

# SPF VOICE

JUNE/JULY 2024



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## Welcome from our new SPF Chair

**Stuart Oag**

Drum Property Group

Welcome to this June/July edition of SPF Voice and my first article as your new SPF chairperson – I look forward to building on the strong foundations of my predecessor, Maria Francké, working with and meeting as many of you as possible during my year in office. And I am also looking forward to working closely with your new SPF vice-chair, Jonathan Guthrie of Robertson Group.

My first event as your Chair involved an evening roundtable with the Housing Minister Paul McLennan MSP and the Chair of the Scottish Cities Alliance, Dundee City Council Leader Councillor John Alexander, together with Divisional Director of Housing at Glasgow City Council, David McEwan. Inevitably our main topic was Part 1 of the Housing Bill, the rent control measures. Although the Minister and public sector representatives understood our concern with investor uncertainty on the Bill's proposals, we remain concerned that significant improvement to the proposals is not yet forthcoming.

Neither did the recent statement to the Scottish Parliament in response to the Housing Emergency reassure members that improvements to the Bill were imminent, with only a reference to a balanced system of rent controls. This is not to say we disagree with the government's desire to see more affordable housing and investment – we just do not agree

that the Housing Bill provides a platform for this to be achieved. It would also be true to say we understand that the government may be restricted during the election period in relation to significant comments in key policy areas. That said, our response in the press shortly after the announcement underlined our feeling that if the Bill continues as it is then Scotland will miss the opportunity for thousands of quality new rental homes and lose a significant boost for our flatlining economy.

More positively, I am delighted to see the early interest in our forthcoming annual dinner to take place on 10 October. Please see here for further information! The SPF annual dinner has become a favoured event for members and their guests over the years with superb networking and excellent company and insights - and we return again this year to the prestigious EICC.

Have a great summer!

Kind regards,

Stuart Oag

Chair, SPF

Director, Drum Property Group

## SCOTTISH PROPERTY FEDERATION TEAM

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## Ending Retail/Hospitality/Beauty Leases – Landlord Perspectives

**ALAN COOK**

Chair of the SPF Commercial Real Estate Committee

Partner

Eversheds Sutherland

The Tenancy of Shops (Scotland) Act 1949 has been a part of Scottish law for decades, providing a framework for lease renewals for various types of businesses. The Scottish Law Commission (SLC) has recently published a Discussion Paper on the Act, as part of a wider review of aspects of the law relating to lease terminations. The SLC is seeking views from those directly involved in such leases, including tenants and landlords.

In May, David Bartos from the SLC kindly met the SPF Commercial Real Estate Committee to explain the background to the consultation and the potential options for change. He followed up with this article in last month's SPF Voice summarising their discussion options.

As David explained, the Act was originally intended as a temporary measure to protect small tenant shopkeepers during commercial property scarcity following WW2. Although the Act remains on the statute book, there is limited awareness of it and court applications under its terms have been rare in recent decades; successful ones even rarer.

Challenges and criticisms of the Act include that it has become little more than a tool for large retail tenants which use the threat of renewal to negotiate favourable terms with landlords during lease renewals; that the Act's test for renewal - "reasonable in all the circumstances" - lacks clarity; and that over the years the commercial landscape for retail leases has transformed significantly, with urban renewal and shorter lease periods having altered the context in which the Act operates.

What property owners want is clarity, fair processes, and efficient lease management. Some issues to be considered from a property owner perspective include:

- What should count as a "shop", bearing in mind the existing law is vague and does not account for changes in commercial activities over the decades? As well as regular retail shops, should the rules apply to the likes of bars, restaurants, nightclubs, take-aways, beauty-treatment premises, warehouses, wholesale units, or petrol stations with a retail offering? Certainty will be key.
- If a new mandatory notice to quit process is introduced for retail and other qualifying premises, what should the period be? The SLC suggests 6 months – can landlords work with this longer advance notice requirement?
- What is the right length for lease extensions under any new rules where the landlord does not give the mandatory notice to quit? The proposal is for it to be year to year (unless the lease was shorter than a year in the first place), ie the same as current tacit relocation rules, but subject to a rolling tenant break right on 3 months' notice. Does this work for landlords?
- The suggested scheme encourages landlords to make the first move – does this give any tactical concerns?

