

# Reasons for Delays with Planning Applications for Housing

August 2018



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

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- 1 Executive Summary
- 2 Introduction
- 3 Stage 1 & Stage 2 Outputs and Analysis
- 4 Conclusions

Appendix A Planning Authority / Applicant / Agent Email Questionnaire

# 1 Executive Summary

## 1.1 Executive Summary

The Scottish Government publishes decision making timescales on a quarterly and annual basis for all planning applications (applications which are subject to a processing agreement are reported separately). The reporting on timescales to determine housing applications has highlighted that there are a small number of cases being decided which are significantly affecting the average timescales. In the first two Quarters of 2017-18 there were 101 planning applications for housing which took longer than a year to conclude.

The Scottish Government appointed Ironside Farrar to undertake research to identify the reasons for delays with decisions on planning applications for housing. The aim of the research was to identify and investigate the reasons for delays that arise with applications for housing. The study commenced with desk-based data collection, gathering and analysing information obtained from the planning portal on each application. Email questionnaires were then distributed to the planning authority / applicant / agent for each application where assumptions of the reason for delay could not be made from the portal. Where required these were followed up with telephone calls. 56% of planning authorities responded to questionnaires or phone calls and 23% of applicant / agents.

The research identified primary and secondary reasons for delay when deciding planning applications for housing. The primary reason is defined as that which is largely responsible for the application being determined past the statutory two month (Local Development) or four month (Major Development) timescale. The secondary reason is defined as that reason(s) which further protracts the determination process past the statutory determination timescale.

The following conclusions emerged from the research:

- The most common primary reason for the delay in an application meeting its determination timescale is the delayed response by an applicant to a request for information.
- The most common secondary reason for the delay in an application meeting its determination timescale is the requirement for a legal agreement.
- Of the applications reviewed, when a legal agreement is required it has delayed the application process on all occasions.

The most common reasons for delay that arise during the determination process when deciding planning applications for housing in order of magnitude are as set out in descending order of magnitude below:

1. Delayed Response by Applicant to additional information request (55%)
2. Legal Agreement (drafting / signing) (53%).
3. Delayed Action / Response by Planning officer (25%)
4. Delayed Action / Response by Other Council Officer (23%)
5. Other reason for delay (14%)
6. Delays - planning authority availability / staffing (11%)
7. Committee Determination Required (outwith timescale) (7%)
8. Applicant / agent asked for delay in decision making (2%)
9. Delayed Response by Statutory Consultees (1%)

## 2 Introduction

### 2.1 Introduction

2.1.1 The Scottish Government appointed Ironside Farrar to deliver the Research Project: Reasons for Delay with Planning Applications for Housing. The aim of this research was to identify and investigate the reasons for delays that arise when applications for housing are decided.

### 2.2 Background to the Research Project Review

2.2.1 The Scottish Government publishes decision making timescales on a quarterly and annual basis for all planning applications (applications which are subject to a processing agreement are reported separately). The statistics can be found at: <http://www.gov.scot/Topics/Statistics/Browse/Planning/Publications>.

2.2.2 In 2012-13 reporting on average timescales for reaching decisions on planning applications was introduced rather than solely reporting on whether applications were decided within the statutory timescales of 2 months for local applications and 4 months for major applications.

2.2.3 The results from the reporting have highlighted that there are a small number of cases being decided which are significantly affecting the average timescales. To help address this issue the then Minister for Local Government and Planning asked authorities to focus on removing cases which were over a year old from the system. In the first two Quarters of 2017-18 there were 101 planning applications (23 Major Applications and 79 Local Applications) for housing which took longer than a year to conclude.

### 2.3 Aim and Objectives

2.3.1 The aim of this research is to identify and investigate the reasons for delays that arise with deciding planning applications for housing.

2.3.2 The objectives set by the Scottish Government were to:

- investigate the issues and causes for delay which have led to major and local planning applications for housing in 2017 / 18 taking over a year to be decided.
- set out the reasons for delay for each individual case based on the information provided by applicants and authorities.
- produce a report on the key reasons / issues which have caused decision making delays across Scotland. The report should include, quantitative

information but should not comment on individual cases. It is important to ensure there is quantitative information on who was responsible for delays as well as the reasons why – this may include:

- issues such as delays in decision making by elected members
  - delays due to planning authority officer availability / staffing levels
  - delays waiting on supporting information
  - delays with the drafting / signing of legal agreements, or
  - where the applicant has asked for a delay in decision making.
- findings should also be presented as illustrative timelines for cases showing where in the process the delays have arisen.

