

Planning Committee

10.00am, Thursday, 8 December 2016

Legacy Planning Applications - Update

Item number	7.1
Report number	
Executive/routine	Routine
Wards	All

Executive Summary

The purpose of this report is to inform the Committee about the handling of legacy planning applications in more detail. A report to the Planning Committee on 11 August 2016 highlighted the number of legacy cases. The Committee noted the progress on dealing with legacy applications and requested a report in two cycles with explanations for delay in further information being submitted.

Links

Coalition Pledges	P8, P17
Council Priorities	CP4, CP9, CP10, CP12
Single Outcome Agreement	SO1

Legacy Planning Applications - Update

1. Recommendations

- 1.1 It is recommended that the Committee notes the reasons for delay in information being submitted for legacy planning applications.

2. Background

- 2.1 In February 2015, the Committee requested a report on procedures for dealing with legacy planning applications. The proposed procedure was agreed by Committee on 15 June 2015 with a requirement that a progress report is submitted to Committee one year later.
- 2.2 The new procedure involved sending letters to applicants advising them they had 6 months to conclude the legal agreement or the application may be returned to Committee for refusal. The 6 month period to conclude the legal agreement would only be extended in exceptional circumstances and at the Head of Service's discretion.
- 2.3 In addition, an annual legacy exercise was proposed on dormant planning applications over three years old. All applicants would be asked whether the application can be confirmed as withdrawn. When they are ten years old they should be automatically withdrawn.
- 2.4 The progress report was submitted to Planning Committee on 11 August 2016. It was based on planning applications which were over 1 year old on 1 June 2016 (158 cases). Reasons why applications had not been determined were defined as follows:
- The application has been subject to a legal agreement and this has not been concluded;
 - Further information is required to complete the assessment such as a bat survey, a noise assessment or financial viability information;
 - Administrative errors. In some cases the decision notice has been issued but the back office system has not been updated;
 - The applicant does not want their application withdrawn; and
 - There is insufficient documentation to allow the decision to be issued.

- 2.5 The Committee requested a report in two cycles on the legacy applications classified as awaiting further information with explanations for the delay in this being submitted.

3. Main report

Current Legacy Planning Applications

- 3.1 A legacy planning application is defined as one which is more than one year old. On 1 October 2016, there were 176 legacy cases. As part of this legacy exercise, 29 applications have been withdrawn, 29 are in the process of being withdrawn, and discussions are ongoing about the possible withdrawal of a further eleven applications. This makes a total of 69 applications potentially withdrawn as part of this exercise.
- 3.2 A number of applications have also been determined. Fresh decisions have been issued for 15 certificates of lawfulness and a further 12 decisions have been issued on planning applications which were not processed due to administrative errors. Three applications have been notified to the Scottish Government for listed building clearance. This makes a total of 30 applications.
- 3.3 Taking out those applications detailed above, there are 77 cases outstanding as at 1 October 2016. Of these, 44 relate to the conclusion of legal agreements and 33 relate to non-legal agreement cases. Details of all outstanding cases can be found in Appendix 1.
- 3.4 The spreadsheet details the application number, address and the current position with regards to the application. The main reasons why applications have not been decided are as follows:
- 44 applications have been subject to a legal agreement and this has not been concluded as yet. As a result of the legacy exercise, six applicants have now come back and said they want to conclude the legal agreement rather than have their case withdrawn. However, several applications will have to return to Committee for a decision on the legal agreements now required. At this stage, four applications have been identified that fall into this category;
 - Out of the 44 applications where legal agreements are pending, negotiations are either ongoing or nearing completion on a number of them. However, there are other ones where progress is slow. There are a variety of reasons for delays. In some cases, there are complex land title discussions ongoing, mechanisms for developer contributions to be delivered have to be negotiated and the level of contributions have to be discussed in some detail;
 - Of the remaining 33 applications, in 14 cases, there has been officer delay dealing with older applications; and

- The remaining 19 cases have a variety of reasons for delay, some relating to the requirement for further information such as a noise assessment, bat survey, and environmental information. However, only three cases can be identified with a requirement for further information. In the majority of cases, it is the case that negotiations are continuing to find a solution.
- 3.5 Cases where further information is required represent a relatively small number of applications. Legal agreements are the main reason why older applications are still outstanding. The decision Committee took in June 2015 has helped to provide a case for many applications to be moved forward. Progress has been made with withdrawing a number of applications to reduce the legacy workload.

4. Measures of success

- 4.1 The measure of success is a responsive planning process where legal agreements are concluded quickly and old cases are removed from the system to make it more efficient.

5. Financial impact

- 5.1 There is no direct financial impact arising from this report.