The SLC's consultation will inform the SLC's recommendations for reform or repeal. It runs until 31 July 2024 and the SPF will be submitting a response. Members' views will be very welcome to help shape our response – please feed these back to the SPF team.

### WOULD YOU LIKE TO RAISE AN ISSUE?

We are keen to showcase a variety of industry topics. If you would like to write for our next Voice, please get in touch with [spf@bpf.org.uk](mailto:spf@bpf.org.uk).

# The UK General Election

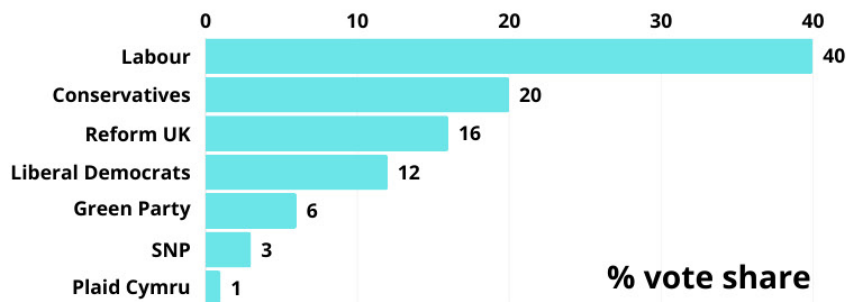
## What are the key promises for the industry?

As we approach the UK General Election, the possibility of a new UK government led by Labour seems increasingly likely with Labour polling at 40% compared to the Conservatives average of 20%.

Though this is a UK General Election and many of the policies affecting the Scottish property industry are matters devolved to the Scottish Parliament, it is nevertheless an important time to consider the broader political landscape and potential legislative changes at a UK government level. This is particularly relevant given the recent swing from SNP to Labour in several Scotland-only polls and while a lot can change quickly in politics, it is a possible early indication of trends to come in the 2026 Scottish Parliament Election period.

### UK General Election Polling Results, 28 June 2024

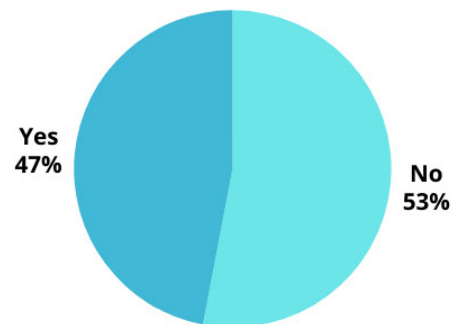
Source - BBC: General election 2024 poll tracker



⚠ To note: SNP only campaign in Scotland and Plaid Cymru only campaign in Wales.

### Support for Scottish Independence

Source - Statista June 2024



Labour

## Key Priorities for Scottish Labour



### Housing

- Increase the housing supply through **reforming planning** to unlock private investment, introduce a **comprehensive mortgage guarantee scheme** and reform the **Mortgage to Shared Equity Scheme**.
- Improve the conditions of tenants and provide protection from un-affordable rents.
- Whilst there is no specific mention of rent controls, **we cannot rule out the possibility of future rent regulation**.



### Tax

- Raise £8bn in tax revenue through fiscal changes such as **scrapping non-dom status** and **ending the use of offshore trusts**.
- **End windfall tax on oil and gas companies** as well as **adding 20% VAT to private schools**.
- Create certainty for investors by producing a **roadmap for business taxation**. In the meantime pledge to **cap corporation tax at 25%** and **reform Business Rates** in Scotland.



### Sustainability

- Create **GB Energy**, a national wealth fund for energy which will be **headquartered in Scotland** by 2030.
- **Double onshore wind, triple solar and quadruple offshore by 2030**.
- Support nuclear energy and some strategic reserves of gas stations.
- **No new licenses for oil, coal or fracking**.
- Make **Grangemouth** a decarbonisation hub.



