

*See Status report on approvals*

## City of Edinburgh Council Approvals

The Council has two main statutory functions to perform when carrying out approvals:

*Done*

1. The Planning Authority (generally covered by Prior Approvals, but there are instances where full planning applications are required for areas outwith the Limits of Deviation (LOD)).
2. The Roads Authority (which includes all the technical approvals for roads, structures and flood related matters). Public safety on the road is one of our primary responsibilities.

The following is a review of Appendices 3a and 3b on the Planning and Technical Informatives contained within the Infraco Phoenix Proposal. It does not include any discussion on other approvals such as Building Warrants and Licence related consents.

### Planning Authority

Infraco's list of Planning related approvals is incomplete, and should include the following:

1. **Missing Approvals that have been granted by the Council, which include:**

Batch	Description	No of Conditions	No of Informatives
1/01b	Lindsay Road Retaining Walls	1	0
1/01c	Ocean Drive Retaining Walls	1	0
1/02a	Ocean Terminal Bypass Road	6	4
1/05	Tower Place Bridge	1	0
1/14	Cathedral Lane Substation (original design)	3	0
7/31	Hilton Hotel Car Park	1	0

2. Also missing from Infraco's list is full planning application for the Airport Kiosk and Canopy which was considered and approved by the Planning Committee today (9 March 2011).

### Planning Conditions

**Condition 1/Informative 23** – *development to start within five (or, for batches approved after April 2010) three years.* This applies to all batches whether explicitly stated or not.

**Condition 2** – *noise levels for substations at North Leith Sands, Leith Walk and Cathedral Lane.* This only falls to tie ltd if Infraco are not being asked to provide componentry for those substations.

**Condition 3** – *need for site survey at North Leith Sands and Cathedral Lane.* This only falls to tie ltd if Infraco are not being asked to construct those substations.

**Condition 4** – *landscaping to be maintained.* This only falls to tie ltd if Infraco are not being asked to construct and maintain those substations.

**Condition 5** – *works not to commence until listed building consents have been obtained.* This is Infraco's responsibility and not tie ltd's. It is understood that Infraco have already met this condition.

## **Planning Informatives**

Infraco's assessment of the Planning Informatives is correct, but need to take into account the following:

- **Informatives 8 & 9** – These are exclusions from the approval and the reasons for attaching informatives and therefore neither require to be discharged.
- **Informative 10** – *RIBA stage D or equivalent drawings.* These only fall to tie ltd if Infraco are not asked to construct any of Section 1.
- **Informative 13** – is not showing any batch, but it would apply to any contractor doing those works and not tie ltd.
- **Informative 19** - is not shown applying to any batch, but securing Listed Building Consent is Infraco/SDS's responsibility.
- **Informative 20** – *method statement for repositioning of Atholl/Coates Crescent Walls* is for Infraco to undertake. It is understood that Infraco have already started this.

**There are areas where the current design does not match the Planning consents obtained. This is generally because the design has changed since approval was sought, and it is necessary to align those changes and for Infraco to obtain consent for those variations.**

**An example of one of the most significant areas is Tower Place Bridge, where a curved structure was approved but not constructed (it was built in straights instead). It is understood that tie ltd have written to Infraco to request clarification, but it does raise serious concerns about the approval and management of design changes within Infraco. Planning are currently considering their position.**

## **Roads (and Technical) Authority Approvals**

As Roads Authority, the Council is responsible for managing the road network and authorising any works carried out on the public roads. It is responsible for public safety of all road users and it is also the Technical Approval Authority for all temporary and permanent structures.

The current process of approving the tram design on-street elements was developed (in agreement with tie ltd and SDS) when the preliminary design was submitted in June/July 2006 because the design was not sufficiently complete to permit approval. A staged process was developed that allowed the approvals to be granted as and when the detailed design became complete. It is worth noting that this process required the Council to continually review the design as it developed, which is very labour intensive, but it was considered the only practicable way of obtain the necessary consents within the timescales required. The only other alternative was to refuse consent until the detail became available.

Because of the iterative process, and the general lack of an integrated design this has required conditional approvals to be developed with informatives being placed where outstanding details remain. It is worth noting that if all the design information had been supplied as a complete coordinated and integrated package then the Council would not have needed to implement this process and all letters for these approvals points that particular point out.

The details being sought by the Council are generally those that will be required for construction (examples include; incomplete specifications (Informatives 2, 3, 4, 5) and final design details (Informatives 1, 6, 7). The majority of the comments are a result of absence of information being supplied by Infraco.

To expand, and to provide further details about the lack of full information being supplied for approval a commentary has been added to the first five informatives (see below). The general theme continues throughout all the technical informatives.

Owner	Inf No	CEC Comment Ref	CEC Informatives Category	Informatives	Commentary
BSC	1	9397	19 – CCTV Details	Informative 1 – Design of CCTV equipment displaced by tram works	Limited information has been supplied by Infraco on the proposed CCTV works that will be required as a result of the tram works, and the Council needs to understand the implications of all the proposed changes as it will also have to be agreed with the Police. There were inconsistencies between design disciplines (the CCTV pole was on top of the proposed kerbline) and no cabinet locations were identified. Resolving this issue remains outstanding.
BSC	2	2782	3 – OLE Mounted Lighting	Informative 2 – Detail for the OLE pole mounted lighting to be issued when available	Initially insufficient information was supplied around how the OLE mounted lighting would be implemented. As the design developed that has now been substantially resolved, but the details of how this will be carried out has been outstanding since October 2007. Siemens have confirmed that they have sent this to the Council this week, but as yet we have not received it.