## 2.4 Research Methods

2.4.1 The following methodological approach was taken during the research, consisting of both primary and secondary research.

**Table 1:** Methodology

<b>Stage 1</b>	
<b>1</b>	<p><b>Stage 1a - Inception and Review</b></p> <p>Meet with Client Group to discuss and agree programme of work, main aims, strategic vision and work programme.</p>
<b>2</b>	<p><b>Stage 1b - Desk Based Data Collection</b></p> <p>Gather information on the reasons for delays that arise with deciding planning applications for housing.</p>
<b>Stage 2</b>	
<b>3</b>	<p>Gather and analyse detailed information on who was responsible for delays as well as the reasons why from local authority / applicant experience of specific cases they have been involved with.</p>
<b>4</b>	<p><b>Stage 2a - Planning Authority Consultation</b></p> <p>Questionnaire and telephone calls undertaken where assumptions of the reason for delay could not be made from the planning portal:</p> <ul style="list-style-type: none"> <li>● Questionnaires emailed to the Case Officer when known and general planning mailbox when unknown.</li> <li>● Follow up phone call when clarification sought / no email response received.</li> </ul>
<b>5</b>	<p><b>Stage 2b - Applicant / Agent Consultation</b></p> <p>Questionnaire and telephone calls undertaken for those</p>

	<p>applications where assumptions of the reason for delay could not be made from the portal:</p> <ul style="list-style-type: none"> <li>• Questionnaires emailed to the Applicant / Agent when details provided on the planning portal.</li> <li>• Follow up phone call when clarification sought / no email response received.</li> </ul>
<b>Stage 3</b>	
<b>6</b>	Produce a final version of the review for approval and finalisation by the Client Group. The output to be a written report covering the aims and objectives of this project, including an executive summary and conclusions and interpretation of information where relevant.
<b>7</b>	<b>Stage 3a - Delivery of Draft Report</b> Preparation and circulation of the draft report.
<b>8</b>	<b>Stage 3b - Submission of Final Report</b> <ol style="list-style-type: none"> <li>1. Incorporate comments on draft received from Client Group</li> <li>2. Issue final report to Client Group.</li> </ol>

## 2.5 Report Structure

2.5.1 The report is structured as follows:

Section 3 Stage 1 and Stage 2 Outputs and Analysis (Desk Based and Consultation)

