

Planning

Do I need planning permission?

As a house-owner or resident in the Blacket Conservation Area it is very likely that you will need to apply for planning permission if you are planning work on your property or its boundaries: this could involve changing window frames, adding an extension or conservatory, erecting railings or fencing, erecting a garden hut, or lopping or cutting down trees in your garden. *You should always assume that you need permission to do any of these things and contact the Planning Department to check.*

You may also need Listed Building Consent if your house is a Listed Building. You can find out whether your property or adjacent properties have been formally Listed, via the Historic Scotland website (www.historic-scotland.gov.uk/listedbuildings). The Historic Scotland website also provides a useful Memorandum of Guidance on Listed Buildings and Conservation Areas and refers to other useful publications concerned with the repair and maintenance of buildings, etc. You will probably need a building warrant if you are carrying out interior work (see below).

In Planning terms, the relevant documents are Planning Permission and - where the property is a Listed building - Listed Building Consent (LBC). There is also a category of Planning Permission referred to as Conservation Area Consent (CON) for matters requiring approval specifically because the "development activity" is proposed within a Conservation Area, where stricter constraints apply.

For detailed guidance see that produced by the City of Edinburgh Council at www.edinburgh.gov.uk/planning. The Planning and Building Standards Portal deals with much of the specific planning and building control issues. However, the A-Z enquiry facility can be used to find other interesting information about Conservation Areas, the Blacket Conservation Area Appraisal, the Local Plan, and Development Quality Guidelines - the latter being listed under Advice Notes for Home Owners within Building Standards.

Building Control

When you are making changes to your house you are likely to need both planning permission and a building warrant. Building warrants cover "safety-related" matters and apply throughout the City, to maintain consistent standards. Where Building Control approval is required, the relevant document is a Building Warrant.

Outdoor areas included

Remember that local regulations for a Conservation Area may affect gardens and outdoors areas as well as residential and other buildings (*there are, for example, requirements to secure agreement from the relevant Council officer before any significant cutting back or removal of trees within your garden, and you will need planning permission to put up huts and boundary walls above a certain size*).

Rules Concerning Protection of Trees in Conservation Areas

Note prepared by Richard Seligman of the Bracket Association

What is a Tree? - In one document "A tree may be defined as a woody, perennial plant which can attain a stature of 6m or more on a single stem. The stem may divide low down, but it must do so above ground level"!

The rules for the protection of trees within Conservation Areas are different for trees that are subject to a Tree Preservation Order and those that are not. The website below giving a full summary of the details is the Scottish Government Planning Circular dealing with Tree Preservation Orders and Conservation Areas:-

www.scotland.gov.uk/Resource/Doc/340230/0112643.pdf *

Trees Covered by a Tree Preservation Order (TPO)

The City of Edinburgh Council Planning Department (CEC) can make a TPO to cover any tree, or group of trees, that it considers requires protection and this covers anything from a sapling to a fully mature tree.

The main points covering the making and operation of a TPO are:-

The effective date of a TPO is the date that it is made, not the date on which it is confirmed, which must be within 6 months of making the order.

Notice must be given to all interested parties.

Public notices must be placed.

A minimum of 28 days must be given for representations.

Full definitive details of the tree must be recorded.

No work can be carried out on a tree subject to a TPO without express permission from CEC.

Other Trees within a Conservation Area

The above website also gives details applying to trees, other than those for which there is a TPO, within a Conservation Area.

For other trees to be counted as trees within a Conservation Area they must have a diameter of more than 7.5cm at a height of 1.5m from ground level.

Before any work is carried out on such a tree notice in writing must be given to CEC Planning Department. CEC then has 6 weeks (42days) in which to respond to such notice; if it does not respond within this period then the notifier can carry out the work detailed.

The six weeks prior notice does not have to be in any particular form. It must however describe the work proposed and include sufficient particulars to identify the tree.

The notified work must then be carried out within 2 years of either receipt of approval from CEC or the expiry of 2 years and 6 weeks from the date of notification.

The only control that CEC has, following the above notice, is to make a TPO which is then subject to the rules set out above and shown in more detail in the above website.

Exemptions and Other Points

There are exemptions to the requirement to give prior notice. The following are those most likely to apply within the Blackett Conservation Area.

You do not have to give the CEC six weeks notice:-

for cutting down a tree in accordance with a felling licence granted by the Forestry Commission under the Forestry Act 1967;

for work on a tree with a diameter not exceeding 7.5cm over bark at 1.5m ** above ground level;

for work on a tree by or at the request of a statutory undertaker where the land on which the tree is situated is operational land (3) and the work is necessary:

- in the interests of the safe operation of the undertaking,
- in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker, or
- to enable the statutory undertaker to carry out permitted development;

for works on a tree cultivated for the production of fruit in course of a business trade;

for the pruning in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

for works to a tree where that work is required to enable a person to implement a planning permission other than;

- an outline planning permission or planning permission in principle, or
- permitted development rights;

granted on application under Part 3 or section 242 of the Act, or deemed to have been granted;

where the cutting down, topping, lopping or uprooting of a tree if:

- it is urgently necessary in the interests of safety;
- it is necessary for the prevention and abatement of a nuisance; or
- it is in compliance with any obligation imposed by or under enactment

Notification of Notices and Applications

CEC have recently decided to publish notices that they receive in connection with works to trees within Conservation Areas in their Weekly Planning Lists. These will have the suffix /TCO.

