

# Planning Committee

10am, Thursday 3 October 2013

## Cycle Storage in Gardens

**Item number**

**Report number**

**Wards**

City Wide

### Links

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**Coalition pledges**

[P40](#) and P50

**Council outcomes**

CO18, [CO19](#) and CO22

**Single Outcome Agreement**

SO2 and SO4

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# Executive Summary

## Cycle Storage in Gardens

### Summary

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This report responds to the following motion by Councillor Bagshaw which was approved by the Planning Committee on 16 May 2013:

Committee:

1. recognises the issues which have arisen, and continue to arise, in connection with cycle storage in gardens; particularly in front gardens where households have very limited other storage options;
2. recognises and welcomes the City Council's ambitious targets to encourage increased cycle use, the achievement of which requires existing barriers to cycle use to be addressed;
3. acknowledges that householders seeking storage solutions find it difficult to get a clear steer on what is permitted and how best to provide storage;
4. notes the proposals prepared by SPOKES in its *draft Factsheet on Cycle Storage in Gardens* and its accompanying note on *Steps that the Council should consider to clarify and seek to resolve these issues*; and
5. instructs officers to investigate the proposals put forward by SPOKES, in order to improve clarity for householders, reduce the likelihood of abortive applications and/or enforcement measures, and reduce costs to a proportional level; and to report on measures to support those proposals or alternatives with the same aim.

### Recommendations

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It is recommended that the Committee:

1. Notes the finalised version of the SPOKES factsheet, "Cycle Storage in Gardens and that it will be publicised by the Council;
2. Agrees that the use of the factsheet by householders in submitting applications should be monitored for a period of six months and that a summary of activity should be presented to the Committee;
3. Agrees that no further action by the Council is necessary; and
4. Agrees to discharge the motion by Councillor Bagshaw.

### Measures of success

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Proposals for cycle storage in gardens comply with planning policies and there is greater public awareness of planning requirements.

## **Financial impact**

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The contents of this report will have no impact on Council finances.

## **Equalities impact**

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The content of this report would improve facilities for bicycle users which has the potential to improve health and wellbeing.

## **Sustainability impact**

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The proposals in this report:

- may reduce carbon emissions by extending access to bicycles for use in the city;
- increase the city's resilience to climate change impacts as increased levels of cycling in the city may reduce the need for vehicular travel; and
- help achieve a sustainable Edinburgh through the promotion of healthier forms of travel.

## **Consultation and engagement**

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There is no requirement for consultation on the contents of this report. Planning officers have worked closely with Spokes on the preparation of the Factsheet.

## **Background reading / external references**

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On-Street Residential Bike Parking for Tenement Areas - Report to Transport, Infrastructure and Environment Committee, 21 February 2012.

Guidance for Householders, City of Edinburgh Council, December 2012.

SPOKES Tenement Storage Cycle Factsheet, January 2011.

## Spokes Factsheet: Cycle Storage in Gardens

### 1. Background

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1.1 On 16 May 2013, the Planning Committee approved the following motion by Councillor Bagshaw:

Committee:

1. Recognises the issues which have arisen, and continue to arise, in connection with cycle storage in gardens; particularly in front gardens where households have very limited other storage options;
2. Recognises and welcomes the City Council's ambitious targets to encourage increased cycle use, the achievement of which requires existing barriers to cycle use to be addressed;
3. Acknowledges that householders seeking storage solutions find it difficult to get a clear steer on what is permitted and how best to provide storage;
4. Notes the proposals prepared by SPOKES (the Lothian Cycle Campaign group) in its *draft Factsheet on Cycle Storage in Gardens* and its accompanying note on *Steps that the Council should consider* to clarify and seek to resolve these issues; and
5. Instructs officers to investigate the proposals put forward by SPOKES, in order to improve clarity for householders, reduce the likelihood of abortive applications and/or enforcement measures, and reduce costs to a proportional level; and to report on measures to support those proposals or alternatives with the same aim.