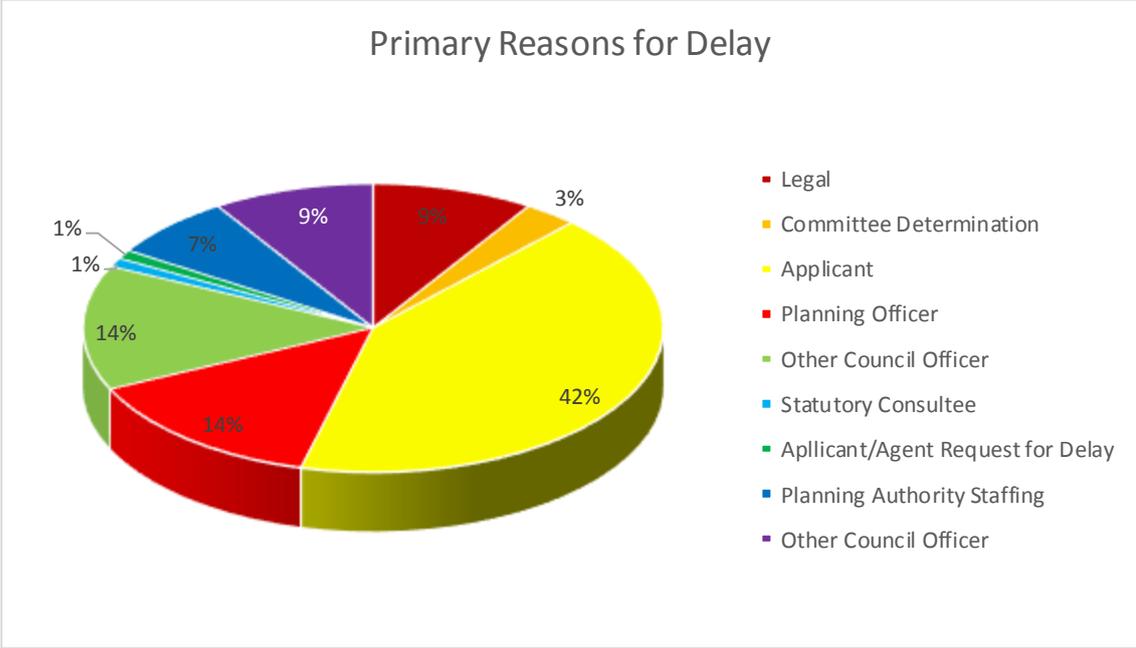
Section 4 Conclusions

## 3 Stage 1 & Stage 2: Outputs and Analysis

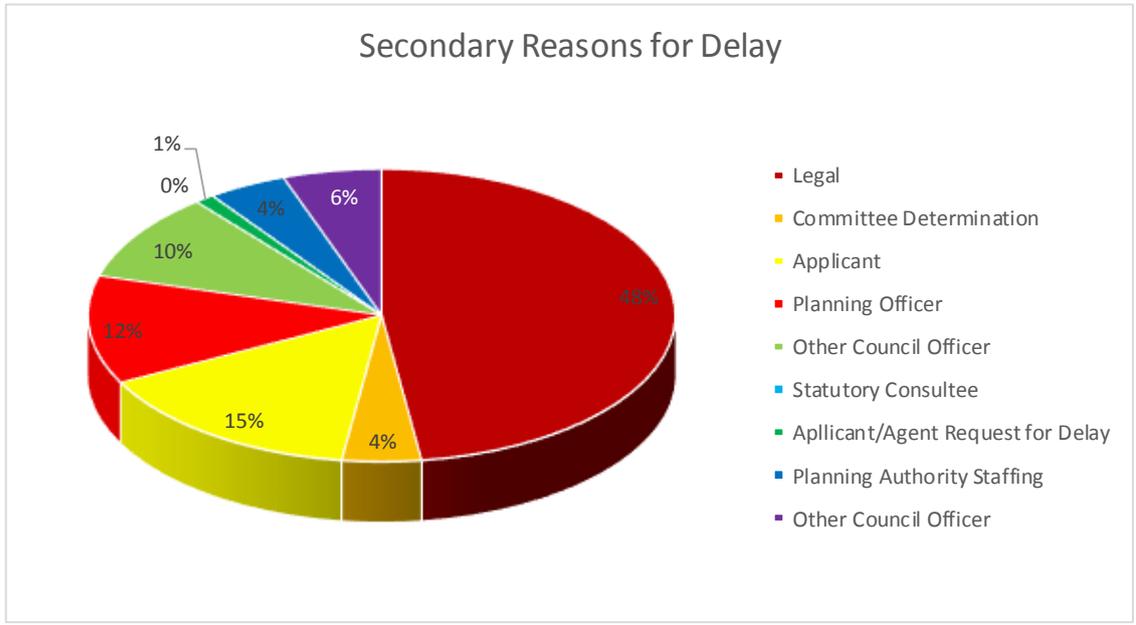
### 3.1 Introduction

- 3.1.1 The research project was carried out on the basis of 101 applications determined within the first two Quarters of 2017-18. This has been amended to 100 applications as for one of the applications identified by Scottish Government, the online portal date noted was different to that on which the decision was made (decision notice).
- 3.1.2 A delay is noted when the determination of a Local Development takes more than two months and the determination of a Major Development takes more than four months.
- 3.1.3 The research identified primary and secondary reasons for delay. The **primary** reason is defined as that which is largely responsible for the application being determined past the statutory two month (Local Development) or four month (Major Development) timescale. The **secondary** reason is defined as that reason(s) which further protracts the determination process past the statutory determination timescale.
- 3.1.4 There were nine broad categories of reasons for delay noted during the collection of data for this research project, as listed below.
1. Legal Agreement (drafting / signing)
  2. Committee Determination Required (outwith timescale)
  3. Delayed Response by Applicant to additional information request
  4. Delayed Action / Response by Planning officer
  5. Delayed Action / Response by Other Council Officer
  6. Delayed Response by Statutory Consultees
  7. Applicant / agent asked for delay in decision making
  8. Delays - planning authority availability / staffing
  9. Other reason for delay
- 3.1.5 The results of the primary data collection exercise (web based, email questionnaire and telephone) are set out in Figure 1 and Figure 2 below and are discussed in detail in the following sections. This is based on a response from 56% of planning authorities and 23% of applicant / agents.

