

09 January 2023

Dear Sir/Madam

Building warrant durations and amendments of building warrants for housing developments

I am writing to advise you of how, going forward, Midlothian Council Building Standards will manage and process building warrant durations and amendments of warrants for housing developments. **I would be grateful if you could arrange for this communication to be passed on to the relevant management within your company.**

In collaboration with neighbouring authorities in our Consortium, Midlothian Council Building Standards has taken the decision to reinforce the time periods relative to building warrant applications. This is considered essential to allow all new properties constructed within Midlothian to comply with current standards and therefore meet the expectations of new homebuyers in Midlothian.

As detailed in Clause 3.7 of the Procedural Handbook:

- A building warrant is valid for three years, commencing the day it is granted.
- The applicant must either finish the work within that period or apply for an extension of the warrant.
- There is no legal limit to the number of extensions, but they are at the verifier's discretion and the need for further extensions will have to be very clearly justified.
- To prevent misuse of extensions of time, **verifiers have the power to insist that work done after the expiry of the original warrant must meet the building regulations in force on the date of the application to extend the expired warrant.**

In the past, the time typically available for construction has, for various reasons and with the verifier's agreement, often extended well beyond the 3-year duration. Going forward, Midlothian Council Building Standards will utilise the following guidance for dealing with multi-plot housing sites:

- 1) For any building warrant application for a multi-plot housing site **that expires after 01 February 2023**, Building Standards will grant an initial 9-month extension without requesting that the buildings/plots that are the subject of that building warrant be upgraded.
- 2) Following this initial 9-month extension, Building Standards will then grant a further 6-month extension to any plots that have commenced. Note that to prevent misuse of extensions of time, Building Standards will carry out a site visit to check which plots have commenced.

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www.midlothian.gov.uk/buildingstandards

- 3) If any of the plots that are subject to the 6-month further extension are not completed within this period, then they will be subject to full upgrade to meet the standards in place at the time.
- 4) Prior to Building Standards granting an extension to the warrant for the plots that have started, an amendment to the building warrant for the removal of the plots not started will need to be applied for and granted. This will obviously need to be applied for prior to the warrant expiring, to allow sufficient time to be processed. All other plots outwith this will be subject to a new building warrant.
- 5) Effectively, the warrant will expire a maximum of 15 months from the initial expiry date. From submission, through granting (encompassing the typical maximum 9-months period to get the building warrant granted) to expiry, this approach will give a developer certainty and approximately five years to complete the dwellings within their building warrant application.
- 6) The above position will help the industry to achieve the aim of reducing carbon emissions and ultimately net zero carbon targets.

As an example of the above process:

Consider a warrant granted on 24 March 2020, meaning it expires on 24 March 2023. Building Standards will extend the entire site for 9 months until 24 December 2023 (with no upgrades required).

During this 9-month period, an amendment to remove those plots that will not be completed by 24 June 2024 (24 December 2023 plus a 6-months further extension) should be made and be granted. When that amendment is granted, a further extension to warrant can be applied for to cover the houses that are under construction and will have completion certificates accepted by 24 June 2024. Any other plots outwith this will require a new building warrant application.

It should be noted that the above guidance may be subject to change in light of adjustments to Scottish Government policies.

As a consequence of the above, all developers should be aware that when submitting a building warrant application for a multi-plot site, the proposed plot numbers should realistically reflect the likely 3-year build progress on site. Where building warrant applications typically detail more than 250 plots, a detailed explanation of how these plots will be completed and signed off within 3 years, with reference to current and historical site build data, would need to be provided.

If you would like to discuss any of the above, please feel free to contact me on the number provided.

Yours faithfully



John Delamar
Building Standards Manager