

Planning Committee

2.00pm, Wednesday, 26 February 2020

Annual Review of Guidance

Executive/routine Wards Council Commitments	Routine All 1,4,10,11,12 and 15
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1. Recommendations

- 1.1 It is recommended that Committee:
- 1.1.1 notes progress in consolidating and updating guidance for users of the planning service (Appendix 1);
 - 1.1.2 approves the attached updates to certain guidelines (Appendix 2); and
 - 1.1.3 approves the programme for work in 2020 as set out in Section 4 of this report.

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Annual Review of Guidance

2. Executive Summary

- 2.1 This report advises the Planning Committee of changes to planning guidance in 2019 and seeks approval for the programme for the coming year. It also seeks approval of minor updates to certain guidelines.

3. Background

- 3.1 The Council issues non-statutory guidance to help its customers interpret the statutory development plan.
- 3.2 In recent years, this guidance has been consolidated into five main guidelines, focused on the main customer group plus a small number of specialist topic guidelines.
- 3.3 The suite of guidance continues to be kept under review to ensure that it is up-to-date and reflects the Council's objectives and practice.
- 3.4 In [March 2018](#) the Planning Committee agreed a streamlined process for the preparation and review of non-statutory guidance, following a successful trial period in 2017.
- 3.5 Current non-statutory guidance can be viewed [online](#) under the planning and building page. Statutory Supplementary Guidance (SG) can also be viewed [online](#) along with the Local Development Plan (LDP) pages.

4. Main report

Drivers for Change

- 4.1 The main factors which can indicate a need to consider changes to guidance are as follows:
- 4.1.1 changes in national or development plan policy and guidance (including Scottish Planning Policy, other national documents, the Strategic Development Plan and the LDP;

- 4.1.2 change in the city (including economic, social, environmental and physical changes or changes in corporate or community planning policy);
 - 4.1.3 findings from monitoring the use of existing guidance and policy, including appeal decisions;
 - 4.1.4 the opportunities presented by organisational change; and
 - 4.1.5 the service's Customer Engagement Strategy and Service Charter.
- 4.2 Appendix 1 shows the current status of the Development Plan, statutory and non-statutory guidance. It also sets out scheduled reviews and updates which are to be undertaken during 2020.

Summary of Progress on Changes to Guidance since February 2019

- 4.3 Changes to guidance carried out since last year's report are as follows:
- 4.3.1 preparation and consultation on revised supplementary guidance on City Centre Shopping and Leisure (updates City Centre Retail Core SG);
 - 4.3.2 updated non-statutory Edinburgh Design Guidance was reviewed and updates approved and published in January and February 2020; and
 - 4.3.3 replacement non-statutory Advertisements, Sponsorship and City Dressing guidance was reported and published in August 2019.

Summary of Proposed Minor Updates to Guidance for Approval

- 4.4 Regular monitoring of the use of guidance has indicated the need for some minor updates to the following guidelines:
- 4.4.1 guidance for businesses, to align to City Centre and Advertisement guidance updates and to clarify ancillary class 1 use;
 - 4.4.2 guidance for householders, to clarify issues of daylight and extensions;
 - 4.4.3 listed buildings and conservation areas, to clarify the legislation framework;
 - 4.4.4 development in the countryside and green belt, to clarify site types;
 - 4.4.5 student housing to update with most recent map data; and
 - 4.4.6 affordable housing guidance, to bring up to date and to improve clarity and consistency, including legal agreements, rental market and income figures.
- 4.5 Further details of all the above updates are set out in Appendix 2 for Committee's approval.
- 4.6 All of the above updates are considered sufficiently minor to not require further consultation.

Summary of Programme for 2020

- 4.7 Following the recent Ministers' direction not to adopt the Developer Contributions and Infrastructure Delivery SG, further statutory and non-statutory guidance will be prepared in 2020. This is subject to a separate report for consideration at this committee.

- 4.8 It is proposed that a full review of the non-statutory Guidance for Householders will be undertaken in 2020 in response to feedback from the Council's Customer Forum and the pre-application charging service requirements.
- 4.9 The Choices consultation for City Plan 2030 will be a significant driver for change. It will seek views on matters including affordable housing, loss of housing (including short-term lets) and student housing. Subject to the responses, it is anticipated that further review of non-statutory guidance will be required following publication of the proposed plan.
- 4.10 Non-statutory guidance will also continue to be monitored throughout the year as a result of changes at national level resulting from the Planning (Scotland) Act 2019. Significantly, this includes the new National Planning Framework 4 which will become part of the statutory development plan and incorporate Scottish Planning Policy.
- 4.11 Appeal decisions and customer feedback will also continue to be used to inform future updates.

5. Next Steps

- 5.1 The appended changes will be made to the relevant existing non-statutory guidance documents. Electronic copies of these documents will be available on the Council's website.