**Figure 1 - Primary Reasons for Delay**



**Figure 2 Secondary Reasons for Delay**



## 3.2 Legal Agreement (Drafting / Signing)

### Application Review Summary

3.2.1 Of the 100 applications reviewed, it was noted that **53** were the subject of a legal agreement. The research identified that a legal agreement was the primary reason for delay on **9** occasions (9% of all applications and **17%** of applications subject to legal agreement) and the secondary reason for delay on **44** occasions (44% of all applications and **83%** of applications subject to legal agreement). Therefore, of the applications reviewed, when a legal agreement is required it has delayed the application process on all occasions.

3.2.2 The research notes the following examples of delays encountered during the legal agreement process:

- Lack of response from applicant regarding the signing of the legal agreement.
  - Did not want to enter into the legal agreement until a developer was on board
- Delayed service from the Council's legal team.
- Legal agreement negotiation (Viability assessment / financial obligation).
- Agreement of an applicant to pay a S69 agreement financial requirement before decision notice is released.

### Discussion

3.2.3 The research undertaken highlighted that the legal agreement process associated with housing applications (generally Section 75 (S75), occasionally Section 69 (S69)) is time consuming. The S75 agreement is a staged process involving: agreement of Heads of Terms, negotiating the terms of the S75, signing the S75 and then registering it with the Land Registers of Scotland. The decision notice is generally not released until the S75 has been registered or the S69 financial requirement has been settled.

3.2.4 The research identifies that the legal agreement process commences, for the most part, post application consideration / determination. Given the involved nature of legal agreements noted above, the process has led to a delay in the determination of each application on a primary or secondary basis. See Figure 3 below.

3.2.5 The research identifies that a pro forma based approach for standard legal agreements appears to be the most straightforward solution to reducing application determination time. It is the case that Obligation requirements are generally set out within Local Development Plans and Supplementary Guidance and as such can be identified at the pre-application stage.

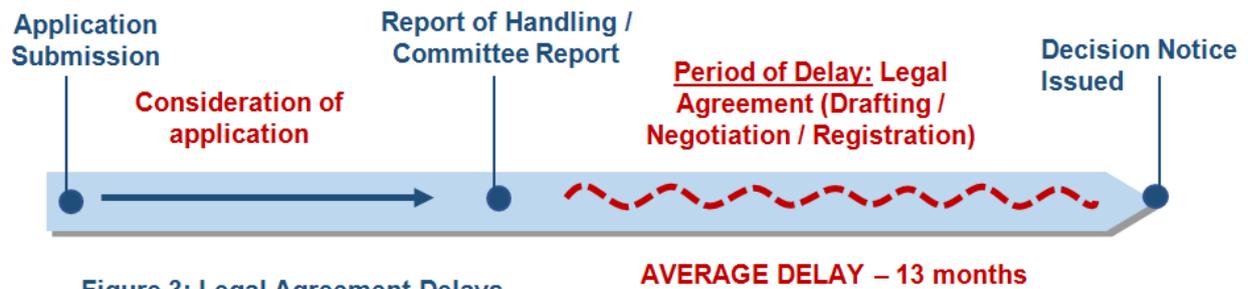


Figure 3: Legal Agreement Delays

AVERAGE DELAY – 13 months

### 3.3 Committee Determination Required

#### Application Review Summary

3.3.1 Of the 100 applications reviewed, it was noted that **34** were determined at planning committee. The research identified committee determination was the primary reason for delay on **3** occasions (3% of all applications and **9%** of applications subject to committee determination) and the secondary reason for delay on **4** occasions (4% of all applications and **12%** of applications subject to committee determination).

3.3.2 The research notes the following examples of when a committee determination is responsible for a delay in the application process (these are influenced by the Planning Authority's Scheme of Delegation):

- Objection received by a statutory consultee resulting in Local Development application being determined at committee rather than by delegated decision.
- No scope for application consideration at the next committee (Agenda issue).
- Objections / support can lead to committee determination where not otherwise required i.e. called in by local member or scheme of delegation requirement.