### Economy

- Create a **'pro-business' environment** through a new industrial strategy and **national wealth fund**.
- 'Transform the planning system' by **reforming NPF4**, create a **national planning agency** to provide expert advice to local authorities, **increase the number of planners** and **streamline the process for strategically important projects**.
- Review the **planning fees structure** and **reduce timescales**.
- Specifically support the **financial services sector** in Scotland as well as the **green energy industries tech, innovation sectors** and build **'Brand Scotland'** to boost the case for international investment.



Conservatives

# Key Priorities for Scottish Conservatives



## Housing

- Prioritise housing delivery of all tenures through a new **Scottish Housing Delivery Agency, set up a national fund, increase the Rural Housing Fund** and when financially viable, restore the **Affordable Housing budget**.
- Target new housing developments on **brownfield sites**.
- Target unoccupied empty homes through a **Compulsory Sales order**.
- Continue to **oppose rent controls**.
- Introduce a Hosing First Programme to end homelessness.
- **Suspend the short-term lets licencing scheme**.
- Pilot a **rent to own model** where the government would give renters back a quarter of their rent to buy the property they live in.



## Tax

- Increase the threshold for LBTT from **£145,000 to £250,000**
- **Not increase** corporation tax, capital gains tax or VAT.
- **Remove the main rate of national insurance** for the smallest businesses who are self employed.
- **Pass on 75% rates relief** to retail, hospitality and leisure businesses to match England.
- Pressure the Scottish government to **reform business rates**.
- Cut national insurance to 6%.



## Sustainability

- **Deliver net zero in Scotland by 2045.**
- Continue to issue **new oil and gas licences** and invest in the oil industry.
- Provide £15 million to support Energy Transition Zone's skills programmes.
- Invest in Scottish **nuclear projects**.
- End the Energy Profits Levy.
- **Continue the windfall tax** on oil and gas companies.
- Introduce a **carbon capture and storage cluster and National Green Centre** in Aberdeen.
- Invest **£1.2bn** into green industries.



## Economy

- Expand the number of **Freeports and Investment Zones in Scotland**.
- Support the new intertrade UK body to **promote internal UK trade**.
- Expand the **Long-Term Plan for Towns** providing up to £20 million endowments.
- Prioritise achieving **full employment** and create a national workforce plan.

## UK General Election: Scotland only Polling Results, 28 June 2024

Source – Financial Times, The SNP loses its grip on Scottish politics



- As of 28 June, the polls in Scotland suggest **Labour will overtake the SNP** - an interesting trend considering support for Scottish independence has remained fairly consistent.
- Since 2019, support for the SNP is predicted to drop over 12% similar to the Conservatives predicted loss of 13% of the vote share. Meanwhile, Labour is expected to gain a potential 16.6% increase in the vote share since 2019.



SNP

# Key Priorities for SNP



## Housing

- **Devolve Housing and Local Housing Allowance.**
- Create a **RAAC Remediation Fund**.
- Deliver **100,000 new affordable homes** by 2032.
- Push the UK government to **reverse cuts to the capital budget**.
- Implement the **New Deal for Tenants** through Housing (Scotland) Bill.



## Tax

- Demand **full devolution of tax powers** to Scotland including National Insurance, windfall tax, road tax, and fuel duty.
- Reform the types of purchases VAT is added to
- Lower the rate of VAT for hospitality and tourism sectors and address **VAT costs in construction sector**.
- **Remove VAT** for all on-street electric vehicle charging.



## Economy

- Push to **rejoin the EU**.
- Deliver **Scottish independence**.
- Demand full autonomy in **energy and taxation**.



## Sustainability

- Demand devolution of energy regulation, pricing and production.
- Use **evidence-based policy** for oil and gas regulation.
- Support hydrogen production.
- **Ban new coal licences and nuclear power stations**.
- Decarbonise heating in **one million homes** by 2030.

# SPF REGIONAL ROUND UP



## Glasgow

On 5 June, we hosted our Glasgow regional dinner kindly sponsored by Beaufort Capital. We were joined by the Housing Minister Paul McLennan, the Leader of Dundee City Council Cllr John Alexander as Chair of Scottish Cities Alliance, Glasgow City Council and a range of industry representatives. Concerns on investment and the rent control clarity were raised. Wider discussion on the Housing emergency, PBSA, the Cladding Remediation Bill, Infrastructure Levy Scotland, Planning and an upcoming Passivhaus consultation among other regional and local issues also featured.