6. Financial impact

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

7. Stakeholder/Community Impact

- 7.1 Consultation responses are taken into account when full reviews of guidelines are undertaken. A summary of consultation responses are included when finalised guidelines are reported allowing the Planning Committee to see how consultation views have influenced the guidance. In 2019, this has included consultation on the updated City Centre Shopping and Leisure SG and engagement through the Customer Forum as part of the planning service's Customer Engagement Strategy and Service Charter.
- 7.2 There is no need for additional consultation in relation to the minor updates to guidance subject to this report, which is primarily for work scheduling purposes.
- 7.3 There is no requirement to undertake an Integrated Impact Assessment at this time. Assessments will be undertaken for individual guideline reviews as appropriate at the relevant time.

- 7.4 There are no perceived sustainability impacts arising from this report. Individual guideline reviews will consider sustainability impacts as appropriate at the relevant time.

8. Background reading/external references

- 8.1 Annual Review of Guidance, [Report to Planning Committee](#), 14 March 2018.
- 8.2 [Planning Guidelines](#).
- 8.3 [Supplementary Guidance](#).
- 8.4 Supplementary Guidance on Developer Contributions and Infrastructure Delivery – Update, [Report to Planning Committee](#), 26 February 2020.

9. Appendices

- 9.1 Appendix 1 – Status of Development Plan and Guidance.
- 9.2 Appendix 2 – Annual Review of Guidance Minor Updates to Non-Statutory Guidance.

Status of Development Plan and Guidance

Title	Status and Date	Comment
Current Development Plan		
Strategic Development Plan (Includes Housing Land Supplementary Guidance,2014)	Approved June 2013	Proposed Strategic Development Plan 2 rejected May 2019.
Edinburgh Local Development Plan	Adopted November 2016	
Supplementary Guidance (adopted)		
City Centre Retail Core	Adopted 2017	City Centre Retail Core reviewed in 2019. Revised guidance finalised 2020 (see below).
Tollcross Town Centre		
Corstorphine Town Centre		
Gorgie / Dalry Town Centre		
Leith / Leith Walk Town Centre		
Bruntsfield / Morningside Town Centre		
Nicolson St/Clerk St Town Centre		
Portobello Town Centre		
Stockbridge Town Centre		
Heat Opportunities Mapping	Adopted December 2018	
Other Development Plan		
City Plan 2030 (replacement local development plan)	'Choices' Main Issues Report out to consultation.	See www.edinburgh.gov.uk/cityplan2030 for information on timetable.
Supplementary Guidance		
Developer Contributions & Infrastructure Delivery	Finalised August 2018	Ministers directed not to adopt January 2020. See update February 2020.
City Centre Shopping & Leisure (to replace City Centre Retail Core)	Finalised January 2020	Awaiting Scottish Ministers authorisation to adopt.
Edinburgh BioQuarter & South East Wedge Parkland	Draft December 2013	Remains under review.
Non-statutory Guidance		
Main Guidelines		
Edinburgh Design Guidance	Updated January 2020	Ongoing monitoring may indicate need for reviews/updates
Guidance for Householders	Updated February 2019	<i>Minor updates reported February 2020. Further review to commence in 2020.</i>
Guidance for Businesses	Updated February 2019	<i>Minor updates reported February 2020.</i>
Listed Buildings & Conservation Areas	Updated February 2019	<i>Minor updates reported February 2020.</i>
Development in the Countryside & Green Belt	Updated February 2019	<i>Minor updates reported February 2020.</i>
Student Housing*	Approved February 2016	<i>Minor updates reported February 2020.</i>
Affordable Housing*	Reissued October 2017 Updates to Practice Note February 2019	<i>Minor updates reported February 2020.</i>
Other non-statutory guidance (alphabetical order)		
Outdoor Advertising and Sponsorship	Updated February 2019	Consultation on review started May 2018. Interim minor update reported February 2019.
Art in Public Places	Approved 1998	Now included within Edinburgh Design Guidance 2020
Communications Infrastructure	Approved 2013	
Open Space Strategy	Approved December 2016	Action plans being progressed

Excludes non-statutory area guidance: development briefs, masterplans and Place Briefs.

*Wider review to take place in parallel with City Plan 2030 project.

Italics – due to be reported to same Committee meeting.

