

CONTENT

Industry Insight	P2 - P3
Programme for Government Special	P4 -P5
<ul style="list-style-type: none"> Housing Planning Building Standards and Safety Business Rates Update Environment 	
SPF Snapshot: round up of our work	P6-7
SPF Annual Dinner 2024	P8
SPA Awards 2025	P9

Featured Industry Insight: Infrastructure Levy Scotland

Pinsent Masons' **Winston Roberts** and **Gary McGovern** take a forensic look at the proposed ILS



SPF VOICE

September 2024

Volume 16 Issue 8



Stuart Oag
Director, Drum Property Group

As we near our annual dinner on 10 October I would like to extend a sincere thank you to all of our guests and hosts on the night and in particular to our sponsors CBRE, Bank of Scotland and TFT. It promises to be a great night for our members and their guests with a superb line up of political and public sector speakers.

Since I last wrote this column we have heard the First Minister's Programme for Government. This included a welcome intention to bring forward amendments to the Housing Bill to encourage investment. All eyes will now be on the detail of these new proposals, although the renewed emphasis on the need for investment is welcome progress. We are continuing to talk to MSPs on a cross-party basis to secure improvements to the Bill to restore investor confidence in the residential sector. With the first major vote due to be completed by end November and Stage 2 anticipated in January/February, the timetable for improvements to the Housing Bill is clearly accelerating.

Our recent meeting with the Deputy First Minister, Kate Forbes MSP, kindly hosted by Brodies, was very much focused on the need to boost the economy and on the importance of investment to further this cause. As you would expect the Housing Bill featured heavily, but we also underlined the need for all policies to align towards supporting investment in commercial development. Our Vice Chair, Jonathan Guthrie also underlined to the DFM the cumulative impact of the government's various levies and new regulations heading our way. This week the government opened consultation on its Building Safety levy which seeks £30m per year from new residential development in Scotland to contribute towards cladding remediation. Next week the initial consultation on an Infrastructure Levy Scotland is due to close – another policy

which has the potential to inflict unwelcome and unintended consequences on our sector.

My concern is that while each and every proposal may have its own merits, when taken together, we have a perfect storm of costs, regulations and policies which mean there are precious few major real estate projects bringing investment and economic development to our cities. And this at a time of much reduced housing delivery across all tenures and little in the way of new office proposals.

SPF have also made strong representations on the Edinburgh Developer Contributions proposals. It has been an extremely busy period for the SPF Team and I would like to thank them and my Policy Committee colleagues for their strong support during the meeting with the DFM.

I look forward to seeing as many of you as possible at our Dinner on the 10th October and wish you a successful month.

Kind regards

Stuart

SCOTTISH PROPERTY FEDERATION TEAM

David Melhuish

SPF Director
dmelhuish@bpf.org.uk

Anamika Dwivedi

Policy Officer
adwivedi@bpf.org.uk

Josie Sclater

Policy Officer
jsclater@bpf.org.uk

10 South St Andrews
Street
Edinburgh
EH2 2AZ

spf@bpf.org.uk
T: 0131 220 6353





Winston Roberts

Associate at Pinsent Masons

Gary McGovern

SPF Planning and Development Committee
and Partner at Pinsent Masons

Industry Insight

Infrastructure Levy Scotland

As noted in the last issue of SPF Voice and discussed at the recent SPF Planning & Development committee meeting on 19 September, there are many uncertainties and concerns about the proposed Infrastructure Levy for Scotland (“ILS”). This article outlines some of the key issues arising from the recent Scottish Government Discussion Paper on ILS.

Background

The purpose of ILS is to capture an element of the uplift in land value caused by development, and to put that towards contributing to infrastructure. It is intended to remedy the fact that section 75 planning agreements do not allow for the pooling of funds towards wider infrastructure requirements which may be required as a result of incremental development, as notably highlighted in the case of *Aberdeen City and Shire Strategic Development Planning Authority v Elsie Development Company Limited*, where the Council's attempt to pool contributions for the Aberdeen Western Peripheral Route was held to be unlawful.

However, ILS will be applied in addition to, and will not be a replacement of, planning agreements, which will continue to seek contributions for the direct infrastructure requirements of individual developments.

The Planning (Scotland) Act 2019 (“the Act”) contains enabling powers (sections 54 to 58 and Schedule 1 of the Act) allowing for regulations to be made to establish an infrastructure levy. These are skeletal with very little detail on how ILS is to operate.