#### Discussion

3.3.3 A Planning Authority Scheme of Delegation sets out when a decision can be made by the appointed officer and when it should be made by Planning Committee. Committee determination generally includes a lead in time. This can include: draft report agreement, agenda planning meetings and final reporting prior to the application being determined at committee. See Figure 4 below.

3.3.4 From the research undertaken it is evident that committee determination becomes a delay factor in particular when a Local Development, with a two-month determination timescale, is referred to planning committee. Committee determination was noted as a secondary reason for delay when the committee preparation period overlaps the timescale for determination.

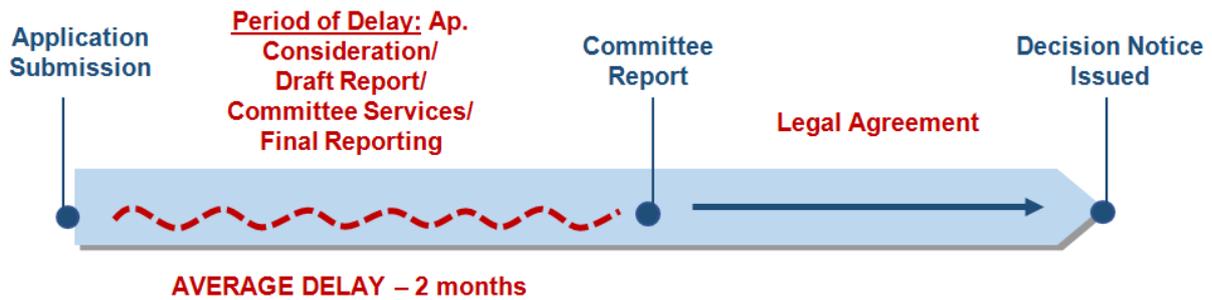


Figure 4: Committee Delays

### 3.4 Delayed Response by Applicant to Additional Information Requested

#### Application Review Summary

3.4.1 Of the 100 applications reviewed, the research identified that a delayed response by the applicant to additional information requests was the primary reason for delay on **42** occasions (**42%** of the applications reviewed) and the secondary reason for delay on **14** occasions (**14%** of the applications reviewed).

3.4.2 The research notes the following examples as typical reasons for a delayed response by an applicant:

- Alterations to proposals following consultation responses / objections.
- Noise Impact Assessment, Drainage / Flood Risk Assessment, Site Investigation, Tree Survey and other technical assessments which require commissioning, lead in time, site visit and reporting.
- Seasonal assessments i.e. bat surveys and breeding bird surveys.

#### Discussion

3.4.3 The research identified that where applications have been frontloaded it was less likely that additional information was required during the determination process. This is likely following pre-application discussion with planning officers and other consultees, who are aware of the site, the nature of development proposed and application requirements.

### 3.5 Delayed Action / Response by Planning Officer

#### Application Review Summary

3.5.1 Of the 100 applications reviewed, the research identified that a delayed response by the planning officer was the primary reason for delay on **14** occasions (**14%** of the applications reviewed) and the secondary reason for delay on **11** occasions (**11%** of the applications reviewed).

3.5.2 The research notes the following examples as typical reasons for delayed response by the planning officer:

- Information submitted was not reviewed in good time.
- Caseload reallocation issues.
- Additional information requested, and the application was left undetermined in the system while this information was awaited.
- Delay in sending out consultations to consultees.
- Delay in advertising an application.
- Delay in consideration of an application (application is contrary to Development Plan).

### **Discussion**

3.5.3 Delayed responses or actions by a planning officer were noted by a number of Applicants / Agents as causing delay to the determination of an application. This reason for delay is closely linked to the 'Planning Authority Availability / Staffing' reason, as caseload pressures due to staffing numbers can be a cause for delayed action / response by a Planning Officer.

## **3.6 Delayed Action / Response by Other Council Officer or Statutory Consultee**

### **Application Review Summary**

3.6.1 Of the 100 applications reviewed, the research noted that a delayed response by another council officer was noted as the primary reason for delay on **14** occasions (**14%** of the applications reviewed) and as the secondary reason for delay on **9** occasions (**9%** of the applications reviewed).

3.6.2 Statutory consultees were noted as the primary reason for delay on **1** occasion (**1%** of the applications reviewed) and identified as the secondary reason for delay on **0** occasion (**0%** of the applications reviewed).