1.2 The Council aims to support and encourage travel by bike and recognises the need for secure storage of bicycles. However, the erection of structures for the storage of bikes in the front gardens of residential properties has recently resulted in a number of complaints being made by members of the public. All such enquiries have to be considered for potential enforcement action. The Council has a duty to protect the amenity of residential areas and the character and appearance of conservation areas, and each enforcement action has been based on the merits of the individual case. Enforcement action has been taken in some cases to remove sheds in front gardens which have been considered to affect the amenity and character of the local areas. The enforcement action has also been supported in some appeal decisions by Scottish Government Reporters.

- 1.3 Cycle storage in residential property is provided through requirements for cycle parking in new developments, within existing houses and garages or through individual applications for structures (normally sheds) within existing gardens.
- 1.4 Storage within the property does not require planning permission. Planning officers have previously worked with SPOKES to produce guidance which provides advice on the storage of bikes for tenement and flat dwellers. The main area of contention is the location of storage facilities in front gardens.

## 2. Main report

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- 2.1 The erection of a shed is development requiring planning permission. The legislation does not differentiate between the use of a shed – there is no separate categorisation for a structure used for the storage of a bike.
- 2.2 National legislation states that within the curtilage of a single dwelling house (not a flatted property), the erection of a garden shed is permitted development (work which does not require planning permission) to the rear of properties subject to certain location and size restrictions. The requirements are detailed in bold italics in Appendix 1, which is an extract from the Guidance for Householders (December 2012). However, national legislation requires planning permission for the erection of a shed in all cases within the curtilage of flatted properties. The reason for the stricter control on flatted property relates to the greater potential for issues such as visual clutter and overshadowing. Within conservation areas, development is required to preserve or enhance the character and appearance.
- 2.3 The impact of the storage unit on the appearance and amenity of the street is a material consideration. However, a small shed capable of accommodating a bike will normally be considered acceptable and granted planning permission in cases where the shed is not located forward of a street elevation.
- 2.4 SPOKES has expressed concern about the restrictions on bike storage in front gardens and has produced a factsheet (Appendix 2) on cycle storage in gardens. This details the planning legislation relating to the erection of sheds and provides further guidance on the location, size, form, screening and colour of shed which is likely to be acceptable where planning permission is required. The factsheet makes it clear that applications are always treated on their own merits.
- 2.5 Planning officers have investigated the proposals put forward by SPOKES and worked with their representatives to formulate the factsheet which seeks to balance the provision of bike storage with the preservation of character and amenity, especially in conservation areas. The advice provided in the factsheet is considered appropriate. The factsheet will:
  - Provide greater clarity and certainty for householders by clearly specifying guidelines for the form of cycle storage that will normally be considered acceptable;
  - Reduce the number of unsuccessful applications and potential enforcement cases; and
  - Provide a subsequent reduction in costs through application fees.

- The factsheet will be supported by inclusion on the Council's cycling related web pages and mention in the Householder Guidance.

- 2.6 It is recommended that the use of the factsheet by householders in submitting applications and enforcement cases should be monitored over a period of six months to assess its effectiveness. A summary of activity will be presented to the Planning Committee.
- 2.7 SPOKES have also submitted a list of steps that Edinburgh City Council should consider in terms of cycle storage in gardens. These are detailed in Appendix 3 with recommended Council responses in italics.
- 2.8 On 21 February 2012, the Transport, Infrastructure and Environment Committee noted a report on a pilot project for On-Street Residential Bike Parking in Tenement Areas. Six locations for this storage have been identified and the details of these are currently being determined in consultation with local residents. It is expected that the trial storage will be implemented in late 2013. Should this pilot be successful then there would be potential for the scheme to be rolled out across the city.