It is important to note that any ILS regulations will be subject to what is known as “affirmative procedure” and therefore can't be amended or improved as they proceed through the Scottish Parliament. Therefore, the live consultation on the Discussion Paper and the consultation next year on draft ILS regulations are important opportunities to influence the ILS regime.

Discussion Paper Proposals

The Discussion Paper contains a list of the Scottish Government's “initial thoughts”, but these are not fixed and they are seeking views, including arguments for alternative approaches. It proposes:

- A set amount will be determined by a non-linear, logarithmic formula, which will be charged based on floor area measured in square metres (it has not been decided whether this will be gross internal area (as for CIL) or external area). How that formula will operate is still to be confirmed but it is proposed that at least some of this will be up to the local authority to determine. There is a suggestion of it being linked to average

development values within zones which the local authority identifies. There can be substantial variation in land values within small geographic areas (e.g. greenfield vs brownfield land), which make a broad-brush system challenging. Experience in England suggests finding an appropriate middle ground, whereby marginal developments are not put at risk whilst ensuring rates are at a level which generate meaningful funds for investment in infrastructure, is difficult.

- Local authorities would not be required to charge the ILS. It is worth noting that a common criticism of CIL is that it is not applied universally and many local authorities did not adopt a charging schedule.
- Local authorities could have discretion to waive or reduce the amount if they considered it could inhibit development. Again, while flexibility is welcome, it introduces complexity and the potential for an uneven playing field. We could continue to see protracted viability discussions case by case. Legal advice would also be required to ensure compliance with the Subsidy Control Act 2022.
- ILS will apply to residential development. However, there will be exceptions, with exemptions likely for residential institutions, householder development and self-build housing. No decision has been made on whether affordable housing, purpose-built student accommodation, and very small developments are included/excluded.
- There is no proposed position on the inclusion/exclusion from ILS of any other type of development. The Scottish Government is seeking views on whether commercial/industrial development should pay the levy. If other types of

development are included, it is however proposed that different rates will apply to different types.

- Infrastructure development itself will not be liable for the ILS. Interestingly though, the Discussion Paper seeks comments on applying ILS to renewable energy infrastructure without explanation as to why it has been singled out.
- There is no clear position for when ILS should be paid. The Scottish Government appear to have a preference that it is paid at the point of commencement of development but invites views on the timing of payment. This is an issue of vital importance. As the Discussion Paper acknowledges, payment at the beginning of development would be simpler but raises issues regarding cash flow, while a payment at the end could prejudice the ability to enforce payment. Payment upon completion also means there could be significant scope for variation in the amount due depending on market

..... “
ILS will be applied in addition to, and will not be a replacement of, planning agreements, which will continue to seek contributions for the direct infrastructure requirements of individual developments.

conditions in the intervening period, particularly on larger projects that may take years from commencement to completion.

- The ILS is not expected to fully fund specified infrastructure and is not intended to replace national or existing



Infrastructure Levy for Scotland: discussion paper consultation closes on 30 September

local authority funding. The Discussion Paper notes there is no prohibition on borrowing against ILS income and sets out that local authorities will need to front-fund infrastructure projects, either from capital budgets or through borrowing, until levy receipts start to build up. It remains to be seen whether there is local authority appetite to borrow against future ILS receipts, especially considering financial difficulties that local authorities have been facing recently. This brings risk to the delivery and timing of any local authority delivered infrastructure.

- The ILS regime will have an appeals process, as well as penalties for non-compliance, provisions to deal with enforcement, and an offence of evading payment by withholding information or providing false or misleading information. It is evident that introducing the ILS will be a significant additional drain on planning and local authority resource at a time when the Scottish Government is seeking to bolster the capacity of planning departments through recruitment and external support (e.g. the new Planning Hub).

Next Steps: the ILS Timetable

The timetable proposed by the Scottish Government for creating ILS is as follows:

- Autumn-Winter 2024: Prepare draft regulations & consultation paper
- Spring 2025: Public consultation on draft regulations
- Summer–Autumn 2025: Analyse consultation, revise regulations
- Winter 2025: Lay regulations in Parliament and scrutinise
- Spring 2026: Regulations come into force

Given the power to introduce an infrastructure levy has been on the statute books for more than five years, it is a concern that fundamental details as to how ILS is to operate remain undetermined. Significant questions, such as how the rate will be calculated and when it will be paid, are left unanswered until the draft regulations are published next year.