Minor Updates to Non-Statutory Guidance

Guidance document	Reason for update	Proposed Edits (new text in blue and bold)	Section/ Page
Guidance for Businesses	For clarification.	Add: illuminated shopfront signage in a conservation area requires advertisement consent.	5
	For clarification and consistency with City Centre Retail and Leisure SG.	Clarify how <i>Central Area</i> relates to City Centre in City Centre Retail and Leisure SG.	9
	For clarification based on enforcement cases.	Add, to Class 1 ancillary uses: The provision of microwaves, soup tureens and/or toasted sandwich-maker machines. Note: hotplates for the cooking of food will generally not be acceptable in a class 1 establishment	8
	For consistency with Outdoor Advertising and Sponsorship guidance and for clarification based on enforcement cases.	Add new section: Other works affecting or relating to a shopfront or other business which may require planning and/or listed building consent: <ul style="list-style-type: none"> • Installation of garlands, particularly if they are supported by a structure • Free standing advertisement fixtures, awnings, flagpoles and banners Where permission is required these will generally not be acceptable.	18
Guidance for Householders	For clarification	Add LDP Policy Des 1 (Design Quality and Context) to policy context	4
	For clarification and constancy with planning enforcement.	Amend: " If not, you could be asked to alter or even demolish new work and put back the original. " To " works which require the benefit of planning permission, which has not been sought or granted, may be subject of enforcement action ".	5
	For clarification	Add hyperlink to dropped kerbs advice and permits on website	5
	There is a need for further clarity on ancillary buildings.	Add to Ancillary buildings: Buildings must be designed to be clearly ancillary to the main dwelling and should not be read as a separate residential unit. Buildings separated from the main residence and which provide facilities for the main	7

Guidance document	Reason for update	Proposed Edits (new text in blue and bold)	Section/ Page
		activities associated with day-to-day domestic existence i.e. cooking, sleeping, washing etc., will be assessed as a dwellinghouse.	
	For clarity and consistency with national guidance.	Add to ancillary buildings: the height of the development is measured from the lowest part of the surface of the natural ground adjacent to the building or structure.	7
	For clarity in line with enforcement cases.	Artificial grass add: Artificial grass and the substructure/base required for its installation may be considered development.	7
	For clarity and consistency with national guidance.	Add: Driveways which are cut into a sloping front garden often have substantial retaining walls, which will constitute development. Formation of the driveway may require planning permission in this instance.	7
	For clarity and consistency with national guidance.	Add to changes of use: Permission for change of use will be required to incorporate areas of land which were previously outwith the existing domestic curtilage into domestic garden ground.	8
	For clarification and to ensure high design quality.	Reorder sections so 'extensions' comes before 'gardens'	10
	To update in line with conservation area guidance and pre-application charging service.	Remove villa specific guidance and reference to pre-application advice.	10
	For clarification and to ensure high design quality.	Add to side extension: The extension roof should be set below host property roof ridge.	11
	For clarification and to ensure high design quality.	Add to Bungalow extensions: Partially hipped side extensions to a bungalows are not generally supported, unless the upstand is minor.	11
	For consistency with Edinburgh Design Guidance.	Add text to daylight and sunlight: Daylight to bathroom, stores and hallways will not be protected. Daylight to gables and side windows is generally not protected.	12
	For clarification	Add reference to daylight to existing buildings: 45 degree daylight test is taken at the midpoint of monopitched roofs.	12
	For consistency with Edinburgh Design Guidance.	Average day light factor for specific rooms to be added from Edinburgh Design Guidance.	12

Guidance document	Reason for update	Proposed Edits (new text in blue and bold)	Section/ Page
	For clarification and to ensure adequate amenity standards are maintained.	Add: Rooflights which can form a balcony/viewing platform on a temporary basis (e.g. 'cabrio') will require planning consent. Such rooflights will only be supported where these comply with privacy guidance and, in the case of conservation areas, where it can be demonstrated that it is not inconsistent with the relevant conservation area character appraisal.	14
	For clarification and to ensure high design quality.	Add: Dormers on tenemental and other traditional flatted properties will not be acceptable where they are not an existing characteristic of the building.	17
	For clarification and to ensure high design quality.	Flat roofs - Flat roofs may be appropriate on modest, single storey extensions where not visible in public views . Side extension roofs should normally be pitched to match the house.	17
	For clarification and to ensure high design quality.	Add to Access and Parking-bullet points: Within traditional tenements and in some post Second World War flatted properties (e.g. 'four in a block') .	19
	For clarification and consistency with relevant planning advice.	Page 20 (Secured by design). Remove this section entirely. This is totally subjective and the effect of design on the security of the applicants property, or neighbours, is not a material planning consideration.	20
Guidance on Listed Buildings and Conservation Areas	For clarification and alignment with legislation	Clarify that the Act is the primary determination and the LDP and NSG secondary.	5
	For clarification and alignment with legislation	Do I need listed building consent, add: It is a criminal offence to carry out works to a listed building without the required consent.	5
	For consistency.	Add links to HES Managing Change publications.	5
Development in the Countryside and Green Belt	For clarification	Delete text: "These reasons include the reuse of brownfield land and gap sites within existing clusters of dwellings."	7
Student Housing	Remove reference as out of date	Delete text: ! * * To avoid the division of sites the applicant shall be required to demonstrate that the site did not form part of a larger area, within a single control or ownership, on 25th February 2016. Where this is not demonstrated the new build housing requirement, as set out in c), shall apply'	8