### 3. Recommendations

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- 3.1 It is recommended that the Committee:

It is recommended that the Committee:

1. Notes the finalised version of the SPOKES factsheet, "Cycle Storage in Gardens and that it will be publicised by the Council;
2. Agrees that the use of the factsheet by householders in submitting applications should be monitored for a period of six months and that a summary of activity should be presented to the Committee;
3. Agrees that no further action by the Council is necessary; and
4. Agrees to discharge the motion by Councillor Bagshaw.

**Mark Turley**

Director of Services for Communities

### Links

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<b>Coalition pledges</b>	<p>P40 Work with Edinburgh World Heritage and other stakeholder to conserve the city's built heritage.</p> <p>P50 Meet greenhouse gas targets, including the national target of 42% by 2020.</p>
<b>Council outcomes</b>	<p>CO18 Green – We reduce the local environmental impact of our consumption and production.</p> <p>CO19 Attractive places and well maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards in the maintenance of infrastructure and public realm.</p> <p>CO22 Moving Efficiently – Edinburgh has a transport system that improves connectivity and is green, healthy and accessible.</p>
<b>Single Outcome Agreement</b>	<p>S02 Edinburgh’s citizens experience improved health and well being, with reduced inequalities in health.</p>
<b>Appendices</b>	<p>SO4 Edinburgh’s communities are safer and have improved physical and social fabric.</p> <p>Appendix 1 - Householder Guidance</p> <p>Appendix 2 - Spokes Factsheet: Cycle Storage in Gardens</p> <p>Appendix 3 – Cycle Storage in Gardens – Steps that Edinburgh Council Should Consider</p>

## Appendix 1

### HOUSEHOLDER GUIDANCE

#### Garages and outbuildings

Buildings within the residential curtilage – such as garages, sheds or greenhouses – should be subordinate in scale and floor area to the main house. In many cases, they will be “permitted development” if:

- ***they are not in front of the principal or side elevation which faces a road;***
- ***they are not more than 3m at the eaves and 4m overall;***
- ***no part of them within 1m of the boundary is more than 2.5m high;***
- ***they do not take the total coverage of development (extensions, sheds etc, but excluding the original house and any hard surface or deck) to more than 50% of the front or rear curtilage area; and***
- ***in a conservation area or within the curtilage of a listed building, they would not have a footprint exceeding 4sq.m.***

If they don't fit these criteria, or if they are within the curtilage of a flatted property, planning permission will be required. Proposals will be assessed for their impact on the amenity of the area and on neighbouring property (eg loss of daylight) in the same way as extensions. Some points to note when planning your development:

- the use must be ancillary to the “enjoyment of the dwelling house”; for instance, gardening, maintenance or hobbies, and not for a commercial business;
- in flatted properties, the way that the garden ground is allocated and the position of neighbouring windows may restrain the size or position of any outbuildings;
- buildings in front gardens will not usually be acceptable, because of the damaging impact on the appearance and amenity of the street and the surrounding area; and
- there may be additional considerations for listed buildings and conservation areas.

Sheds for cycle storage are subject to the same principles as sheds for any other purpose. The Council has worked with Spokes to produce guidance on the storage of cycles for tenement and flat dwellers. A Spokes factsheet sets out useful practical advice.

## Appendix 2 - Spokes Factsheet: Cycle Storage in Gardens



The Lothian Cycle Campaign

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# Cycle Storage in Gardens

This factsheet provides information for householders in Edinburgh who need to store bikes in their garden. It mainly covers front gardens, as that is where most problems arise, but it also explains the position for other gardens.

## Contents

1. Background.
2. Do I need planning permission for a shed/container in a garden?
3. What additional permissions may be needed?
4. Can I be sure of getting planning permission?
5. What if I have problems with planning permission or if I am told to remove an existing bike shed/container?
6. Related issues and possible future developments

## 1. Background

This factsheet has been produced firstly, in an attempt to reconcile the Council's objectives and targets on increasing cycle use<sup>1</sup> with its conservation and amenity policies; secondly, to give greater clarity and assurance to householders needing bike storage facilities in their garden; and thirdly to minimise abortive costs and administration for householders and for the Council.

