



SPF VOICE

September 2019

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Climate change takes centre stage



Miller Mathieson
SPF Chair
Managing Director CBRE Scotland & Northern Ireland

The global focus on climate change has arguably never been greater. A series of school strikes, inspired by Swedish teenager, Greta Thunberg, rocked the corridors of powers sufficiently to propel climate change to the top of the political agenda. In Scotland, the cause gained momentum after the First Minister declared a climate emergency. The subsequent Programme for Government set out proposals that will impact significantly on the built environment. The Climate Change Bill, which recently passed its Stage 3 scrutiny, sets out more ambitious carbon emission reduction targets in law.

Some measures have been long expected, such as the implementation of minimum EPC standards in private rented residential accommodation. While other proposals, like the aim to decarbonise new homes from 2024 and non-domestic buildings soon after, are challenging and ambitious.

In my discussions with developers, the move towards decarbonisation is not a surprise. Ever since the UK Climate Change Risk Assessment 2017 Evidence Report, it has been a question of 'when' rather than 'if' a decarbonisation policy was introduced. What is a surprise is the speed at which the proposal is to be adopted. At the core of the decarbonisation policy is the need to wean the nation's developers off gas as a fuel to heat and provide hot water to our homes and commercial

buildings. It will not be easy to replace this key utility in the proposed timescale.

Buildings will still need heating and it is fair to question if we have in Scotland the necessary infrastructure to support a move away from gas. This will mean an immediate increase in demand and load on our electricity generating system, in the next few years. While many leading UK developers and investors in the industry already operate well beyond the minimum regulatory requirements of sustainability, and the energy performance of our buildings has certainly improved in the last few decades, our built environment still contributes over 40% of carbon emissions.

As the investors and developers of that environment, we have the opportunity to create lasting change on a global scale. The Scottish Government, the UK Government, and climate change experts have issued a challenge to our industry to reduce the climate impacts of the built environment through sustainable, climate resistant placemaking. We must meet this challenge and ensure a lasting, climate-resistant built environment.

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AT HOLYROOD

September saw Pinsent Masons kindly host a meeting of the SPF Policy Committee, with guest speaker Cabinet Secretary for Finance, Economy & Fair Work, Derek Mackay MSP. Key issues and questions addressed by the Cabinet Secretary included the political overview of Brexit from the Scottish Government position; the economy; planning performance; and future planning reforms.

Meanwhile, First Minister Nicola Sturgeon announced the 2019-2020 Programme for Government. This is the last full Scottish legislative programme before the May 2021 Holyrood elections. The Programme included ambitious goals, with an announcement that from 2024 new homes requiring building consents must be decarbonised, not reliant on fossil fuels for their heating and not

dependent on the gas network. The government also intends to phase in similar requirements for non-residential buildings from 2024.

This month, we played host to a round-table discussion between Scottish business representative bodies and Public Finance & Digital Economy Minister Kate Forbes MSP. The meeting covered a broad range of topics relating to taxation. Particular topics raised included business rates reform, potential infrastructure levy, LBTT and PAIF/CoACS reliefs.

The SPF's Commercial Real Estate Committee, chaired by Pinsent Masons' Alan Cook, met with government officials to hear an update on proposals for a Register of Controlling Interests for land in Scotland. The committee also discussed wider land reform issues,

with an emphasis on the proposed Regulations for Community Right to Buy to further sustainable development (Part 5 of the Land Reform Act 2016).

The Scottish Government has now published updated domestic and non-domestic building standards technical handbooks 2019. The handbooks provide guidance on achieving the standards set in the Building (Scotland) Regulations 2004. These handbooks apply to a building warrant submitted on or after 1 October 2019 and to building work which does not require a warrant commenced from that date.

The Scottish Government also released guidance for local authorities on preparing a Local Housing Strategy and on development plan examination for those that have submitted representations.

KEY RESPONSES

[The Energy Efficiency \(Private Rented Property\) \(Scotland\) Regulations 2019](#)

[Consultation on the Right to Buy Land to Further Sustainable Development \(Part 5 of the Land Reform Act 2016\)](#)

OPEN CONSULTATIONS

[A consultation on the The National Transport Strategy Closes 23 October 2019](#)

[Transient visitor levy: consultation Closes 2 December 2019](#)

FORWARD LOOK

Kate Forbes MSP has reinforced the intent of the Scottish Government to reform the rating appeals process in time for the commencement of three-yearly revaluations starting in 2022. In a letter to the Local Government & Communities Committee on 3 September, together with evidence on 11 September to the same committee, the Scottish Minister insisted that the current process could not be supported once the three-yearly revaluation cycle is introduced.