Concluding Remarks

It is important for developers and stakeholders of all types to submit comments to the Scottish Government by 30 September. After the Discussion Paper the next opportunity for comment won't be until draft regulations have been prepared for consultation and the deadline of Spring 2026 will be looming.



Programme for Government: What does it mean for the property industry?

On 4 September, the First Minister announced the Programme for Government, which sets out the Scottish Government's key commitments and priorities for the next year. Our team provides you with an overview of the key issues within this publication affecting the industry, including housing, planning, building standards and safety, and environmental policy.

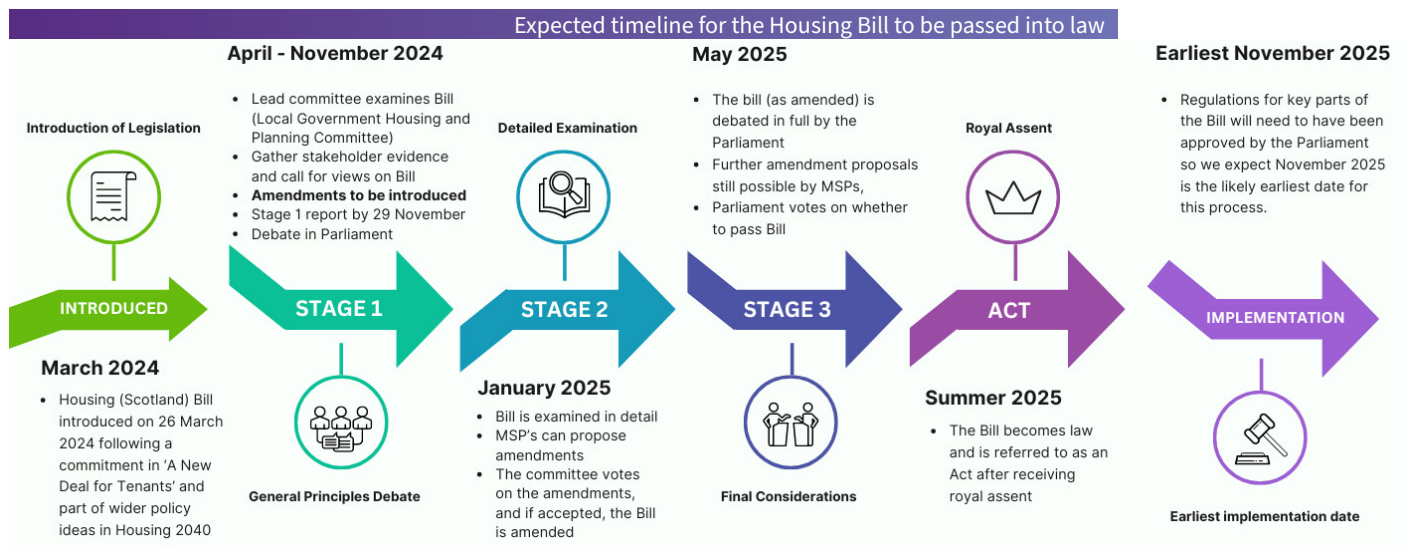
Amendments Announced for the Housing Bill

Since the publication of the PFG, there has been a noticeable step change in the language and tone of the government, with a commitment to bring forward amendments to the Housing Bill. In the publication, the government outlined their intention is to strike a balance on rent controls recognising

the need to 'encourage' investment while protecting tenants.

It is unusual for the government to announce changes to a Bill before the completion of the Stage 1 report and parliamentary debate. Typically, amendments are made at Stage 2 during the detailed examination period when MSPs can propose changes. Therefore, we consider this a significant change in terms of the government acknowledging the need to support investment in the supply of new housing even if the specifics of the amendments are yet to be published.

In recent meetings following the PFG with the government, including a roundtable with the Deputy First Minister Kate Forbes MSP, this change in tone around ensuring investors can work with the Bill was emphasised. During these discussions, we were also informed that the proposed amendments are likely to be made known by 29 November, the deadline for the completion of Stage 1. By this date, we should have a clear indication of what the Housing Bill is likely to entail in practice. For a breakdown of our main discussion points in this meeting, check out our featured event on page 6.