6. Risk, policy, compliance and governance impact

- 6.1 There are no perceived risks associated with this report. The report has no impact on any policies of the Council.

7. Equalities impact

- 7.1 An Equalities and Rights Impact Assessment has been carried out. The impacts are summarised below:
- 7.1.1 The efficient processing of planning applications and, in particular, the quick conclusion of legal agreements can make a valuable contribution to meeting the City's infrastructure requirements and so improve standards of living and through contributions to affordable housing, for example, reduce issues of poverty and health inequality; and
 - 7.1.2 There are no other identified impacts.

8. Sustainability impact

- 8.1 The impact of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties has been considered, and the outcome is summarised below:
- 8.1.1 The proposals in this report will have no impact on carbon emissions because the report deals with the statutory planning process;
 - 8.1.2 The proposals in this report will have no effect on the city's resilience to climate change impacts because the report deals with the statutory planning process; and
 - 8.1.3 The proposals in this report will help achieve a sustainable Edinburgh because it will help facilitate the delivery of sustainable economic growth.

9. Consultation and engagement

- 9.1 There has been no consultation or engagement on this report as it is a factual update relating to planning application processing.

10. Background reading/external references

- 10.1 [Legacy Planning Applications Report 15 June 2015](#)
- 10.2 [Legacy Planning Applications – Update Report 11 August 2016](#)

Paul Lawrence

Executive Director of Place

Contact: Nancy Jamieson, Team Manager

E-mail: nancy.jamieson@edinburgh.gov.uk | Tel: 0131 529 3916

11. Links

Coalition Pledges	P8 – Make sure the city’s people are well housed, including encouraging developers to build residential communities, starting with brown field sites. P17 – Continue efforts to develop the city’s gap sites and encourage regeneration.
Council Priorities	CP4 – Safe and empowered communities CP9 – An attractive city CP10 – A range of quality housing options CP12 – A built environment to match our ambition
Single Outcome Agreement	SO1 Edinburgh’s economy delivers increased investment, jobs and opportunities for all
Appendices	Appendix 1 – Legacy application spreadsheet

REFVAL	ADDRESS	Notes
14/04512 /FUL	59, 60 Belford Road EdinburghEH4 3UE	This was reported to Committee on 12 October 2016 and a further 6 months has been given to conclude the legal agreement.
13/02490 /FUL	8 Shandwick Place EdinburghEH2 4RP	This development has been implemented but the legal agreement has not been concluded. It is therefore operating without planning permission. This has been raised with the agent.
12/02190 /FUL	Land 22 Metres East Of 3Westfield Edinburgh	The house has been completed but there is no legal agreement in place to limit agricultural occupancy. The application will return to committee for further consideration.
08/01204 /FUL	7 Redhall House Drive EdinburghEH14 1JE	The applicants are attempting to gain permission for enabling development to pay for the works to the listed building. As such they do not want this application withdrawn but have not concluded the legal agreement. It is recommended that this application return for a committee decision on the legal agreement requirement.
15/03112 /FUL	Site 80 Metres Northeast Of 85Blackchapel Close Edinburgh	Problems with legal agreement discussions on provision of play park. Negotiations continuing.
14/05127 /FUL	Land 96 Metres South Of 2 Ocean Drive Edinburgh	Ongoing discussions regarding the air quality impacts that this development may have.
10/01832 /PPP	Royal Highland Centre Ingliston Road EdinburghEH28 8NE	Ongoing discussions regarding legal agreement. Issues with multiple ownership of site.
14/04800 /PPP	Site 175 Metres South East Of 4West Shore Road Edinburgh	Ongoing discussions about legal agreement for wider Waterfront regeneration area
15/03909 /FUL	Site At Hyvot Edinburgh	Negotiations ongoing regarding transport contributions on legal agreement