Elsewhere, the UK Government announced that the implementation date for the VAT Domestic Reverse Charge for the Construction Industry has been delayed until 1 October 2020. HMRC have responded to calls from industry representatives for more time to prepare for these changes by delaying the implementation until next year.

Meanwhile, following Royal Assent of the Planning (Scotland) Act 2019 (the 2019 Act) in July 2019, the fourth NPF (NPF4)

will now include national planning policies which were previously contained in Scottish Planning Policy. It will also form part of the development plan. The Scottish Government is currently developing an engagement plan, which is expected to follow the following four phases

- Autumn 2019: Framing the engagement strategy
- Winter 2019: Early engagement on the scope and content of NPF4
- Spring 2020: Consideration of responses
- Autumn 2020: Consultation on a draft NPF4

The SPF Planning and Development Committee will meet with the Chief Planner early in October to discuss the Scottish Government's approach to implementing the 2019 Act.

REGIONAL SPOTLIGHT



INVERNESS

On 4 September, SPF Chair Miller Mathieson hosted a regional dinner with members and guests including Highland Council Development Director, Stuart Black, and Highlands & Islands Enterprise. Topics of discussion included local market progress across a range of sectors including housing, hotels, high streets and retail and industrial sectors. While in the north, we took the opportunity to discuss housing and regeneration with locally based Scottish Government officials and the vacant and derelict land reuse project with the Scottish Land Commission.

EDINBURGH

A £315m plan to transform the city centre of Edinburgh was approved at a full council meeting on 19 September. The main aim of the transformation plan is to reduce car traffic in the city centre. For this purpose, the council have identified several districts that will be fully pedestrianised and potential for enhanced walking and cycling routes throughout. The plan also looks to introduce new transport hubs, a free city centre 'hopper' bus, and a tram loop that will pass close to the Quartermile district to improve city centre connectivity.