Planning Priorities

In the Programme for Government, there were some positive planning announcements including:

- An early adopter scheme for Masterplan Areas. This will frontload the process of obtaining planning consent and delivery of major projects.
- On 19 September, the consultation response for [Masterplan Consent Areas](#) was published.
- On 23 September, final regulations were laid in front of the Scottish Parliament. The regulations are now subject to Parliamentary scrutiny, subject to that, they are expected to come into force on the 5th of December.
- Launching a Planning Hub, which will serve as a pool of expertise for and enable quicker decision making. The Hub

will be hosted by Improvement Service and the National Planning Improvement Champion will lead on it. Initial priority for the Hub will be hydrogen but it will look at wider concerns such as housing and green data centres.

- Launching of planning apprenticeships to invest in talent.
- Modernising Compulsory Purchase Order system will be consulted on soon, with the aim to enable projects in public interest and bring empty properties back into use.
- Supporting local authorities in responding to the housing emergency by allocating a pipeline of land for new homes.
- Fast tracking energy consenting processes for proposals of over 50MW applications and reducing timescales for section 36 & 37 applications.

MORE ON PLANNING...

On 19 September, the Scottish Government also published the consultation response for [development plan amendments](#), which was consulted on over the summer.

On 20 September, the Chief Planner and Minister for Public Finance issued a letter to update planning authorities on the work programme and priorities. This includes some major concerns currently for the industry such as Policy 22 – Flood risk and management.

As mentioned in the [letter](#) we are awaiting updated guidance from SEPA on the issue.



Grangemouth set to be a key priority area for a 'just transition'

Environmental Commitments

One of the PFG's four priorities was 'tackling the climate'. Within this chapter the government has committed to several environmental policies affecting the built environment. We have identified five key areas for the industry:

1. To publish an Energy Strategy and sectoral Just Transition Plan to include the built environment.
 - This will set out the actions needed to deliver the energy pipeline and secure the economic benefits.
2. A commitment to bring forward a Heat in Buildings Bill.
 - This will be an overarching roadmap, providing a long-term strategy to addressing climate change while also tackling fuel poverty, energy efficiency
3. Conclude the review and make legislative amendments to the New Build Heat Standard by December 2024.
 - This was referenced in response to concerns raised regarding the use of woodburning stoves and bioenergy.
4. Improve the planning and consenting regime for energy generation including reducing timescales for Section 36 and 37 determinations (related to electrical production).
5. Focus on areas such as Grangemouth, Northeast and Moray for a just transition.

across various sectors including housing.



Scottish Building Safety Levy Consultation Live

The expected **consultation** of a Scottish Building Safety Levy was this week opened by the Scottish Government. Comments are sought by the government by 18 November. The Levy is intended to contribute towards the cost of the Scottish Government's cladding remediation programme of which some 6000 buildings are now in scope – this is far greater than initial surveys identified.

The government aims to raise some £30m per annum on new residential developments to help fund this programme. The consultation does recognise that this charge on new development adds cost and financial pressure and there are proposals to exempt SME developers, many of whom will have never constructed an 11m high housing development.

Business Rates Timetable for 2026 Revaluation

In a recent New Deal for Business meeting chaired by Business Rates Minister Ivan McKee MSP, the Scottish Assessors unveiled their timetable for the 2026 revaluation. The tone date is 1 April 2025, with the revaluation taking effect on 1 April 2026. Ratepayers can seek to pre-agree their rateable values between 1 April 2025 and 20 February 2026. Representatives of ratepayers will be able to similarly engage with Assessors upon proof of authority

to act for owners or tenants. The SAA will continue to consult on their Practice Notices that underpin their approach to revaluation methodology and the portal for these consultations can be found [here](#).

Meanwhile we have again raised the issue of the impact of vacant rates charges on redevelopment, this time with the new Minister. We have written to the government with examples of the costs and wider damage, including the deterrent

impact on investors, to redevelopment projects caused by high rates charges where developers are seeking to bring older buildings back to life.

Have your say!

Upcoming Consultations

- Stage 1 consultation on Scottish Equivalent of Passivhaus - 23 October
- PBSA: Notice to Leave Tenancy: Provider Survey - 30 October
- Building Safety Levy - 18 November

Send your comments to spf@bpf.org.uk

SPF Snapshot: Our work at a glance

A round-up of our key engagements, events and policy work to support our members in driving a diverse, successful and sustainable real estate industry in Scotland.

SPF on the go!

Edinburgh Roundtable with the Deputy First Minister

SPF Policy Committee met with the Deputy First Minister Kate Forbes MSP and two officials from the Scottish Government on 18 September which was kindly hosted at Brodies.