14/05208 /FUL	14 Ashley Place Edinburgh EH6 5PX	Negotiations ongoing regarding the legal agreement. Delays due to issue of legal titles.
14/05146 /FUL	2 - 4 Bonnington Road Lane Edinburgh EH6 5BJ	Negotiations ongoing regarding the legal agreement
14/01238 /PPP	Land 126 Metres North Of 137 Drum Street Candlemaker's Park Edinburgh	Negotiations ongoing regarding legal agreement
15/03052 /FUL	43,47 Upper Gray Street 10-11 Duncan Street Edinburgh EH9 1SN	Negotiations ongoing about legal agreement.
15/01378 /FUL	37 Torphin Road Edinburgh EH13 0PG	Negotiations continuing on legal agreement to pay for pavement works
14/05174 /PPP	151 London Road Edinburgh EH7 6AE	Negotiations almost complete on the legal agreement
15/02170 /FUL	Cameron Toll Shopping Centre 6 Lady Road Edinburgh EH16 5PB	Negotiations almost complete on the legal agreement
15/03821 /FUL	Land 80 Metres South East Of 12 Almond Court Greendykes Road Edinburgh	Negotiations almost complete on the legal agreement
15/02892 /PPP	Land Adjacent To 194 Fountainbridge Edinburgh	Negotiations almost complete on the legal agreement
15/03075 /FUL	Land 100 Metres North Of 86 Longstone Road Edinburgh	Negotiations almost complete on the legal agreement
15/04287 /FUL	Site 25 Metres East Of 12 Gilmerton Dykes Road Edinburgh	Negotiations almost complete on the legal agreement
14/01177 /PPP	7, 11, 13 Eyre Terrace Edinburgh EH3 5ER	Negotiations almost complete on the legal agreement
13/01342 /FUL	Land At Greendykes Road Edinburgh	Legal issues to be resolved as one of the applicants has gone into receivership

08/02579 /FUL	Land Adjacent To Western Harbour Drive Edinburgh	Legal agreement relating to park on the site. Legal agreement conclusion with Forth Ports has not been successful. Case to return to Committee for a decision.
15/01724 /FUL	33, 34, 35, 36 Gyle Centre Avenue Edinburgh EH12 9JT	Legal agreement outstanding - within 6m period for conclusion.
14/05147 /FUL	27, 29, 31 James Craig Walk Edinburgh EH1 3BA	Legal agreement not concluded. Agent has been asked for an update and is waiting for his client's instructions.
15/04445 /FUL	1 -15 Victoria Street 18-20 Cowgate Edinburgh EH1 2EX	Legal agreement discussions ongoing. Still within 6m period for conclusion of agreement.
08/03321 /OUT	65 Dumbiedykes Road Edinburgh EH8 9UT	Legal agreement almost concluded. Delays due to discussions about affordable housing
12/00764 /FUL	East Lodge 100 The Wisp Edinburgh EH16 4SJ	Edmonstone site. Negotiations continuing on legal agreement.
15/04194 /FUL	234 - 246, 248 Easter Road Edinburgh EH6 8LE	Discussions ongoing. A daylighting study has now been submitted and is being assessed. Discussions on developer contributions that will be required are also ongoing.
14/04860 /FUL	Land 296 Metres South Of 17 Frogston Road East Edinburgh	Difficulties agreeing legal agreement due to school infrastructure requirements
14/03847 /FUL	Site At Former 159 Fountainbridge Edinburgh	Delays concluding legal agreement due to change of ownership.
14/03848 /PPP	Site At Former 159 Fountainbridge Edinburgh	Delays concluding legal agreement due to change of ownership.
14/01891 /FUL	2 Lochside Place Edinburgh EH12 9DF	Delay concluding legal agreement
11/01492 /PPP	Land Adjacent To 34 Cramond Road North Edinburgh	Complex planning history. Awaiting solution to the provision of sports facilities on the site. Legal agreement for this pending.
11/01493 /PPP	Land Adjacent To 34 Cramond Road North Edinburgh	Complex planning history. Awaiting solution to the provision of sports facilities on the site. Legal agreement for this pending.

11/01494 /PPP	Land Adjacent To 34Cramond Road NorthEdinburgh	Complex planning history. Awaiting solution to the provision of sports facilities on the site. Legal agreement for this pending.
09/03284 /FUL	50 Pilrig StreetEdinburghEH6 5AL	Applicant now wants to conclude the legal agreement. However, due to the length of time, this application will need to return to Committee for a re-assessment.
13/00673 /FUL	Land 196 Metres South Of 49Burdiehouse RoadEdinburgh	Applicant now wants to conclude the legal agreement
13/02694 /FUL	Land AtGreendykes RoadEdinburgh	Applicant now wants to conclude the legal agreement
15/02312 /FUL	5 Stead's PlaceEdinburghEH6 5DY	Applicant now wants to conclude the legal agreement
08/01689 /FUL	56 CausewaysideEdinburghEH9 1PY	Applicant now wants to conclude legal agreement
12/00238 /FUL	236 Gorgie RoadEdinburghEH11 2PL	Applicant now wants to conclude legal agreement
13/00944 /FUL	49 Burdiehouse RoadEdinburghEH17 8SG	Applicant now wants to conclude legal agreement
14/01197 /FUL	4B Gayfield PlaceEdinburghEH7 4AB	Agent checking with client on legal agreement.
15/03847 /FUL	Mary Erskine School95 Ravelston Dykes RoadEdinburghEH4 3NT	Report to be progressed - backlog in processing
14/03259 /FUL	3F7 Randolph CliffEdinburghEH3 7TZ	Report to be progressed - backlog in processing
12/00214 /FUL	Land To The Rear Of 64-84Slateford RoadEdinburgh	Ongoing issues regarding the parking provided with the development. Revised plans have been submitted and neighbours have been re-consulted.
15/00951 /FUL	Land Adjacent To 194FountainbridgeEdinburgh	no information - case officer off sick