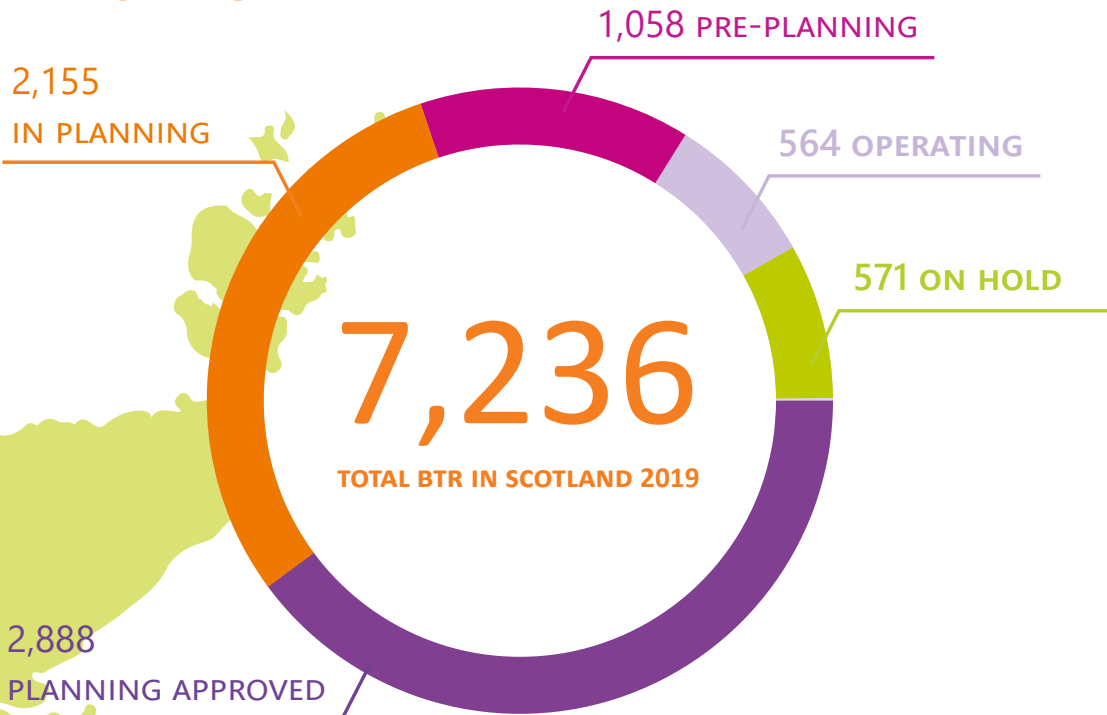
GLASGOW

On 25 September, we hosted a dinner for members and guests, together with Glasgow City Council Head of Planning & Building Standards, Forbes Barron. Key issues addressed included the progress of the City Deal, the new development of Grade A office and build-to-rent as part of the City Living agenda. The opportunities of sustainable development in the city-region were also addressed. The landmark redevelopment of the University of Glasgow was highlighted as well as the success of wider regeneration and investment to the East of the city with the Clyde Gateway.

BUILD-TO-RENT IN SCOTLAND

ALL DATA AND ANALYSIS COURTESY OF RETTIE (SUMMER 2019)

BTR BY STAGE



BTR BY CITY



2019 has been somewhat of a watershed for BTR in Scotland, with major masterplans progressing through the planning system and some now breaking ground. This takes us one step closer to the reality of an active BTR sector playing a major role in meeting housing need and demand.

We are also seeing the sector diversifying, with a focus not just on prime city centre schemes but also affordable schemes targeting a range of different household types.

The Scottish BTR pipeline now sits at over 7,200 homes and this number is set to rise as several other schemes are due to emerge. However, delivery still lags that of the wider UK and there remains a need for the BTR sector to engage collaboratively with government in order to facilitate delivery.

DR JOHN BOYLE MRICS, *DIRECTOR OF RESEARCH & STRATEGY FOR RETTIE*

INDUSTRY INSIGHT

Moving forward with the Planning (Scotland) Act



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“ *How does the final form of the Act respond to the key issues identified by SPF in its February 2018 response to the call for evidence on the Planning Bill?* ”

After a protracted journey through the Scottish Parliament, the Planning (Scotland) Act 2019 received Royal Assent and became law on 25 July 2019.

There are no immediate changes to the planning system – with only a handful of administrative provisions coming into force. However, there are some major changes to come, if and when Scottish Ministers choose to make the necessary Regulations to bring the remainder of the Act into force. The Scottish Government have since announced that a work programme to implement the Act will be published later this year. Implementation of the reforms is expected to take around 2 years.

So, how does the final form of the Act respond to the key issues identified by SPF in its February 2018 response to the call for evidence on the Planning Bill?

Delivering development and infrastructure

In September 2015, the Scottish Government appointed an independent Panel to provide a “root and branch review” of the Scottish planning system. The Panel’s report, published in May 2016, concluded that: “Planning needs to move away from micro-management of the built environment, avoid focusing on processes which add little value, and to focus instead on delivering great places now, and for future generations.”

However, as the Bill made its way through the Scottish Parliament this objective was in danger of being lost. MSPs proposed amendments that would have created 91 new duties within the planning system, at an estimated extra cost to local authorities of £75m, and to businesses of more than £400m. Thankfully many of these amendments did not find their way into the Act.

The Panel had recommended a national infrastructure agency or group be established to provide “a clear, cross cutting overview of planning and infrastructure provision.” That proposal was broadly welcomed by industry, but not taken forward. A lack of infrastructure planning and delivery is a continued constraint on development, and this feels like an opportunity missed.

Relevant to infrastructure delivery, is the proposed abolition of Strategic Development Plans, and the introduction of Regional Spatial Strategies (RSS). The RSS is described as a “long-term

spatial strategy in respect of the strategic development of an area (or areas)”.

Authorities will be able to prepare an RSS independently, or jointly with other authorities. Scottish Ministers will also be empowered to direct authorities to prepare an RSS. Where Scottish Ministers require a joint RSS, the relevant authorities are placed under a statutory duty to cooperate with each other. RSSs are not a direct replacement for the current City Region Strategic Development Plans and will not form part of the statutory Development Plan.