Most sheds or other storage containers in Edinburgh have been installed without the householder consulting the Council, and we suspect this is the case in most or all councils. However, if you do this in a location where planning permission is needed, and a member of the public complains, even up to four years later, your local Council may take enforcement action against you. Unfortunately enforcement action can be a very stressful process possibly involving an enforcement notice and an appeal to the Scottish Government. After four years, if no enforcement action has been taken against you, then "deemed planning permission" applies and no action can be taken.<sup>2</sup>

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1 The City Council has adopted bold targets that, by 2020, 10% of all trips and 15% of commuting trips should be by bike. See the *Active Travel Action Plan*, [www.edinburgh.gov.uk/downloads/file/4409/active\\_travel\\_action\\_plan](http://www.edinburgh.gov.uk/downloads/file/4409/active_travel_action_plan)

2 See the Scottish Government paper *Planning Enforcement Charter - A guide to enforcing planning controls* at [www.scotland.gov.uk/Publications/2009/12/17093151](http://www.scotland.gov.uk/Publications/2009/12/17093151) and *Planning Circular 10/2009: Planning Enforcement* at [www.scotland.gov.uk/Publications/2009/09/16092848/0](http://www.scotland.gov.uk/Publications/2009/09/16092848/0).

Unfortunately, planning permission costs £192 [April 2013 figure] - more than the cost of many sheds/containers!

Planning rules do not differentiate between different uses of a shed - there are no specific rules which apply to "cycle sheds". The rules assume that a shed may be used for *any* non-commercial purpose. Storage of bikes, garden equipment and Council recycling boxes are common uses. There are no rules about the *type* of shed - it might for example be a proprietary metal storage box, or a softwood framed timber shed with hinged doors. See below for the criteria most likely to result in permission being granted.

## 2. Do I need planning permission for a shed/container in a garden?

- ◆ **In the garden of a flat** – YES.
- ◆ **In the front garden of a house (or any side garden adjoining a public road)** – YES.
- ◆ **In the rear garden of an unlisted house not in a conservation area** – NO, except that under *Permitted Development Rights*<sup>3</sup> buildings "*incidental to the enjoyment of the dwelling*" are restricted to a height of 4m overall, 3m at the eaves, and 2.5m at the eaves if within one metre of the boundary. Also, the total area covered by proposed and existing development must be less than half the relevant curtilage.<sup>4</sup>
- ◆ **In the rear garden of a house in a conservation area, or of a listed building** – as for rear gardens above, but with an additional limitation of a maximum floor area of 4 sq m.
- ◆ **Further restriction** – if the house is part of a development with open plan front gardens, there may also be title restrictions.

Further general advice on planning and how to apply for planning permission is available from the City of Edinburgh Council.<sup>5</sup>

## 3. What additional permissions may be needed?

Building a shed or structure on your property may require a building warrant and/or need to meet building standards which are set within the Building Regulations. The requirements in place are predominately to prevent the spread of fire and the type of property where you intend to build your shed/structure and the size and position of the shed/structure will determine whether any requirements will be imposed.

Or

For example, if you are constructing a shed/structure for your bike within the boundaries of a house you will not need a building warrant or to meet any building standards provided your shed/structure is less than 8 m<sup>2</sup>. The shed/structure will need to be at least 1m from the boundary if it is within 1m of your home. However if you live in a flat, the shed/structure should be at least 1m from your flat, 3m from any adjoining flat and at least 1 m from the boundary. Again the shed/structure should be no more than 8m<sup>2</sup>.

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3 See *Guidance on Householder Permitted Development Rights* [www.scotland.gov.uk/Resource/0038/00388268.pdf](http://www.scotland.gov.uk/Resource/0038/00388268.pdf)

4 "Curtilage" is the garden area behind the principal elevation. The principal elevation is the front of the house but also including the side elevation where it adjoins a public road.