15/01908 /FUL	121 Constitution StreetEdinburghEH6 7AE	Letter issued requesting permission to withdraw but applicants have asked to continue discussions on the application
15/02600 /LBC	121 Constitution StreetEdinburghEH6 7AE	Letter issued requesting permission to withdraw but applicants have asked to continue discussions on the application
15/02632 /FUL	121 Constitution StreetEdinburghEH6 7AE	Letter issued requesting permission to withdraw but applicants have asked to continue discussions on the application
15/04151 /FUL	Land At Greendykes RoadEdinburgh	Letter issued requesting permission to withdraw but applicants have asked to continue discussions on the application
14/04941 /ADV	1 Lauriston PlaceEdinburghEH3 9EF	Discussions ongoing with Transport over road safety issues
15/01954 /FUL	Warriston Recreation GroundWarriston CrescentEdinburgh	Discussions ongoing with consultees
12/04566 /LBC	11 West Shore RoadEdinburghEH5 1QB	Discussions ongoing about the demolition of Granton Gasholder in the context of the wider waterfront regeneration. Marketing and viability information is being prepared.
12/04569 /FUL	Forthquarter ParkWaterfront ParkEdinburgh	Discussions ongoing about developer contributions in the context of the waterfront regeneration development
15/03373 /FUL	67 Lauriston Farm RoadEdinburghEH4 5EX	Amended plans being submitted. Delays due to bat survey
15/03276 /FUL	8 Saughtonhall DriveEdinburghEH12 5SQ	Report to be progressed - backlog in processing
13/04867 /FUL	37 Palmerston PlaceEdinburghEH12 5AU	Report to be progressed - backlog in processing
13/04867 /LBC	37 Palmerston PlaceEdinburghEH12 5AU	Report to be progressed - backlog in processing

14/01452 /FUL	65 Northumberland StreetEdinburghEH3 6JQ	Report to be progressed - backlog in processing
14/01453 /LBC	65 Northumberland StreetEdinburghEH3 6JQ	Report to be progressed - backlog in processing
14/03264 /LBC	3F7 Randolph CliffEdinburghEH3 7TZ	Report to be progressed - backlog in processing
15/02974 /PNT	Proposed Telecoms Apparatus 11 Metres East Of 138Comiston RoadEdinburgh	Report to be progressed - backlog in processing
15/03344 /PNT	Proposed Telecoms Apparatus 9 Metres West Of 9Henderson PlaceEdinburgh	Report to be progressed - backlog in processing
15/04090 /PNT	Proposed Telecoms Apparatus 1 Metre West Of 67Raeburn PlaceEdinburgh	Report to be progressed - backlog in processing
15/04102 /PNT	Telecoms Apparatus 1 Metres West Of 3AHenderson PlaceEdinburgh	Report to be progressed - backlog in processing
14/04477 /FUL	Bongo Club66 CowgateEdinburghEH1 1JX	Ongoing discussions with Environmental assessment regarding noise assessment
15/04186 /FUL	1A Royal Highland CentreIngliston RoadEdinburghEH28 8NB	Ongoing discussions with Environmental assessment regarding biomass
15/02655 /FUL	207 Balgreen RoadEdinburghEH11 2RZ	Discussions ongoing with applicant about acceptability of development
15/02655 /LBC	207 Balgreen RoadEdinburghEH11 2RZ	Discussions ongoing with applicant about acceptability of development
15/03041 /FUL	101 Ingliston RoadEdinburghEH28 8AU	Delays due to drainage and transport issues.
15/04392 /FUL	3 - 4 Downie TerraceEdinburghEH12 7AU	Awaiting noise assessment
15/04220 /ADV	234 - 246, 248 Easter RoadEdinburghEH6 8LE	Awaiting determination of planning permission before processing

15/04448 /FUL	The Hermitage Golf Course 11 Braid Hills Drive Edinburgh EH10 6GZ	Application delayed due to land ownership issues to be resolved
15/03226 /FUL	18,19,20,21,22,23,24 John's Lane Edinburgh EH6 7EU	Applicants are in discussion with housing on affordable housing requirement
15/01621 /FUL	Bonnington Mains Quarry Cliftonhall Road Newbridge EH28 8PW	A screening and scoping opinion has been submitted and an Environmental Statement is required because of the potential environmental impacts