, skills and knowledge</b> between authorities.	Green	You have provided a case study on the training provided and undertaken by staff, councillors and community councils.
14	<b>Stalled sites / legacy cases:</b> conclusion or withdrawal of old planning applications and reducing number of live applications more than one year old.	Red	You have cleared 85 cases during the reporting year, with 60 cases still awaiting conclusion. Based on this and last year's figures, 64 reached legacy status during the reporting year.

15	<p><b>Developer contributions:</b> clear and proportionate expectations</p> <ul style="list-style-type: none"> <li>• set out in development plan (and/or emerging plan); and</li> <li>• in pre-application discussions</li> </ul>	Amber	<p>Your supplementary guidance on developer contributions has not yet been adopted.  <b>RAG = Amber</b></p> <p>Your reports sets out how developer contributions are set out during the pre-application process.  <b>RAG = Green</b></p> <p><b>Overall RAG = Amber</b></p>
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**CITY OF EDINBURGH COUNCIL**  
**Performance against Key Markers**

Marker		2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
1	Decision making timescales							
2	Processing agreements							
3	Early collaboration							
4	Legal agreements							
5	Enforcement charter							
6	Continuous improvement							
7	Local development plan							
8	Development plan scheme							
9	Elected members engaged early (pre-MIR)	N/A	N/A	N/A	N/A	N/A		
10	Stakeholders engaged early (pre-MIR)	N/A	N/A	N/A	N/A	N/A		
11	Regular and proportionate advice to support applications							
12	Corporate working across services							
13	Sharing good practice, skills and knowledge							
14	Stalled sites/legacy cases							
15	Developer contributions							

**Overall Markings (total numbers for red, amber and green)**

	Red	Amber	Green
<b>2012-13</b>	2	4	7
<b>2013-14</b>	1	5	7
<b>2014-15</b>	2	4	7
<b>2015-16</b>	2	3	8
<b>2016-17</b>	1	3	9
<b>2017-18</b>	3	3	9
<b>2018-19</b>	3	4	8

**Decision Making Timescales (weeks)**

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2018-19 Scottish Average
Major Development	81.6	27.9	26.5	33.6	43.0	56.3	61.1	32.5
Local (Non-Householder) Development	10.5	10.7	11.6	11.6	12.4	14.7	16.8	10.7
Householder Development	6.9	7.5	7.7	8.0	8.3	8.8	8.5	7.2

## APPENDIX 3

### Time Performance Information Quarter 3 (1 July – 31 December 2019)

<b>Major Applications 2019 – 2020</b>				
	Q1	Q2	Q3	Q4
Number submitted	11	6	1	
Number determined	9	7	5	
Number (and %) determined within 4 months or agreed timescales (target =70%)	3 (33%)	3 (43%)	2 (40%)	
	6 month figure: 37%			
Number (and %) determined with Planning Processing Agreements and/or Agreed Extensions of Time	3 (33%)	3 (43%)	2 (40%)	
<b>Comments</b>				
<p>The two applications determined on target in Q3 were the approval of the new Castlebrae High School proposal, and the refusal of a student housing development on Gorgie Road. One had a processing agreement, the other had an agreed extension of time.</p> <p>The other three developments were all approved. Two were for greenfield housing developments released from the green belt in the LDP (at Kirkliston and the eastern portion of Maybury), one of which had a processing agreement. The third was for a replacement primary school in Western Harbour, which did not have an agreed extension of time which covered the eventual determination date.</p> <p>Two legacy applications (i.e. older than one year) were determined in this quarter.</p>				

<b>Non-Householder Applications 2019 -2020</b>				
	Q1	Q2	Q3	Q4
Number submitted	200	248	271	
Number determined	269	242	241	
Number (and %) determined within 2 months or agreed timescales (Target = 70%)	169 (62.8%)	158 (65.3%)	182 (75.5%)	
	6 month figure: 64.0%			

<b>Householder Applications 2019 – 2020</b>				
	Q1	Q2	Q3	Q4
Number submitted	372	389	375	
Number determined	387	397	369	
Number (and %) determined within 2 months or agreed timescales (Target 90%)	318 (82.1%)	357 (89.9%)	343 (93.0%)	
	6 month figure: 86.1%			

<b>Listed Building Consent Applications 2019 – 2020</b>				
	Q1	Q2	Q3	Q4
Number submitted	226	262	270	
Number determined	187	233	195	
Number (and %) determined within 2 months or agreed timescales (target 70%)	116 (62.0%)	175 (75.1%)	158 (81.0%)	
	6 month figure: 69.3%			

<b>Advertisement Consent Applications 2019 – 2020</b>				
	Q1	Q2	Q3	Q4
Number submitted	58	68	53	
Number determined	62	76	56	
Number (and %) determined within 2 months or agreed timescales	45 (72.6%)	63 (82.9%)	50 (89.3%)	
	6 month figure: 78.3%			

<b>Short term Let Enforcement Cases 2019 – 2020</b>				
	Q1	Q2	Q3	Q4
Number submitted	66	69	51	
Number closed	19	39	84	
Number (and %) closed within 6 months (target 80%)	14 (77.7%)	36 (92.3%)	52 (61.9%)	
	6 month figure: 86.2%			
Number of notices served	5	9	11	
Number (and %) served within 6 months (target 80%)	5 (100%)	8 (89%)	7 (63.6%)	
	6 month figure: 92.9%			

**Comments**

The overall number of short term let enforcement cases being closed per quarter has doubled. The actual number of cases being closed within 6 months has increased, but the percentage has fallen due to the high overall volume of enquiries submitted throughout the year.

<b>All Other Enforcement Cases 2019 – 2020</b>				
	Q1	Q2	Q3	Q4
Number submitted	192	217	135	
Number closed*	162	232	160	
Number (and %) closed within 3 months (target 80%)	109 (67.3%)	172 (74.1%)	104 (65.0%)	
	6 month figure: 71.3%			
Number of notices served	8	8	16	
Number (and %) served within 3 months (target 80%)	5 (62.5%)	2 (25%)	6 (37.5%)	
	6 month figure: 43.8%			

**Comments**

The new City wide Enforcement team set up at the beginning of June 2019 has been stepping up efforts to clear the legacy cases. This process is impacting on time performance but is essential for the operation of the team going forward.

<b>Legal Agreements 2019 -2020</b>				
	At end Q1	At end Q2	At end Q3	At end Q4
Number of applications currently at legal agreement stage	41	50	41	
Number of applications where more than 6 months since Minded to Grant decision	26	20	12	
<p>Comments</p> <p>In this quarter there has been a significant reduction in the number of applications where it has been longer than 6 months since the minded to grant decision. Measures already in place as part of the Planning Improvement Plan should further reduce the number of future applications falling into this category.</p>				