5 See *Guidance for Householders and Listed Buildings and Conservation Areas*, at [www.edinburgh.gov.uk/planningguidelines](http://www.edinburgh.gov.uk/planningguidelines)

Interpreting these complex restrictions can be confusing and it is advisable to contact the Building Standards section of the City of Edinburgh Council before you build your shed/structure to ensure that the Building Regulations are being complied with and no permissions are required.

**Listed Building Consent** may be necessary if your property is listed as being of historic interest, but only if your shed/container is to be physically attached to the listed structure. Information on listed buildings is available from various government websites<sup>6</sup>.

#### **4. Can I be sure of getting planning permission?**

The Council has agreed that, where planning permission is required, applications where the guidelines below have been followed would normally expect to be granted permission. However, applications are always treated on their own merits. Applications which do not fully meet these guidelines might also succeed, but again would depend on the particular circumstances.

- ◆ Consider the best position in the garden not only for your ease of access but also to minimise intrusion into the views of neighbours and of the passing public.
- ◆ Discuss your ideas with your neighbours and try to meet any criticisms they may have about your choice.
- ◆ Keep the size of your shed/container within the most common maximum dimensions of 2.5m long x 1.2m deep x 1.5m high. A mono-pitched roof often has a lower profile than a ridged roof and this can make the structure less obtrusive.
- ◆ Select a colour for the shed/container which is not obtrusive and which fits in with its surroundings. Note that varnish or some coloured wood stains may look too conspicuous, even though a shed is constructed from 'natural' wood.
- ◆ Try to screen the shed/container to some degree with planting, a wall, or other discreet means.

#### **5. What if I have problems with planning permission or if I am told to remove an existing bike shed/container?**

If you have difficulty coming to an agreement with the Council as to what is reasonable and acceptable, or if you have been given a notice to remove an existing shed, use the review or appeal system as below. However:

- ◆ Remember that if your shed has been in place more than four years, you should be allowed to leave it in place [section 1 above].
- ◆ Enforcement by the Council is discretionary and only if they judge it to be in the public interest.<sup>7</sup> This opens up the line of argument/defence that encouraging cycling is not only in the public interest but is also Council and national policy. Of course, this argument has then to be balanced against amenity considerations.

Contact your councillors for advice, preferably before lodging an appeal. Each ward has 3 or 4 councillors, and you can find yours by typing in your postcode at [www.writetothem.com](http://www.writetothem.com).

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<sup>6</sup> Information about listed buildings: [www.environment.scotland.gov.uk](http://www.environment.scotland.gov.uk) or [www.historicscotland.gov.uk/historicandlistedbuildings](http://www.historicscotland.gov.uk/historicandlistedbuildings)

<sup>7</sup> See the Scottish Government paper *Planning Enforcement Charter - A guide to enforcing planning controls* at [www.scotland.gov.uk/Publications/2009/12/17093151](http://www.scotland.gov.uk/Publications/2009/12/17093151)

Spokes may also be able to help. Please contact us, but remember that we are an organisation of volunteers, so may not always have the capacity to help.

There are several cases where householders have won appeals, often with help, advice and support from local councillors and/or Spokes.

***If you are refused planning permission under delegated powers*** [i.e. by Council officers] then your appeal will be decided by a Council Local Review Body made up of councillors.

***If you are refused planning permission by the Planning Committee, or if you are served with an enforcement notice to remove an existing shed***, your appeal is decided by a government official (called a Reporter).

In both cases the documentation from the Council should give full details of how to lodge your appeal and any closing dates. Your councillors should also be able to advise.

## **6. Related Issues and Possible Future Developments**

### **Other local authorities**

The garden bike storage issue is not unique to Edinburgh or indeed to Scotland. For example both Ealing and Wandsworth Councils in Greater London are taking steps<sup>8</sup> to reconcile amenity considerations with the need to encourage bike ownership and use.