The inclusion of these notices is not a statutory requirement and so there is no statutory period during which anyone can make representations to CEC. They are including such notices in order to keep the public better informed. As a result, and because they tend to deal with such notices more quickly, it may well be that anyone wanting to object to some operation on a given tree will find that CEC has already taken a decision on the matter.

Richard Seligman – 13.05.13

NOTES

This web site needs two points to be clarified:- in the Conservation section; Section 72. relates to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997; Section 73. then refers to "Section 172"; this, however, is Section 172 of Town and Country Planning (Scotland) Act 1997.

* The reference to 1.5m above ground level is only made in the Town and Country Planning (Scotland) Act 1997.

** In the third bullet point above I am not sure what the definition of "operational land" is, but I can see situations where work at, say, the inner edge of a pavement might involve the felling of a tree which, although it is on private land, is immediately next to the pavement.

Letting people know

If you are proposing to undertake material work on your property which is likely to involve planning or building warrant application and permission, we suggest you alert the Blacket Association. You should also informally advise your neighbours of your intentions, as this may avoid misunderstandings or delays later on.

There is a requirement for formal neighbour notification where a planning application is necessary but it is, in any case, good practice to make neighbours aware of any proposals prior to that stage.

A brief guide to planning permission

Building Warrant applications are less formal, require no additional notification or consultation period, but work must not be undertaken until authorisation is obtained from a relevant official.

Category of Work	Planning Permission Required?	Conservation Area* Consent?
Installation of alarm box	Sometimes (Listed)	No
Installation of Security	Sometimes (Listed)	No
Erection of satellite dish	Sometimes	No
Turn part of front garden into driveway	Yes	Sometimes*
Widen an existing run-in	Yes	No
Form patio doors from window	Yes	Sometimes*
Balanced flue (central heating)	Sometimes	No
Form new window and door	Yes	Sometimes*
Install Velux windows	Yes	Sometimes*
Install double glazing	Sometimes	Sometimes*
Install replacement windows	Yes	No
Subdivision of property	Yes	Sometimes*
Install freestanding shed or hut	Yes	Sometimes*
Demolish shed, conservatory or Outshot	Yes	Yes*
Replace fence like for like	No (unless listed)	No
Build a conservatory	Yes	Sometimes*
Build stairs to garden	Yes	No
Build an extension	Yes	No
Paint front door a different colour	Informal approval required	No

NB1* The Blacket Conservation Area is controlled through an "Article 4 Direction". This action has removed all "Permitted Development Rights" under the General Permitted Development Amendment Orders 1997. This means that all forms of "development" to the property will require Planning Consent to be sought from the Planning Authority. Conservation Area Consent is an additional category of approval confined largely to matters relating to 'demolition' or destructive action to a structure, wall or permanent feature etc.

NB2 If you live in one of the many Listed Buildings in Blacket, further consents may be required, eg for the installation of alarm boxes or security lights, so please check with the Planning Department before starting work.

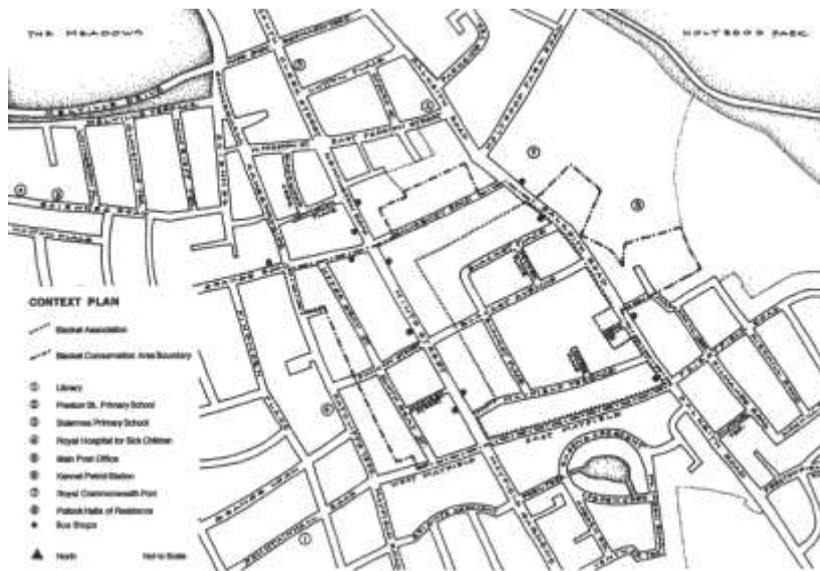
Conservation Areas

The designation of a neighbourhood as a Conservation Area is intended formally to recognise features which make the area an outstanding one, whether in terms of history, architecture, visual appeal or a blending of these qualities.

The nature of Conservation Areas can vary widely, encompassing settings which are rural and urban, highly-developed or open, ancient and modern. Apart from recognising special qualities in an area, Conservation designation also lays down a set of procedures and requirements, which aim to help protect the essential character of the area and try and ensure that changes and developments are in keeping and to not damage it. The Blacket Conservation area was the first one to be designated in Edinburgh (in 1972). The document describing the special character of the area is here:

http://www.edinburgh.gov.uk/downloads/file/758/blacket_conservation_area_character_appraisal

Conservation Area Associations are usually groupings of local property owners / residents who aim to help sustain this approach, act as a focus for community opinion in relevant matters and, generally, to maintain and enhance the amenity of their area.



Two Conservation Associations between them cover the major part of the designated Blacket Conservation Area. The Blacket Association concerns itself with properties on the “five streets” of Blacket Place / Avenue, Dryden / Alfred Place and Mayfield Terrace. **The West Blacket Association** covers Minto Street properties and those to the west side of that Street, within the Area.