



SPF VOICE

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INSIDE THIS ISSUE

Chair's Column
Industry Insight

Regional Events
SPF Committee Round-up

Upcoming Events



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SPF Chair
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As I come to my final column as your Chair, I will focus on the perceptions of the investment community towards Scotland. The importance of perception cannot be overestimated. We know there is a strong proposition in Scotland with our quality of life, skills base and sources of renewable energy. However, there has been a concern among the business community that the economy has had a lower priority in recent years. Yet, if we are to create the sustainable jobs, skills and a net zero built environment, we need investment to come to Scotland and in much greater volumes than we are currently achieving.

There is little doubt that investor sentiment has been 'spooked' by the experience with the Cost of Living legislation in the private rented sector (PRS). Neither should we mislead ourselves that this was just a concern for residential investors. A government's willingness to implement such legislation, without consultation and without notice, is not artificially ring-fenced only to the sector which was targeted.

It is therefore welcome that there appears to be a determined effort by the Scottish government to consult broadly on the

nature of any future regulation of the PRS sector. The findings of the BPF commissioned Rettie report are therefore vital in this regard as they demonstrate forcefully how highly prized investor sentiment is in our industry. In addition to evidence based reviews, it is critical that the government realise just how important this often-intangible element to deciding where literally hundreds of millions of investment is to be located. We have certainly lost no time in underlining this concern to the government as they consider rent controls and wider reforms to the PBSA sector as well. There is a new administration now in effect at the Scottish government and early signs are that it wishes to reset relations with the wider business community. As part of that wider Business community, this is welcome to the Property industry.

I would like to thank you, the Policy Committee and in particular Maria Francké for the support I have had as your Chair this year, and to my predecessor Kevin Robertson for his support. I wish Maria and our incoming Vice Chair, Stuart Oag of Drum Property Group, the SPF and wider BPF teams every best wish for success in their coming year leading the SPF.

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INDUSTRY INSIGHT



Is this the dawn of a new planning era?

Industry Insight

Maria Francké

Director

Maria Francké Planning

Expectations were high at the start of the year with National Planning Framework 4 (NPF4) finally adopted on 13 February. NPF4 responds to the climate emergency and nature crisis, aiming to improve people's lives by making sustainable, liveable and productive places. The property industry was hopeful that we would finally have the spatial policy framework we needed to help deliver essential homes and sustainable economic growth in Scotland up to 2045.

In his Ministerial Forward to NPF4, Tom Arthur, then Minister for Public Finance, Planning and Community Wealth states that he saw planning having a “critical role in delivering the National Strategy for Economic Transformation and in community wealth building”.

But what is happening now with NPF4 is a far cry from the deliverable policy document we expected. Of course we anticipated that there would be bedding in issues as both planning authorities and the property industry got to grips with understanding and applying the new spatial principles and its 33 policies. But nearly four months in, we now have a situation where there is confusion as to how NPF4 policies should be applied, resulting in quite different approaches being taken by planning authorities.

The Transitional Guidance issued by Dr Fiona Simpson, Chief Planner and Tom Arthur MSP recognises that there will be conflicts between adopted LDP policies and NPF4 and refers to these as areas of ‘incompatibility’. The Guidance is clear that existing LDPs still apply and states that “in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail. Provisions that are contradictory or in conflict would be likely to be considered incompatible.” One area where this ‘incompatibility’ has surfaced as being most acute, is in the application of Policy 16 Quality Homes and part f), which is an exceptions policy for housing on unallocated land in the LDP.

“there is confusion as to how NPF4 policies should be applied, resulting in quite different approaches being taken by planning authorities”.

The crux of this issue is that at the end of April, the DPEA (the Scottish Government's Planning and Environmental Appeals Division) advised that an appeal for housing development in West Lothian on an unallocated site raised national issues in terms of the application of Policy 16 part (f) of NPF4. Ministers then recalled the appeal for their own determination.

INDUSTRY INSIGHT CONTINUED....

As part of the appellant's case, an opinion by James Findlay, KC was that "Policy 16f ...is currently incapable of sensible application" as it is meant to apply as a whole to a new style development plan. Until such time a new style LDP is in place, his opinion was that Policy 16f needs to be set aside. This will allow planning applications for new homes on unallocated sites to come forward and still be assessed against the relevant exceptions policies in the LDP and NPF4, barring Policy 16f. That policy position will only change once new LDPs come forward, fixing a Local Housing Land Requirement which exceeds the Minimum All-Tenure Housing Land Requirement (MATHLR) set out in NPF4. The outcome of this appeal being sisted has subsequently resulted in numerous other housing appeals (totalling 1000's of new homes) being sisted and called-in for Ministerial scrutiny – all because of the different stances in interpretation of NPF4.

We are currently left with the scenario where NPF4 has resulted in uncertainty around how we deliver new housing on unallocated sites; it is effectively stymieing new housing development. It is certainly not helping to meet "the diverse housing needs of people and communities across Scotland" as stressed in the policy intent for Policy 16. What is certain, is that we simply cannot wait several years until the new style LDPs are in place to deliver much needed housing across Scotland on unallocated sites to remedy the shortfall that quite clearly exists.

We are also not going to be anywhere near being the "decisive decade" that Kate Forbes, Cabinet Secretary for Finance and the Economy set out in Scotland's National Strategy for Economic Transformation. As Forbes stated, "we will be judged on the outcomes we deliver, not the strategy we write. Words and intentions matter, but only actions deliver change."