The introduction of Masterplan Consent Areas presents an opportunity for large scale development and infrastructure delivery to be considered on a joined-up basis, which the industry would welcome – something that has already been picked up by the Scottish Land Commission in its May 2019 report, “Options for Land Value Uplift Capture”.

LDPs will move to a 10-year cycle under the new Act, in the hope this ends the near-constant plan preparation process, freeing up planning officers to focus on delivery rather than plan preparation. However, for LDPs to be most effective, authorities will need to utilise their new powers to amend LDPs to ensure they remain relevant and up to date.

Front-loaded engagement

The 2006 Planning Act introduced statutory pre-application consultation for major developments, and these requirements have been left relatively unchanged. Regulations will be introduced that to set an 18-month limit on the time period between making a proposal of application notice and submitting a planning application.

To improve engagement in the planning system, local communities will be able to produce Local Place Plans (LPPs). LPPs will make proposals for the development or use of land in the local area and identify land or buildings of particular local significance. Authorities will be required to take LPPs into account when preparing LDPs. The detail of the LPP process will be set out in secondary legislation. It will be interesting to see what level of scrutiny, and weight, LPPs will be given in decision making.

INDUSTRY INSIGHT

The LDP plan preparation process will also change, with local authorities required to prepare an 'evidence report' at the start of the process. The evidence report will be assessed by a Reporter to ensure it contains sufficient information for the Council to prepare its LDP. A shortcoming of the current LDP process, is that fundamental failings in draft plans (notably the failure to allocate sufficient housing land) are often left unchecked until the end of the plan preparation process, resulting in plans being adopted that are not fit for purpose. It is hoped that evidence reports will address this issue.

Third party right of appeal (TPRA)

Despite much debate, the Act does not include 'third party' (aka 'equal') rights of appeal. This issue generated significant debate with a number of opposition parties proposing TPRA. The Scottish Government's position was that community concerns could be much better addressed through the front-loaded public consultation and community engagement processes, rather than by introducing TPRA at the very end of the planning process.

Planning performance and fees

The Act introduces additional fee-charging powers - allowing fees to be charged for the performance of planning functions by a person appointed under the Council's scheme of delegation, and for fees to be charged by Scottish Ministers for the performance of their planning functions (this could potentially include planning appeals). The Act also empowers Scottish Ministers to make regulations to delegate the calculation of planning fees to authorities.

The Act also contains provisions intended to improve service. Scottish Ministers are empowered to specify training requirements, which elected members must fulfil before they may be involved in the exercising of planning functions. Planning authorities will be required to prepare and publish an annual report on the performance of their planning functions. Scottish Ministers may also appoint a "national planning improvement co-ordinator" to monitor local authority performance.

Infrastructure levy

Very little amendment was made to the Bill's original proposals to establish an infrastructure levy. There is still very little detail on how the levy will operate, including how it will be calculated, imposed and enforced.

The Act states that the infrastructure levy income is to be used towards funding infrastructure projects. This includes: "green and blue infrastructure"; communications, transport, drainage, sewerage and flood-defence systems; systems for the supply of water and energy; educational and medical facilities; and facilities and other places for recreation.

A "sunset clause" has also been included in the Act which requires Scottish Ministers to bring the infrastructure levy forward before 25 July 2026, or lose the power to do so entirely. It is hoped that Scottish Ministers will learn from the criticisms of the community infrastructure levy system south of the border if/when it brings the infrastructure levy into force.

Conclusion

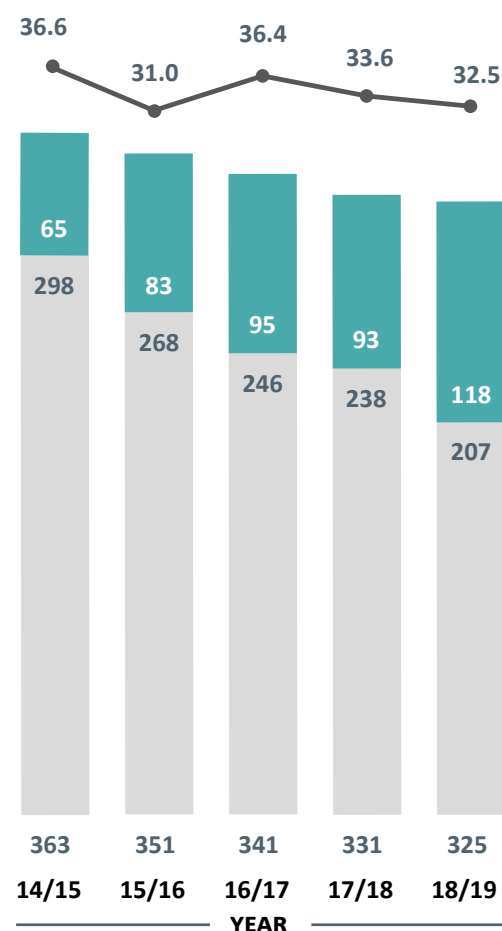
The Act represents the first stage in the reform of the Scottish planning system, but the true effect of the reforms will only become apparent once the secondary legislation puts flesh on the bones.

