



SPF VOICE

March 2022



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Kevin Robertson

SPF Chair
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This week we have submitted formal views to the Scottish Government on its draft NPF4 and Local Development Plan Regulations, with both responses echoing members' strong reservations. For the NPF4, we have questioned the apparent vagueness and inconsistency of the policies and outcomes sought by the government. We have raised alarm too that there is no apparent delivery plan. On the LDPs we have expressed concern that too much policy seems to be proposed via guidance.

Maria Francké adds an expert view on our concerns with NPF4 in this month's Industry Insight. As well as chairing our Planning & Development Committee, I am delighted to announce that Maria has stepped forward to be SPF's Vice-Chair in waiting and will work alongside Stephen Lewis when he becomes SPF Chair at the end of May.

Breaking with the focus on planning, this Friday sees important new regulations for landlords and tenants introduced in Scotland through the Register of Controlled Interests legislation. To aid awareness and understanding of the new rules, Alan Cook of Pinsent Masons has kindly explained the background and purpose of RCI for readers.

Elsewhere, we have been asked to attend the Scottish Parliament for the fifth time in just six months, this time to present oral evidence on town centre renewal and retail to Holyrood's Economy and Fair Work Committee. It's great to see the SPF continue to be seen as a key voice for the industry at these sessions.

The subject of town centre renewal will also feature as plenary session at our upcoming **annual conference** in Edinburgh on 31 May. I am delighted to announce that since I last wrote we will now be joined by the Scottish Government Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights, Patrick Harvie MSP. The event has now been sponsored by Robertson Group, and I am hugely grateful to them for their support for our first large-scale gathering since the pandemic. If you can attend on the day please do, I look forward to meeting as many of you as possible!

SCOTTISH PROPERTY FEDERATION TEAM

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POLICY INSIGHT



The Economic Crime (Transparency and Enforcement) Act 2022 – property impacts

Alan Cook

Pinsent Masons LLP

Chair of the SPF Commercial Real Estate Committee

The march of regulatory burden never seems to stand still. We've known for a while now that, from 1 April 2022, certain categories of property owners (or tenants of long leases) in Scotland who do not make decisions about what happens to their land are required to enter the details of their decision-making associate in the new Register of Controlled Interests (RCI). The transition period between the introduction of the register and criminal sanctions being imposed is one year, so as of 1 April 2023, affected landowners or tenants will become liable for criminal sanctions for non-compliance with the RCI reporting requirements. The affected categories of owners/tenants includes partnerships, trusts and overseas companies.

A further reporting requirement has now arisen following the passing of the new Economic Crime (Transparency and Enforcement) Act 2022. Introduced as part of the UK Government's response to the war in Ukraine, the Act places a duty on overseas entities which acquired land in Scotland since 8 December 2014 (1 January 1999 in England and Wales) to identify their beneficial owners through the new Companies House Register of Overseas Entities (ROE).

Once the relevant provisions of the Act come into effect, there will be a 6 month transition period to register in the ROE. Failure to comply, as well as being a criminal offence, will prevent certain disposals of the property.

The ROE has in fact been long-anticipated. First announced in 2016, the SPF and BPF have engaged in consultation discussion with the UK Government on the ROE periodically since then, though it is only recent events which have found it the parliamentary time to be progressed.

The potential for overlap between the ROE and RCI reporting requirements for overseas entities has long been recognised, and the Scottish government had previously committed to reviewing the RCI once the UK Government finally introduced the ROE. The SPF is now reminding the Scottish government of its previous commitments in this respect, in the interests of reducing the



regulatory burden on those who invest in Scotland.

The UK has also strengthened its sanctions regime, and this has potential impacts on those who own property in Scotland and the rest of the UK. Businesses will need a licence (which can take many weeks to be issued) to continue commercial relationships with companies owned or controlled by individuals subject to an asset freeze in the UK.

Businesses risk criminal penalties for non-compliance. This risk applies whether the business is a customer, supplier or service provider of, lender to, or otherwise transacting with, the businesses owned by sanctions targets.

This could impact the ability to receive rents and other aspects of commercial lease relationships, as well as supply chain such as managing agents or service providers.