## Aberdeen

On 13 June, SPF hosted members and guests to a dinner at Aberdeen Harbour's 210Bistro. Once again, we were treated to a superb evening of food and service. In a wide ranging debate with the council, we highlighted the challenges of delivering build to rent in the city. The Union street initiative was welcomed but we did challenge continuing policy on the removal of empty property rates relief. The prospects for revitalising the city were also considered with considerable concerns raised with the impact on the city of its LEZ which was felt to be too inflexible in comparison say to Dundee's approach.

## Housing 24 - Lessons from Manchester

Over 26-27 June SPF attended the Housing 24 conference held in Manchester's Central Conference Centre. Some nine thousand delegates attended the event with BPF an official partner with the event organisers. The event has been traditionally local authority / registered provider led but there was a growing private sector participation in a number of the events involving BPF this year. The Scottish Rent Control policies featured negatively, which will not surprise readers and this followed upon a similar perspective being aired at the BPF's National Living Summit held two weeks previously in London. But another lesson to take away was the sheer ambition, delivery and transformation of Manchester in recent years. This achievement has been built upon strong public leadership and collaboration with the private sector, and it is a stunning of what can be achieved to regenerate a former industrial city with the right combination of intervention and partnership between public and private sectors.

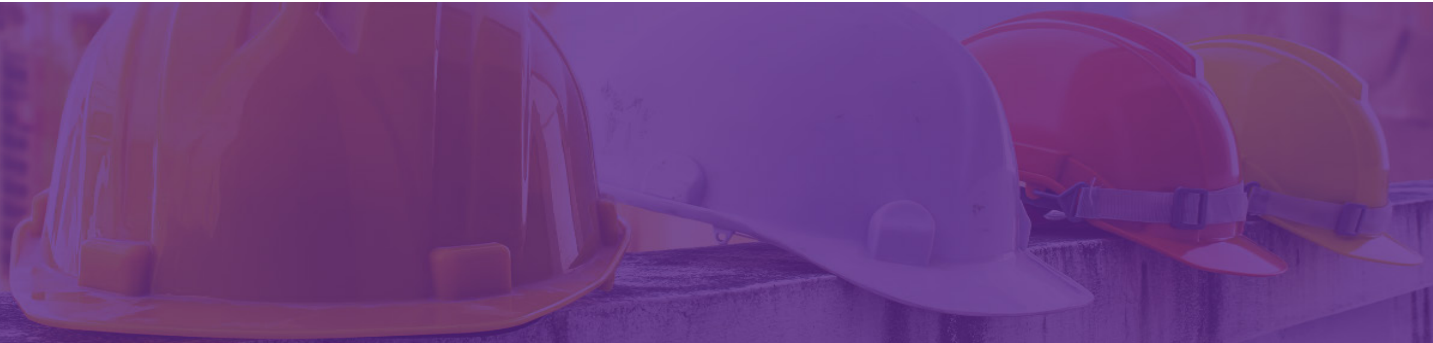
# SPF POLICY BITES

## Housing Bill update



The Housing (Scotland) Bill has now begun its parliamentary evidence stage. This will contribute to a report by the Local Government, Housing and Planning Committee of the Parliament that will inform the Parliament's full Chamber Stage 1 vote. The Minister for Housing has separately made a statement to the Scottish Parliament outlining the government's response to the declaration of a housing emergency in May. There had been hopes that the overwhelming evidence presented to the government both publicly and privately of the collapse in investment for the BTR market as a consequence of uncertainty with the rent control proposals. There are suggestions that against the background of the UK General Election that the Scottish Government is constrained in the announcements it is able to make. We have questioned this with the government as we did not see this area as one the Permanent secretary of the Scottish Government listed as an area of policy constrained by the general election, and the Bill had been introduced to Holyrood long before the election announcement.

We have reinforced to the government that time is critical and the longer the uncertainty on the Bill's proposals continues, and unless the current proposals are significantly amended not just in relation to the rent control aspect but the extension for net controls to in between tenancies, then we fear more potential BTR investment will haemorrhage from the Scottish housing system.