In some respects and given the wide ranging reforms that were proposed during the course of the Bill's passage through the Scottish Parliament, what is not in the Act can be seen as being as important as what is there.

Initiatives such as the RSS and LDP evidence reports may address well documented concerns with the existing development plan system. The 10-year lifespan for LDPs is likely to be welcomed by local authorities, freeing them up from plan preparation to focus on delivery. Equally, LPPs have the potential to introduce a new dimension to the planning process, with key decisions brought to a community level.

PLANNING PERFORMANCE

Average decision times for major applications (in weeks) without processing agreements



■ Major Development Decisions with processing agreements
■ Major Development Decisions without processing agreements

2018/19 STATISTICS (WITHOUT PROCESSING AGREEMENTS)

207 MAJOR APPLICATIONS

↓ DECISION TIMES
1 WEEK FASTER
THAN 2017/18

↓ 31 FEWER
APPLICATIONS
THAN 2017/18

ALL DATA AND ANALYSIS COURTESY OF THE CHIEF PLANNER AND THE SCOTTISH GOVERNMENT. SEE THE FULL REPORT.



8TH ANNUAL DINNER



Thursday 7 November 2019
Edinburgh International Conference Centre
150 Morrison Street, Edinburgh EH3 8EE

KEYNOTE SPEAKER ED BALLS

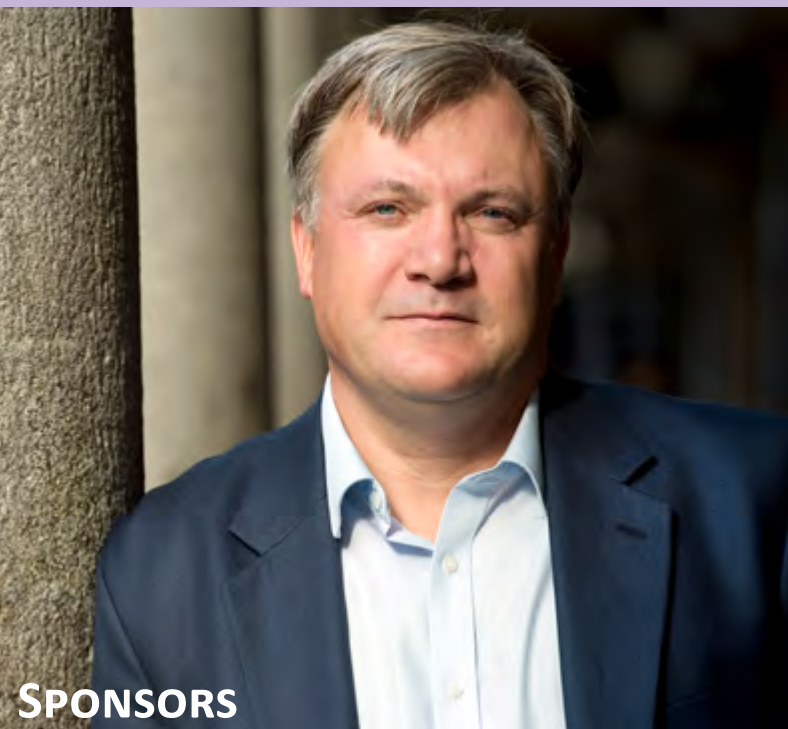
Former FT leader-writer, new Labour economic architect and UK Treasury Minister.

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The SPF dinner is a flagship event on the Scottish property calendar, attended by all the key players ... [It] promotes the very best of the Scottish property scene.

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