The Minister for Planning, Joe FitzPatrick MSP

If ever we needed action, it is now. A lot rests on the shoulders of our new Minister for Local Government Empowerment and Planning, Joe FitzPatrick MSP who inherits taking forward NPF4 and the current debacle on the delivery of housing on unallocated sites. The property industry needs a swift resolution of this matter. We sincerely hope that the first review of NPF4 Delivery Programme (due early August) will provide more clarity and that there remains the possibility that the Scottish Government will bring forward regulations that set out how it can make changes to NPF4 in the future, as promised by Tom Arthur back in January. The appointment of Craig McLaren as the new Planning Improvement Champion is warmly welcomed by SPF and together with the High Level Group on Planning Performance we look forward to seeing improvements within the Scottish planning system and ideas for greater efficiencies in the delivery of planning authorities' functions to help build a more successful and sustainable Scotland.

SPF REGIONAL EVENTS



Glasgow

In a well-attended SPF Glasgow lunch with Glasgow City Council and members, we discussed a multitude of key issues including student accommodation, the affordable housing allocation to be expected under NPF4 Policy 16, city centre economy, transport infrastructure and retail centre regeneration. The city has an ambitious programme of regeneration across nine district regeneration plans. In addition, there are major investments to reinvent both Buchanan Galleries and the St Enoch Centre.

Fife

This month, we held a further catch up with Fife planning authority to discuss development, investment and the wider Fife Planning service. A key point of discussion was the progress of the Firth of Forth Green Freeport and the potential for investment along the Fife Forth coast. The FifePlan recently ended a call for issues and is expected to move towards a formal Call for Sites next year. Members have urged the authority to focus on effective housing land and to avoid housing allocations where remediation works will make the sites ineffective.

Edinburgh

In a recent SPF Edinburgh dinner we welcomed the new Housing Minister Paul McLennan MSP to discuss key issues of supply and investment for the rented housing markets in particular. Mr McLennan welcomed the engagement and offered future meetings including with other parts of government in order to highlight industry concerns.

Meanwhile, the Edinburgh CityPlan 2030 continues its examination by the DPEA who are seeking updates from the council on the 20 minute neighbourhood policies and source data for the housing land allocation policies identified in the proposed CityPlan.

SPF AT UK REFEIIF

Strong Scottish Cities presence at UKReiif

We supported a strong presence from the Scottish Cities Alliance at the second UK Real Estate Infrastructure Investment Forum held in Leeds between 15-18 May. Delegations from the cities included senior officials and elected members, including the Leaders of both Edinburgh (Cllr Cammy Day) and Glasgow (Cllr Susan Aitken). The conference featured high level presentations from Aberdeen, Dundee, Edinburgh, Fife, Glasgow, the Highland Region with Perth and Stirling also engaged in the SCA activities.

SPF COMMITTEE ROUND-UP

Policy Committee



The Policy Committee met in person this month to discuss key concerns facing the industry and to update on the wider work of the SPF. Notable points raised included the need for a quicker pace on policy decisions to ensure Scotland does not miss out when the market changes, development returns and thus to avoid losing out on another generation of housing supply. It was also an opportunity to thank Stephen Lewis for his excellent contributions as SPF Chair as he hands over to Maria Francké, Director of Maria Francké Planning with Stuart Oag, Finance Director at Drum Property Group stepping in as Vice Chair.

Commercial Real Estate Committee



We held our Commercial Real Estate Committee meeting this month. It was a useful opportunity for members to discuss current market conditions in the commercial world, including the impact of recent government policy to devolve empty property rates to local authorities. It was reported this is having a significant adverse impact on vacant listed buildings in Aberdeen City. We also highlighted the Scottish Law Commission's (SLC) call for feedback on early thoughts to reform or repeal the Tenancy of Shops (Scotland) Act 1949. The Act relates to the provision for extending the tenancy of a shop in a situation when the landlord has given notice to quit under the lease, but the tenant wishes to renew.

Residential & Investment Management Committee



This month the SPF Residential & Investment Management committee met. Members raised concerns over the ongoing rent cap and its impact on investment. Uncertainty continues to loom over the industry with new political changes in Scotland, the upcoming housing bill and the review of emergency legislation which is due mid-July. There is friction in the market as committee members report that it is challenging to draw funding to Scotland and the demand for housing is ever increasing. This is creating a trend, reported by members, that a lot of Built-to-Rent (BtR) schemes are being converted to PBSA. The Scottish government's PBSA review is also underway, with the SPF a part of the PBSA working group reflecting membership views. Key concerns raised by students include supply and range of affordable options, the ability to exit tendencies earlier and the need for better coordination between local authorities, students, and higher education sector.

Planning & Development Committee



The SPF Planning & Development committee was held this month and members brought forward concerns over NPF4 in practice after three months of its implication. The application of Policy 16 (f) Quality homes and lack of 'transitional guidance' remains a pressing issue for the industry and local authorities. There is a general uncertainty as to how to apply these policies under NPF4 as the key issue is incompatibility between Policy 16(f) and exception policies in current LDP in bringing forward unallocated site for housing. The King's Council opinion is Policy 16 of NPF4 is not capable of being used in development management basis as of until we have a new style LDP in place. This issue is delaying an estimated 3500 housing applications by appeals that have been sisted. The turmoil on the supply of housing is compounded by the on-going rent cap pressures on capturing investment in Scotland and the above Policy 16 affair, while the demand grows. The upcoming months will be crucial for the government to tackle these issues and regain investor confidence.

SPF UPCOMING EVENTS

The BPF Annual Conference 2023

*Shaping the future **together***



Tuesday 4 July 2023 | 12 noon

Followed by the BPF Annual Summer Reception
1 Wimpole Street | London | W1G 0AE

In Partnership with

**AVISON
YOUNG**

th trowers & hamlins

Celebrating the Tenth SPF Annual Dinner

With Baroness Ruth Davidson

Save the date

Thursday 12 October 2023 | 6pm
EICC, Edinburgh

SPF