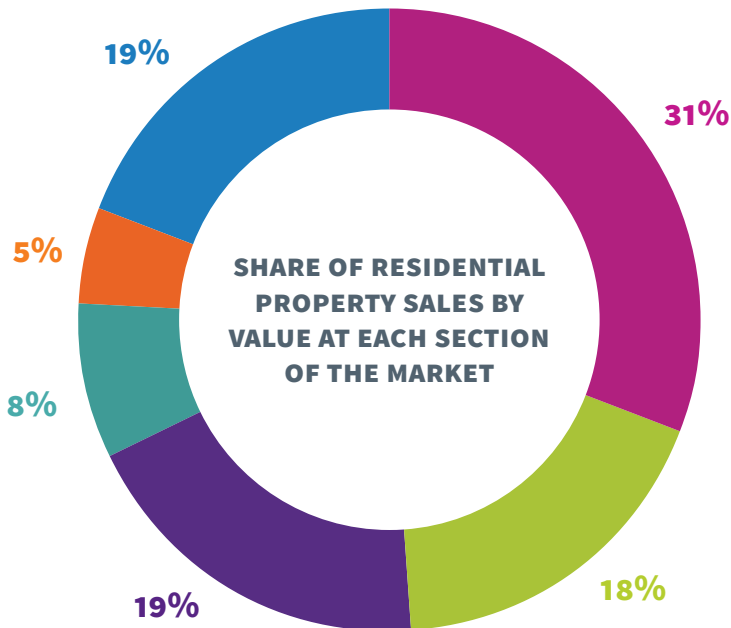
It is important that property companies, like other businesses, do their due diligence to understand exactly who they are transacting with currently and screen who they might do business with in future, to check for sanctions risks.

£24.26BN
TOTAL VALUE OF SCOTTISH
RESIDENTIAL PROPERTY
SALES IN 2021

118,385
TOTAL NUMBER OF
COMMERCIAL PROPERTY
SALES IN 2021

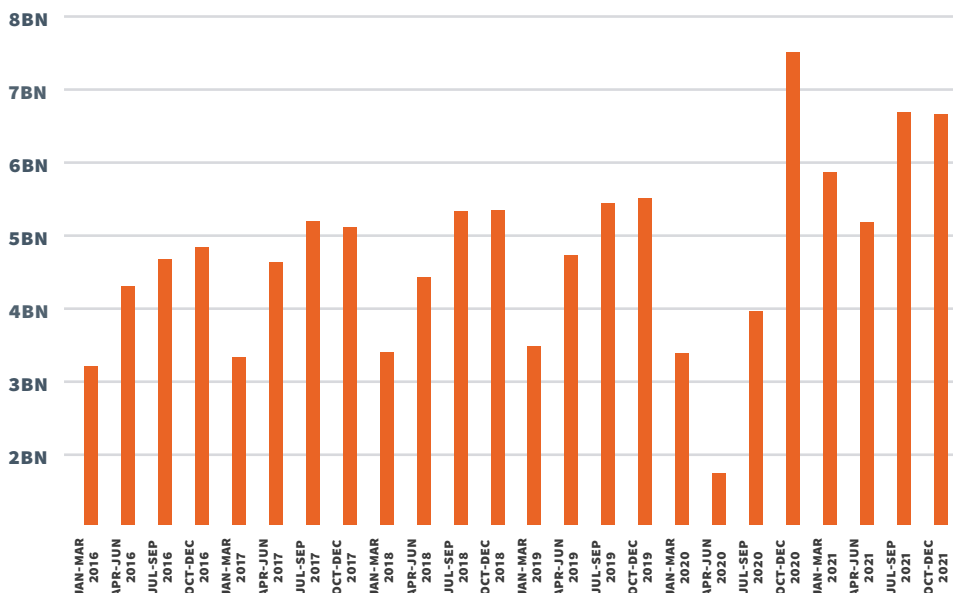
↑ **47%** UP FROM
2020
£7.8BN

↑ **38%** UP FROM
2020
32,479



UP TO £145K **£145K-£250K** **£250K-£325K**
£325K-£500K **£500K-£750K** **OVER £750K**

TOTAL VALUE OF RESIDENTIAL PROPERTY SALES IN SCOTLAND (2016-2021)



OVERVIEW

With total sales of £24.26bn, the value of the Scottish property market rose by 47% in 2021 compared to the 2020 total of 16.46bn. The number of residential property sales also increased last year from 85,906 in 2020 to 118,385 - an increase of 32,479 (38%).

QUARTERLY TOTALS

As widely reported, the residential market had a strong rebound from the initial impacts of the pandemic in the early part of 2020 – particularly in Q4 2020 – and this trend was sustained throughout 2021. Compared to the three-year pre-pandemic average (2017-2019), every quarter in 2021 saw significantly higher sales by value. This increase ranged from 13% higher in Q2 2021 to 73% higher in Q1 2021.

MARKET SHARE

Using the standard LBTT banding (with an additional £500,000 level), residential properties that sold for between £145,000 - £250,000 captured the largest share of the market (by value) at 31% in 2021, however this is a fall from 34% in 2020. This downward trend was also seen in properties that sold for under £145,000, which accounted for 21% of the market by value in 2020, but only 19% in 2021. By contrast, the market share of residential transactions at every division of the market above £325,000 increased in 2021 compared to the year before.

REGIONAL SPOTLIGHT

Highlands

On 25 March, the Highland Council launched a consultation on the Inner Moray Firth Local Development Plan. This area includes Inverness and the plan is open for consultation until 17 June. In line with the new Planning legislation, the Inner Moray Local Development Plan is set to be in force for 10 years. See [here](#) for further information on how to contribute.