## Infrastructure Levy Scotland



Earlier this month, on 3 June, the Scottish Government published a discussion paper on the [Infrastructure Levy for Scotland \(ILS\)](#). Under the Planning (Scotland) Act 2019, Scottish Ministers have the power to introduce an Infrastructure Levy payable to a local authority on development in that respective authority's area. These powers are subjected to a sunset clause by July 2026 which means the Scottish Government must implement the regulations before this Parliamentary term ends.

## Policy Context

The Infrastructure Levy is essentially a development tax, to fund infrastructure. In Scotland, developers already pay planning obligations under Section 75 of the Town and Country Planning (Scotland) Act 1997.

The Elrick Supreme Court judgment, 2017 mentions "if planning authorities in Scotland wish to establish a local development land levy in order to facilitate development, legislation is needed to empower them to do so". The Planning (Scotland) Act, 2019 provides the framework for this and to establish infrastructure levy regulations.

Policy 18 of [NPF4](#) (National Planning Framework 4) supports an infrastructure first approach for development, which will be key in infrastructure delivery.

The Planning, Infrastructure and Place Advisory Group will provide strategic input and advice to help a joint approach in delivering these regulations.

## Next Steps

- Summer 2024: Stakeholder engagement based on the discussion paper until 30 September
- Autumn - Winter 2024: Draft regulations & consultation paper preparation
- Spring 2025: Public consultation on draft regulations
- Summer – Autumn 2025: Analysis of consultation responses and revision of regulations
- Winter 2025: Regulations to be laid in the Parliament for scrutiny
- Spring 2026: Regulations due to come into force

## The Discussion Paper

The core proposal suggests a levy that could amount to between 1.5-3% of GDV and this paper describes existing mechanisms for securing developer obligations and summarises previous research and reviews relevant to the ILS. It then sets out the various aspects of the levy which regulations would need to consider.

From initial engagement with members the frustration over yet another 'developer tax' has been the highlight. There is still a lot of uncertainty around the mechanism of these regulations, and how it will be calculated. The key concern for the industry will be the direct impact on 'viability' of future developments. There are wider concerns on transparency of funds, refunds, whether it will mirror mechanism similar to existing developer obligations, the exemptions and subsidies, and whether it will apply to affordable housing and different tenures of housing and commercial developments.

We are keen to hear your thoughts on this, to discuss more or send your response, please email us at [spf@bpf.org.uk](mailto:spf@bpf.org.uk)

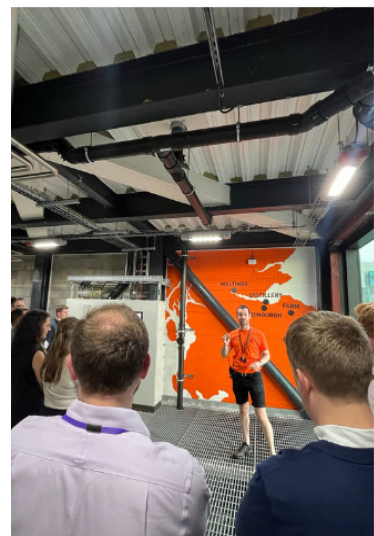
# BPF FUTURES SITE VISIT

## Port of Leith Distillery



This month BPF Futures held a site visit to the recently opened Port of Leith Distillery in Edinburgh. The Port of Leith team took forty members on a tour of the building showcasing its innovative process of whisky making. As the world's tallest whisky distillery, the uniqueness and vision behind the building was helpfully presented by Asya Ballantine from ThreeSixtyArchitects, the architects responsible for the design. It was a great opportunity to showcase such an innovative development at a pivotal point in Leith's regeneration. The tour was followed by some drinks and canapés held in the Sky Bar. A huge thank you to Addleshaw Goddard for sponsoring the beverages and food, and to ThreeSixtyArchitecture and the Port of Leith Distillery for their support. If you would like to support a BPF Futures event or initiative please get in touch with [futures@bpf.org.uk](mailto:futures@bpf.org.uk).

Kindly sponsored by



**SAVE THE DATE**  
**SPF Annual Dinner**  
Thursday

**10**  
**October**  
**2024**



**BOOK NOW**

**EICC - Edinburgh**

**6pm-late**