SPF Response to CERG's draft recommendations to create the right environment for the commercial building sector commitment to a large-scale retrofit and heat decarbonisation pilot in every Scottish city

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Introduction

The Scottish Property Federation supports CERG's recommendations and the need to develop a proactive policy framework to meet net zero commitments through retrofitting/decarbonising offices, shops, and industrials units and fostering more investment into a green built environment.
Our members have highlighted the issues with greening existing stock and feel that policy wise there are no provisions to enable the transitioning to zero carbon. The response from our members underlines that investors and developers are driving ESG requirements, as well as major commercial property occupiers who are demanding the best quality properties for their businesses. This is positive in that both leading tenants and landlords are pushing for the best green credentials in their buildings, but it is the top end of the market. For landlords, if their building does not meet these standards, they risk losing significant occupier demand, impacting achievable rents, value, and liquidity of assets. In the absence of clear policy guidance, the approach of decarbonising is scattered throughout the industry, and is mainly taking the lead from best practice and anticipated legislative requirements.

1. Some members have emphasised the use of 'Building Assessment Reports' such as BREEAM, over EPCs, in order to measure the impact as well as operational energy use. We welcome the new EPC reform proposals to move towards a more holistic approach to measure the energy efficiency and emissions. Certainty in the minimum regulations and a timeline for meeting these regulations is required. This allows for plans and budgets to be formulated to meet regulation and time to then undertake costly works as required. Not only do we need certainty in the regulation, but also certainty in the measurement of energy efficiency. Currently, EPC is the measurement and the assessment methods of EPCs are subject to change. This means a property's EPC can change without the property itself changing. This could be positive or negative and we have seen examples of both. More recently this was down to changes in how the use of gas and electric were weighted in the EPC calculation. EPC ratings are also majorly impacted by the way a tenant fits out and uses a building. It is therefore important than any legislation also captures the role tenants have in the transition to net zero.

2. The new EPC reform would enable improved collection and classification of data, and awareness of energy issues. To fully assess this, energy consumption data is required from the occupiers of the property. Recently, members have reported, when requesting this information from tenants, they have been faced with challenges where either a tenant does not have the data, or simply does not want to share the data. When agreeing a new lease, some members are now seeking to insert clauses that obligate tenants to share this data. However, a better approach would be for this information to be reported to the government and made available on a public domain. This creates more accountability for building occupiers and also assists landlords in identifying properties that are poor performers and in need of improvement. As part of a net zero strategy for landlords, an important first step would be to understand the baseline emissions of their properties.

3. The main industry concern has been on the fragmented nature of the non-domestic industry in terms of types of buildings, uses and history. The complex nature of tenant and owner relationship & operation and management, which has been highlighted by CERG in previous meetings.

Legally, members want to highlight that if a property is tenanted the owner (landlord) cannot carry out works to the property (decarbonisation or anything) unless the landlord has reserved the necessary rights in the lease, or unless the tenant consents to the landlord carrying out the works. As the works will generally interrupt the tenant's business significantly, it cannot be guaranteed that tenants would allow landlords to carry out the works unless there was some financial incentive. Conversely tenants would not, in most cases, be able to carry out works to the property unless they leased the whole of a building and obtained the landlord's consent. In any letting of part of a building, the tenant would not have rights to access all parts of the building to carry out the works. So, any new regulations would need to factor in that works may only be able to be carried out in the void period between one lease ending and another lease starting. As tenants become increasingly ESG driven, landlords are having to bring buildings up to modern standards and make them more energy efficient before they can re-let older building stock anyway. The drafting of leases is changing to include more green clauses about co-operation and finding ways to reduce energy consumption but there are plenty of older leases out there which don't cover these issues.

4. There are sustainable opportunities for larger industrial or retail warehouse units. Often, these units are finished to a 'shell' spec and the occupiers themselves will choose how they use and heat the unit. Members have reported that as these units can have large roof spaces, there is a potential opportunity to install solar panels to allow for onsite renewable energy generation to help offset consumption. If a unit is occupied, a landlord will need agreement from tenants, but again this is met with mixed responses.

5. Our members also report fiscal challenges that can compound barriers to sustainable initiatives. In one example, relating to accessibility to a heat network, a developer member reported an experience of poorly delivered fiscal incentives delaying sustainability focused building improvements. The failure of the BGA rates relief scheme to support a redevelopment also had a direct impact on a developer's ability to fund PV installation at a large central Edinburgh property and this aspect of the project was shelved as a result. They also explored connecting a major central Glasgow project into the proposed Strathclyde University district heating project, however this was not possible in practice due to lack of certainty, timing, and access to the project.

6. One of the legal members working on energy and infrastructure with major businesses suggested from a heat network perspective, mandatory connections to heat networks for large anchor loads e.g. hotels/ leisure centres make sense and aligns with the proposed policy in England. It also potentially makes heat networks more cost effective which lowers the costs for everyone who connects and therefore has socialised benefits for smaller commercial properties in a heat zone. However, linked to the point above, there needs to be either financial support or a cost effectiveness 'opt out' / delay right for properties to avoid unfairly penalising those who may have relatively new systems in place or would require a major refurbishment to connect to a heat network.

7. There is a lack of clarity on whether connections to a heat network (although zero direct emissions at the point of consumption) would always meet the required low carbon standard under the building regulations. That primarily relates to new builds, but it may also be relevant for major re-fits as part of a decarbonisation programme which may of course be relevant for existing commercial buildings. In the industry, there still seem to be concerns that connections to heat networks, depending on heat source, might not meet the required carbon intensity levels. The heat policy team at the Scottish Government is separate from the building control team and so there is the potential for a policy gap. This could result in a potential blocker in terms of how a building's carbon footprint is assessed and with carbon footprints increasingly becoming important in the valuation and attractiveness of commercial properties. It would be good to try to highlight and remove any such blockers before the policies become law.

8. Another member pointed out that, the policy asks in the CERG paper could be stronger on incentives/ financial support. The bullet at the top of page 5 may be a little over optimistic based on our understanding of modelled costs on current projects. There needs to be a recognition that, while energy efficiency measures may save commercial properties money, low carbon heat is often more expensive than gas – particularly if a building is using gas CHP which also generates electricity or if a building needs to completely change its internal heating system to decarbonise. There has been no replacement for the non-domestic Renewable Heat Incentive that made these projects viable. Incentives/ grants should be available for early adopters. Tax incentives could help e.g. the Scottish Government could consider providing for a reduction in LBTT for purchases of more energy efficient buildings and/or the UK

Government could be asked to provide greater tax incentives for green capex investments, and for the costs of retrofitting existing buildings to achieve net zero.

Conclusion

These examples illustrate the impact of a lack of guidance and inconsistent policy framework which is stalling sustainable development projects. We would also echo the need of defining a standard way to measure embodied carbon in a building. This is a UK wide issue causing uncertainty for major planning applications across a range of regeneration projects as the use and occupancy of commercial properties changes in our urban centres. These policies play an integral role in striking the right balance debate between retrofitting and redeveloping, embodied carbons in buildings and long-term sustainable buildings.

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