Aberdeen

The city continues to develop plans to regenerate its city centre, including initiatives to revamp buildings in poor condition along Union Street. In a statement released following a Full Council meeting held on 1 March, Aberdeen City Council has **stated** that they would engage with property owners to consider potential grants to improve targeted buildings.

Ayrshire

Exciting proposals for Scotland's first net zero, energy self-sufficient community progressed when on 8 March the UK and Scottish Governments **approved** an outline business case for the project. The Community Renewable Energy Project (CoRE) proposals include £17m of funding from the UK Government and £7.5m from East Ayrshire Council. This is drawn from a total £251m Ayrshire Growth Deal to be deployed on projects over 10 years.

EVENTS

Invest in Opportunity: Scottish Real Estate 2022

SPF Annual Conference

31 May 2022
EICC | Edinburgh

[register here](#)

See our
confirmed
panellist below

sponsored by:



ROBERTSON

Urban renewal and the experience economy

Stephen Lewis, HFD Property Group

Managing Director & SPF Vice Chair

Anne-Marie Garner, Therme Group

Vice President of Corporate Strategy

Chris Stewart, Chris Stewart Group

Chief Executive Officer

Cllr John Alexander, Scottish Cities Alliance

Leader of Dundee City Council

David Lonsdale, Scottish Retail Consortium

Director

New homes for life and learning

Robin Blacklock, Dowbrae Real Estate

Managing Director

Sarah Jones, Cushman & Wakefield

Partner

Kevin Robertson, KR Developments

Managing Director & SPF Chair

Achieving a just transition to zero carbon buildings

Emily Brodie, TFT

Building Surveyor & BPF Futures Vice Chair

Patrick Harvie MSP, Scottish Government

Minister for Zero Carbon Buildings

Lynn Smith, Europa Capital

Head of Sustainability & Development

Nidhi Baiswar, JLL

Sustainability and Climate Leadership Director

Peter Reekie, Scottish Futures Trust

Chief Executive Officer

Planning for business and communities

Maria Francké, MF Planning

Director

Craig McLaren, RTPI Scotland

Director

Pam Ewen, Heads of Planning Scotland

Head of Planning, Fife Council

David Peck, Buccleuch Property

Managing Director

INDUSTRY INSIGHT



Does NPF4 deliver on planning reform?

Maria Francké

MF Planning,
Director

We are all familiar with Section 25 of the Town and Country Planning (Scotland) Act 1997 which states that the determination of a planning application shall be in accordance with the development plan unless material considerations indicate otherwise. We quote it every time we submit a planning application and rely on its strength to deliver us planning consents that we deem are in accordance with the adopted local development plan. But this will soon change when NPF4 also becomes part of the statutory development plan. Its policies will have a pivotal role in both determining planning applications and in preparing local development plans.

The Planning (Scotland) 2019 Act will change the nature of NPF4; it will set the Scottish Government's agenda for planning policy for the next 20+ years. NPF4 will become our go-to planning policy bible as well as providing Scotland's overarching spatial strategy and direction on housing delivery and targets on land for housing. It will also elevate the status of eighteen projects to that of National Developments, thereby fast tracking these for delivery.

Importantly, NPF4 brings in the introduction of 35 Universal Policies which will apply to all planning decisions. Many of these have been transposed from SPP with added green and net carbon zero bells and whistles. Sitting alongside NPF4 will be the new style local development plans. Under the new legislative requirements introduced by the Planning (Scotland) Act 2019, many planning authorities will start to progress the preparation of these new LDPs within the earlier years of the NPF timeframe. But what exactly are these 'new style' local plans and how are they expected to implement the NPF4 policies for the development and use of land? The draft regulations state that these plans should be prepared in a different way, look different and be used differently to before.

They are expected to be place-based with a greater emphasis on maps, site briefs and masterplans, with minimal policy wording. They are to be delivery focussed and place based but until we see them, we won't know if in themselves they will provide sufficient detail and context to enable day-to-day planning decision making.

Don't get me wrong, I'm a big advocate for the look and sound of these new LDPs, but they are a mountain away from many current LDPs, some of which are bulky policy documents issued in ring binder volumes! The draft regulations also state that the LDP must take account of the NPF; but 'taking account of' does not mean that it must 'conform to' NPF. The Draft Guidance on Local Development Planning states that any policy wording included in the plan should focus on 'adding value' by providing any necessary detail not provided by the NPF or where national policy does not reflect local circumstances and local variation is therefore considered appropriate.

What the development industry does not need is a regurgitation of policy principles expressed in NPF4 to be rewritten in every new style LDP across all planning authorities and then on top of this, for every new style plan to have additional policies to reflect local circumstances.

We need the streamlining, the thinning down and simplification of the planning system that we were promised by the Scottish Government back in 2006 with the Planning etc (Scotland) Act. We need a much simplified NPF4 document and delivery focussed LDPs that have the clarity, the succinctness and accessibility that the Scottish Government's planning reform agenda set out to deliver.

[SPF's response to the draft NPF4](#)