### **National regulations**

Like all councils, the City of Edinburgh is bound by planning law and regulations. Much of the difficulty for householders in Scotland who need garden bike storage could be removed if the Scottish Government changed the rules for permitted development, so as to allow front garden sheds/containers which meet certain criteria, such as those in section 4 of this factsheet. Spokes is lobbying MSPs for this change in regulations.

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8 Garden bike storage in Ealing and Wandsworth Council areas – issues and council initiatives  
[www.spokes.org.uk/wordpress/wp-content/uploads/2013/03/Ealing-factsheet-Cycle-storage-in-front-gardens.pdf](http://www.spokes.org.uk/wordpress/wp-content/uploads/2013/03/Ealing-factsheet-Cycle-storage-in-front-gardens.pdf)

## **Appendix 3 - Cycle Storage in Gardens: Steps that Edinburgh City Council Should Consider**

In order to encourage cycle use in Edinburgh, in line with its targets, Spokes suggest that the Council should seek ways of assisting householders who have no realistic alternative to storing their bike(s) in a front garden.

### **1. IMPROVE CLARITY FOR HOUSEHOLDERS**

- Adopt the suggested guidelines in section 4 of the draft Spokes factsheet.

*This report recommends that the Committee notes the publication of the factsheet by SPOKES. The Council's guidelines on sheds are set out in the Guidance for Householders (December 2012) and these are sufficient for planning purposes. It is not necessary for the Council to adopt the contents of the factsheet. No further action is proposed.*

- Issue guidance saying that the Council is *unlikely* to serve Enforcement Notices for storage units meeting the Spokes factsheet criteria. When complaints are received, Councils have discretion on whether or not to issue Enforcement Notices, and should do so only if it is deemed to be in the public interest.

*Every case involving potential enforcement action is considered on its merits. This is based on the advice given in the Guidance for Householders. No further action is proposed.*

- Publicise the Spokes factsheet and refer to it in Council publications - in the same way as the Council already does for the SPOKES tenement cycle storage factsheet.

*The Council will help raise awareness of the SPOKES factsheets by including links on the cycling related pages of the Council website.*

### **2. REDUCE COSTS, AS A PROMOTIONAL MEASURE**

- Transfer from the cycle promotion budget to the planning budget the cost of planning applications by householders for garden cycle storage facilities which meet acceptable criteria. The possibility of doing this on a batch basis for a number of properties could be pursued.

*There are concerns that it would be difficult to ensure that the storage is used mainly for bikes and that it could set a precedent for other forms of development. No further action is proposed.*

- Make available to householders, at a subsidised cost, cycle storage units which meet acceptable criteria - perhaps such as (a) above. We understand that Ealing Council is planning to do this, and anticipates 20-30 installations in the first year. In such a case, planning permission would still be required, to avoid any possible conflict of interest within the Council.

*3. The Council is currently undertaking a pilot project for On-Street Residential Bike Parking in Tenement Areas. Six locations for this storage have been identified and the details of these are currently being determined in consultation with local*

*residents. It is expected that the trial storage will be implemented in late 2013. As this is at a pilot stage, the Council does not at present intend to make storage units available at subsidised cost. No further action is proposed.*

### **3. LOBBY GOVERNMENT**

- In our view, the ideal answer is for the Scottish Government to change the rules for permitted development, so that sheds/containers for storing bicycles in front gardens, and meeting our criteria, are included. We urge the Council to lobby Government to that effect. We note that this is far from being an Edinburgh-only problem, as evidenced by ongoing developments and negotiations in Ealing and in Wandsworth.

*The Council does not support the proposal to make bike sheds permitted development. The restriction on the use of a shed for bike storage is beyond reasonable planning control and such a change would also risk harming the character and appearance of conservation areas and the amenity of residential areas. No further action is proposed.*