Inverness Dinner

SPF members met with the Highland Council at the Kingsmills Hotel in Inverness on 5 September.

Dundee Dinner

SPF members met with the Dundee City Council at the Malmeson on 19 September.



Featured Event

Policy Committee meets with Deputy First Minister

On 18 September, our Policy Committee met with Deputy First Minister, Kate Forbes MSP to discuss the Housing Bill, the cumulative impact of levies on the industry and supporting our towns and cities through commercial property investment. The meeting was kindly hosted by Brodies in their Edinburgh office.

A strong delegation of members underlined the urgent need to restore

investor confidence in Scotland, as well as the need to align policies and leadership to welcome and support investment in our cities.

The opportunity to support mid-market rental homes through positive investment was also made, as well as the challenges of delivering infrastructure to support new development and communities.

Members also underlined the need to ensure tax policies such as LBTT reliefs are geared towards supporting and not

frustrating major investment in Scottish real estate.

The DFM engaged positively and underlined the intentions of the programme for Government to get the economy firing and pointed to the First Minister's commitment to amend the Housing Bill.

Since the meeting SPF has written to Public Finance Minister Ivan McKee and the DFM on the LBTT relief point.

Committee Round-up

This month we held five committee meetings

Policy Committee

On 18 September, our Policy Committee met with Deputy First Minister, Kate Forbes MSP to discuss the Housing Bill, the cumulative impact of levies and supporting our towns and cities. The meeting was kindly held by Brodies.

Commercial Real Estate Committee

Our Commercial Real Estate Committee met this month to discuss Passivhaus and the potential impact on the commercial sector. We had a guest speaker from Architype present on the issue and the meeting was kindly hosted by DLA Piper.

Residential and Investment Management Committee

Our Residential and Investment Management Committee met on 17 September with the Scottish Government to discuss the Housing Bill. The meeting was kindly held by CBRE.

Planning and Development Committee

Our Planning and Development Committee met on 19 September and was a good opportunity to discuss the recent planning announcements in the Programme for Government. The meeting was kindly hosted by JLL.

Sustainability and Building Design Committee

Our Sustainability and Building Design committee met this month to discuss the ongoing Passivhaus consultation. The meeting was kindly held at Keppie Design.

Brodies Edinburgh Office



Key Engagements

Topics we discussed with Scottish Government and local authority officials this month

1 Building Standards Hub Launch

We attended the launch of the Building Standards Hub in Dunfermline which was addressed by the Minister for Housing Paul McLennan MSP on 3 September.

2 NDBG - NDR Sub-Group

We attended a stakeholder meeting on the New Deal for Business Group focusing on non-domestic rates on 17 September.

3 Parliamentary Evidence

SPF Director, David Melhuish gave evidence at the Scottish Parliament to the Finance and Public Administration Committee on 19 September.

4 Edinburgh Development Forum

We attended the Edinburgh Council's Development forum in person on 25 September where the focus was the Edinburgh office market.

5 Planning Skills

We met with Scottish Government officials to discuss improving planning skills on 24 September.

6 Meeting with Miles Briggs MSP

We met with Conservative MSP Miles Briggs on 25 September at the Scottish Parliament.



7 PRS Stakeholder Group

We attended the Private Rented Sector Stakeholder Group on 24 September.

8 Meeting with Chief Planner

Following the PFG publication, we met with the Scottish Government's Chief Planner to discuss recent planning announcements.

Join us in celebrating the Eleventh

SPF Annual Dinner

10 October 2024 EICC - Edinburgh
6pm-late



Keynote Speaker

**The Rt Hon
Ian Murray MP**

The Secretary of
State for Scotland



After dinner speaker

**The Rt Hon
Michael Gove**

Former Secretary of State
for Levelling Up, Housing
and Communities



BOOK NOW

**Proud to be
sponsored by**



CBRE





SCOTTISH PROPERTY AWARDS 2025™

Commercial and Public Property

Thursday 20th February 2025

DoubleTree by Hilton Hotel,
Cambridge Street, Glasgow.



ENTER
NOW

**SHOWCASE YOUR ACHIEVEMENTS
AND GAIN RECOGNITION AT THE
2025 SCOTTISH PROPERTY AWARDS!**

**CELEBRATE EXCELLENCE IN
SCOTLAND'S PROPERTY INDUSTRY**

ENTER NOW



www.scottishpropertyawards.co.uk



Louise@kdmedia.co.uk