3.6.3 The research notes the following examples as typical reasons for delayed response / action by other council officers and statutory consultees:

- Planning officer delay in consultation.
- Confusion over information submitted.
- Staffing issues / part time working – more difficult to get hold of Officer / obtain a response.
- Loss of technical expertise within the Council (e.g. Landscape Architects, Conservation Officers, Flood Risk) and therefore a reliance on external consultants adding to the time to obtain information.
- Caseload pressures.

### **Discussion**

3.6.4 The research identified that a timely response from another council officer or statutory consultee was facilitated when application information was robust and clear. It was also facilitated when consultation requests were sent out on time, shortly after validation.

### **3.7 Applicant / Agent asked for delay in decision making**

#### **Application Review Summary**

3.7.1 Of the 100 applications reviewed, the research noted that a request was made for a delay in the decision-making process as the primary reason for delay on 1 occasion (1% of the time) and as the secondary reason for delay on 1 occasion (1% of the time).

3.7.2 The research identified the following examples of reasons Applicants have asked for a delay in decision making:

- To allow additional time to explore alternative solutions.
- To allow additional time to undertake further assessment prior to committee determination.

### **Discussion**

3.7.3 Although the research noted a direct request for the delay in the determination of an application on two occasions only, it is often the case that an applicant / agent will agree (formally / informally) to an extension to determination timescales.

### **3.8 Planning Authority Availability / Staffing**

#### **Application Review Summary**

3.8.1 Of the 100 applications reviewed, the research noted that planning authority staffing was noted as the primary reason for delay on 7 occasions (7% of the time) as the secondary reason for delay on 4 occasions (4% of the time).

### **Discussion**

3.8.2 The research identified that a lack of planning authority staff resulted in caseload pressures which often led to delays in the determination of applications. This reason for delay is closely linked to the 'Delayed Action / Response by a Planning Officer / Other Council Officer' reason, often a knock-on effect of caseload pressures.

### **3.9 Other Reasons for Delay**

#### **Application Review Summary**

3.9.1 Of the 100 applications reviewed, the research noted a number of other reasons for delay, not referenced above. The 'Other' reasons for delay were noted as the primary reason for delay on **9** occasions (**9%** of the time) and as the secondary reason for delay on **5** occasions (**5%** of the time).

3.9.2 The research identified the following examples of other reasons for a delay in decision making:

- Non-statutory consultee
  - Absence of robust pre-application discussions.
  - Not signed up to statutory planning authority timescales i.e. Local Airport
- Procedural matters.
- Complicated legal background and PPP masterplan context.
- Officers content to leave application in system until LDP adopted.
- Admin error, decision notice re-issued.
- Thought the application was withdrawn.
- Applicant requested the application be put on hold pending consideration of representations that would be made in support of the site re-designation as a housing site in the forthcoming LDP.
- LDP Reporter site consideration.
- Once timescale not met less incentive for officer to determine.
- Applicant unwilling to enter into Section 75 agreement at PPP stage when proposals were still indicative.

#### **Discussion**

3.9.3 Due to broad and varied circumstances that impact the determination of housing applications, there are a number of applications that have not fallen comfortably within the eight aforementioned categories. These are reflective of the breadth of factors involved in making a planning decision.

## 4 Conclusions

- 4.1 The research identified primary and secondary reasons for delay when deciding planning applications for housing. The **primary** reason is defined as that which is largely responsible for the application being determined past the statutory two month (Local Development) or four month (Major Development) timescale. The **secondary** reason is defined as a reason(s) which further protracts the determination process past the statutory determination timescale.
- 4.2 There were nine broad categories of reasons for delay used during the research project.