Owner	Inf No	CEC Comment Ref	CEC Informatives Category	Informatives	Commentary
BSC	3	495	22 – Appendix 19 Painting Spec	Informative 3 – Colour of Equipment (OLE, traffic signal pole, cabinets etc)	Very limited information was originally supplied with Infraco's submissions. It is needed to ensure that the pallet of colours complies with the Standards for Streets and that the tram infrastructure fits into Edinburgh. Appendix 19 has recently been submitted for approval and we are currently reviewing that and hope to sign it off this week.
BSC	4	497	2 – OLE Access Doors	Informative 4- Access doors to combined OLE/lighting poles	Insufficient details were provided around how access would be permitted to the combined OLE/lighting poles that the Council would need access to for maintenance purposes. This included safe access arrangements for maintenance operators. Two access doors have been suggested. It is understood that this issue is to be included in the package to be received by Siemens this week.
BSC	5	9398	21 – Non Standard Signs	Non- standard signs approval	Originally Infraco stated there were no non-standard signs required as part of the ETN. It was pointed out that this was incorrect, and over the past year, as the detailed design is completed, additional non-standard signs have emerged and a signs package had been sent to the Scottish Government for approval (they in turn have sent it to the Department of Transport). Scottish Government has requested changes so the design of some of the signs in the Haymarket Area so some signs will need to be revised by Infraco for resubmission.

We agree with Infraco's schedule except for the following:

Info No	CEC Comment Ref	CEC Informative Category	Comment
11	9396	18 - TRO	tie ltd ownership has been confirmed for Sections 2-7, but Infraco has responsibility for discharging this informative for Section 1.
34	7461	60 –Foot of the Walk Closure	Owned by Infraco not tie ltd. Infraco have already discharged this informative.
38	9700	35 Dublin Street Steps	Owned by Infraco not tie ltd. Subject of disputed design change for listed building consent applications.
61	5961	36 – Tram Stop TVM locations	Owned by Infraco not tie ltd. tie ltd has provided information to Infraco which will allow them to discharge this informative which is about whether ducting matches the ticket/validator vending machines (TVM) locations and ducting design is Infraco's responsibility.
77&372	4569&4572	44 – Edinburgh Park Landscaping Safety Case	Owned by Infraco and not tie ltd. It is believed that Infraco may already have discharged this informative.
80	5678	39 – Carricknowe IDC	Owned by Infraco and not tie ltd. It is believed that Infraco may already have discharged this informative.
102	6393	39 –Carricknowe IDC	Owned by Infraco and not tie ltd. It is believed that Infraco may already have discharged this informative.
103	6395	39 – Carricknowe IDC	Owned by Infraco and not tie ltd. SDS has an action agreed at Informatives Workshop to resolve this drainage issue and submit info to the Council.
104	6396	39 – Carricknowe IDC	Owned by Infraco not tie ltd. It is believed that Infraco may have already discharged this informative.
133	6943	54 – Lochside Avenue Junction	Owned by Infraco and not tie ltd. Means of adoption delineation to be proposed by Infraco, and tie ltd have already confirmed to Infraco the boundary required that the Council will accept.
203	7451	57 – Bernard Street	tie ltd had already accepted ownership of this one at the latest informative workshop. It was agreed that Infraco/SDS would prepare detailed footway paving design around Robert Burns Statue.
227	10716	57 – Bernard Street	Owned by Infraco and not tie ltd. It is believed that Infraco may have already discharged this informative.
285	9304	73 – Old Port Road	Should be owned by tie ltd and not Infraco.
287	9308	76 – North Fort Street	Should be owned by tie ltd and not Infraco.
324	7850	71 - substations	Owned by Infraco and not tie ltd. It is believed that Infraco may have already discharged this informative.
356,357 & 369	7929, 7930 & 4911	Critical	These are critical comments not informatives (and were highlighted as critical to assist SDS in addressing key issues first). There are 44 other critical comments that do not appear on this list.

## Opportunities/Threats for Completion

If the design is indeed complete and integrated, then it should be a relatively easy process for Infraco to supply the information and for the Council to approve it. It is noted that Infraco have suggested in their mediation statement that they would like this to be completed within 20 days of submission. Providing the information is accurate and complete then it may be possible to meet that aspiration. It would be necessary to agree a programme for that and it is assumed that it would not all arrive at once.

The main threat to completing this process is the incomplete traffic modelling. There are a number of areas where the individual junction performance is poor and requires adjustment. This in turn, may have an impact on the design and therefore the necessary Planning and Technical approvals. It is unclear how Infraco can integrate and fully assure their design without having completed this workstream.

To take matters forward, and to resolve the consent issues, it is recommended that the following process be implemented:

- Short-life workshop be set up at Edinburgh Park to review and agree actions between Infraco and the Council that will enable the informatives to be closed out. It is suggested that this would last around four weeks and commence on Monday 14 March 2011 and would involve the key Council staff being co-located during this period. This would allow both parties to review the drawings and agree changes required and would allow them to be updated in a single pass.
- The Council should streamline the escalation process to ensure that key decisions are taken swiftly.
- The Council should review its classification of critical comments to ensure that time is focused on the correct issues.
- Infraco should review all the open comments/informatives and develop their preferred strategy for closing these informatives. This should prioritise those informatives needed to allow construction to Haymarket/St Andrew Square (but that will depend on the outcome of project Phoenix).
- To address the traffic modelling issues it is suggested that Infraco identify the areas where existing contractual constraints exist and that the Council consider the issue of an instruction to undertake additional design work that needs to be carried out outwith the LOD if that is required.

Andy Conway

9 March 2011