Guidance document	Reason for update	Proposed Edits (new text in blue and bold)	Section/ Page
	To bring information up to date	Introduce new mapping information on the concentrations of student housing using the most recent data available.	
Affordable Housing	Section 75 Legal Agreements set out a 10 year period for commuted sums to be used. This amendment brings Affordable Housing Guidance into alignment with Section 75 Legal Agreements and the Section 75 Model Agreement.	Change bullet point from “The Council is confident that that the commuted payments can be spent on providing affordable units within the same area of the city within five years of the payment being made; and” to: “The Council is confident that that the commuted payments can be spent on providing affordable units within the same area of the city within ten years of the payment being made; and”	Commuted Sums/page 3
	The definition of Intermediate Rent has been changed following the report “Support for Build To Rent” to Housing, Homelessness and Fair Work Committee on 20 January 2020, which sets out that Intermediate Rent would include rents up to Broad Rental Market 30 th Percentile	Change “Intermediate Rent (Unsubsidised MMR) Private rented accommodation, unsubsidised, available at rents below market rent levels in the city (i.e. at a point below 100% of LHA)” to “Intermediate Rent (Unsubsidised MMR) Private rented accommodation, unsubsidised, available at rents below market rent levels in the city (i.e. at a point at or below Scottish Government’s last published Local Housing Allowance figures for the Lothians Broad Rental Market Area, or, only in agreement with the Council, at or below Scottish Government’s last published figures for the Lothians Broad Rental Market Area 30th Percentile)”	Intermediate rent/page 5
	This change is to bring consistency with the change above, allowing Intermediate Rent to be set based on Broad Rental Market 30 th Percentile.	Change “To provide certainty for developers and to allow for meaningful viability appraisals to take place, whilst ensuring such proposed developments meet an affordable housing need at the point where planning consent is issued, the Council is willing to agree to set rent levels using the LHA figures on the date of the appraisal, even though the LHA figure is recalculated and changed monthly” to: “To provide certainty for developers and to allow for meaningful viability appraisals to take place, whilst ensuring such proposed developments meet an affordable housing need at the point where planning consent is issued, the Council is willing to	Intermediate rent/page 5

Guidance document	Reason for update	Proposed Edits (new text in blue and bold)	Section/ Page
		agree to set rent levels using those figures on the date of the appraisal, even though those figures are recalculated and changed annually ".	
	To bring information up to date to include the most recent average household income figure for Edinburgh	<p>Change: "The maximum price paid for the purchaser's stake must not exceed 3.5 times the average income level in the city (a maximum purchase price of £136,735).</p> <p>The property may therefore be valued anywhere up to £227,891 (in which case the £136,735 purchase price would give the purchaser a 60% stake in the property)" to:</p> <p>"The maximum price paid for the purchaser's stake must not exceed 3.5 times the average income level in the city (a maximum purchase price of £159,051 based on Edinburgh's 2019 average household income of £45,443).</p> <p>The property may therefore be valued anywhere up to £265,085 (in which case the £159,051 purchase price would give the purchaser a 60% stake in the property).</p>	Unsubsidised LCHO/page 6
	To provide clarity on how a commuted sum figure would be calculated where nil or negative land value is proven. These are exceptional cases where it has been independently been assessed that site constraints have reduced land value to a nil or negative sum. These would only apply following a viability assessment carried out by the District Valuer.	Add to "Full commuted sums will be secured using the above formula. Only where the principle site demonstrates a nil land value or negative land value, then the commuted sum will be calculated by the District Valuer based on latest market evidence of land value within a one-kilometre radius of the principle site ".	Commuted Sums/page 7
	No longer required. Viability will only be assessed through a detailed financial	Remove 4 ii): " If the construction cost calculated is a sum more than 3.5 times average income levels (which is sometimes the case in conservation areas where external materials are more costly), then by definition such on-site units could not	Section 5/page 7

Guidance document	Reason for update	Proposed Edits (new text in blue and bold)	Section/ Page
	appraisal carried out independently.	be described as affordable which acts as a justification to explore one of the three other flexible approaches to AHP: off-site land, a commuted sum payment, or development of unsubsidised affordable housing ".	
	To bring information up to date to include the most recent average household income figure for Edinburgh.	Change: "The average household income is published on the council's website, at http://www.edinburgh.gov.uk/info/20054/council_and_housing_association_homes/221/mid_market_rent and is annually updated" to: "The average household income in Edinburgh is £45,443 and is annually updated.	Section 6/page 8