**Table 1 – Reason for Delay Percentages**

	<b>Reason for Delay</b>	<b>Primary</b>	<b>Secondary</b>	<b>Total %</b>
1.	Legal Agreement (drafting / signing)	<b>9 [9%]</b>	<b>44 [44%]</b>	<b>53 [53%]</b>
	<i><u>Of those subject to Legal Agreement</u></i>	<b>17%</b>	<b>83%</b>	<b>100%</b>
2.	Committee Determination Required (outwith timescale)	<b>3[3%]</b>	<b>4[4%]</b>	<b>7 [7%]</b>
	<i><u>Of those subject to Committee Determination</u></i>	<b>9%</b>	<b>12%</b>	<b>21%</b>
3.	Delayed Response by Applicant to additional information request	<b>42 [42%]</b>	<b>14 [14%]</b>	<b>56 [55%]</b>
4.	Delayed Action / Response by Planning officer	<b>14 [14%]</b>	<b>11 [11%]</b>	<b>25 [25%]</b>
5.	Delayed Action / Response by Other Council Officer	<b>14 [14%]</b>	<b>9 [9%]</b>	<b>23 [23%]</b>
6.	Delayed Response by Statutory Consultees	<b>1 [1%]</b>	<b>0 [0%]</b>	<b>1 [1%]</b>
7.	Applicant / agent asked for delay in decision making	<b>1 [1%]</b>	<b>1 [1%]</b>	<b>2 [2%]</b>
8.	Planning authority availability / staffing	<b>7 [7%]</b>	<b>4 [4%]</b>	<b>11 [11%]</b>
9.	Other reason for delay	<b>9 [9%]</b>	<b>5 [5%]</b>	<b>14 [14%]</b>

4.3 The research identified the most common primary reason for delay in an application meeting its determination timescale as the “**delayed response by an applicant to a request for information**”. The following list sets out all categories in descending order of magnitude:

1. Delayed Response by Applicant to additional information request (42%)
2. Delayed Action / Response by Other Council Officer (14%)
3. Delayed Action / Response by Planning officer (14%)
4. Legal Agreement (drafting / signing) (9%)
5. Other reason for delay (9%)
6. Planning authority availability / staffing (7%)
7. Committee Determination Required (outwith timescale) (3%)
8. Delayed Response by Statutory Consultees (1%)
9. Applicant / agent asked for delay in decision making (1%)

4.4 The research identified the most common secondary reason for delay in an application meeting its determination timescale as the “**requirement for a legal agreement**”. The following list sets out all categories in descending order of magnitude:

1. Legal Agreement (drafting / signing) (44%)
2. Delayed Response by Applicant to additional information request (14%)
3. Delayed Action / Response by Planning officer (11%)
4. Delayed Action / Response by Other Council Officer (9%)
5. Other reason for delay (5%)
6. Committee Determination Required (outwith timescale) (4%)
7. Planning authority availability / staffing (4%)
8. Applicant / agent asked for delay in decision making (1%)
9. Delayed Response by Statutory Consultees (0%)

4.5 In conclusion the research has identified and investigated the reasons for delays that arise during the determination process when deciding planning applications for housing. The list below sets these out in descending order of magnitude:

1. Delayed Response by Applicant to additional information request (55%)
2. Legal Agreement (drafting / signing) (53%).
3. Delayed Action / Response by Planning officer (25%)
4. Delayed Action / Response by Other Council Officer (23%)
5. Other reason for delay (14%)
6. Delays - planning authority availability / staffing (11%)
7. Committee Determination Required (outwith timescale) (7%)
8. Applicant / agent asked for delay in decision making (2%)
9. Delayed Response by Statutory Consultees (1%)

**Research Project Questionnaire  
Identifying the Reasons for Delays with Decisions on Planning Applications for Housing**

**Application Ref:**  
**Application title:**

The Scottish Government has appointed Ironside Farrar to deliver the Research Project: Identifying the Reasons for Delays with Decisions on Planning Applications for Housing. The aim of this research is to identify and investigate the reasons for delay that arise when deciding planning applications for housing.

The above noted application is one of the 101 we have been asked to investigate. We have been able to make a number of assumptions through our detailed desk based assessment but we would now like to explore our initial findings further.

Regarding the above noted application, could you please identify from the reasons below:

- The primary reason for delay.
- Any secondary reasons for delay.
- Any other information of note regarding the delay of the application.

	<b>Reason for Delay</b>	<b>Comment Welcome</b>
1.	Legal Agreement (Drafting / Signing)	
2.	Committee Determination Required (Outwith timescale)	
3.	Delayed Response by Applicant to additional information request	
4.	Delayed Action / Response by Planning officer	
5.	Delayed Action / Response by Other Council Officer	
6.	Delayed Response by Statutory Consultees	
7.	Applicant / agent asked for delay in decision making	
8.	Delays - planning authority availability / staffing	
9.	Other reason for delay	

We would appreciate an email return and hope to discuss further over the phone where required.

**Please be assured that our final research report will include quantitative information but will not comment on individual cases (Local Authority or Applicant / Agent).**



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Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-78781-116-4 (web only)

Published by The Scottish Government, August 2018

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS448866 (08/18)

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