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## Featured Industry Insight: Housing (Scotland) Bill and Planning Announcements

**Martin Devine** of Addleshaw Goddard delves into the implications of the amendments on the Housing (Scotland) Bill. Meanwhile, **Jacqueline Cook** from DCS Legal examines the recent planning announcements.



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Your industry insights and updates

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# SPF VOICE

November 2024

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## Welcome from the Chair



### Stuart Oag

Director, Drum Property Group

### Housing Bill Nears Key Vote in Parliament

Tomorrow the Scottish Parliament will debate the Housing (Scotland) Bill at Stage 1 to vote on the principles of this legislation. Our position remains that if we must have a form of long term rent controls, then they must at least be investible.

There has been some progress. As I said recently at SPF's parliamentary reception, we welcome the announced amendment we have advocated of CPI +1%, to a maximum of 6% rent cap, as announced by the Housing Minister, Paul McLennan on 31 October. We are also encouraged with the potential for exemptions from the rent control regime for build to mid-market rent to support these new build markets. But we risk losing an opportunity to restore investor confidence in Scotland if rent controls are extended to 'in-between tenancies'. The market sees this as rent setting and it is a red line for many investor respondents to the government's various consultations.

Further progress has also been made on the planning front. In a parliamentary statement on 12 November, Planning Minister Ivan McKee announced a series of initiatives including halting work on the proposed Infrastructure Levy Scotland. We made substantial representations on this issue both formally and directly in person to senior Ministers, including Deputy First Minister Kate Forbes, and I am pleased to see these efforts have been listened to. As I say that, SPF has recently submitted our concerns with the Building Safety Levy which will tax developers, many of whom will have very little to do with cladding, but who will nonetheless face significant costs as the BSL is implemented. The BSL is a substantive additional cost which will make it even harder to deliver new housing of any private tenure.

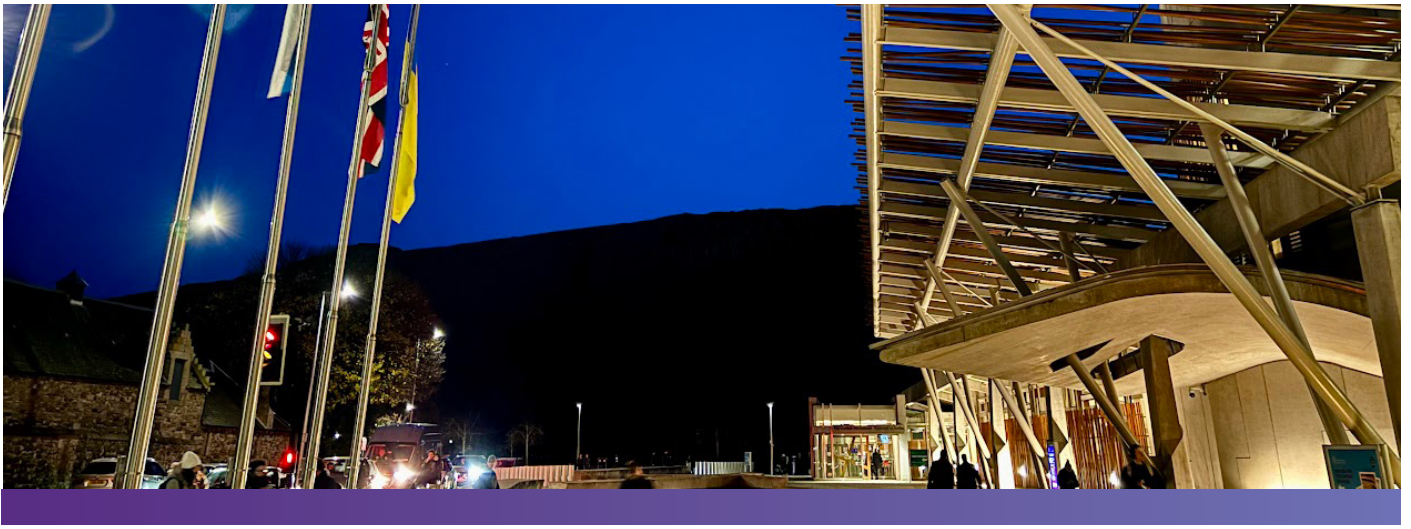
We are of course in the run up to the Scottish Government budget statement expected on 4 December. We have underlined our concerns that a failure to improve the Housing Bill will result in missed investment and the associated boost to both housing and the wider economy. The SPF has also been busy with government Ministers and officials with our calls to improve support for development projects under the business rates system, reinforced our calls for investment in the planning service and sought amendments to the LBTT relief regime to support investment into Scottish property.

Thank you for your continued engagement with the SPF in our recent events and your positive response to our renewals process. This is hugely appreciated - we cannot make the case for the industry without your support. On this note, I would ask you also to consider SPF's current open calls for participating in its committees and working groups.

I wish you a successful end of year!

*Best wishes,*

*Stuart*



**Martin Devine**

Real Estate Partner at Addleshaw Goddard

## Industry Insight

### Housing (Scotland) Bill

On 31 October 2024, Housing Minister Paul McLennan delivered the latest update on the progress of the Housing (Scotland) Bill to the Scottish Parliament in which he announced proposed amendments aimed at providing certainty on how permanent rent control measures will be implemented and operate in practice.

It was encouraging to hear the Housing Minister announce that a key component of the government's thinking behind these amendments was the need to strike the right balance between the interests of all stakeholders in Scotland's private rented sector.

The proposed amendments to the Bill are:

- Rent control areas are to be designated locally, rather than being applied nationally
- In rent control areas, rents increased will be capped at CPI + 1%, subject to a maximum of 6%
- Rent caps will apply both during a tenancy and in between tenancies while an area has been designated for rent control

The Housing Minister also announced that the Bill will contain powers for certain exemptions or modifications to rent control measures to be introduced and, that in order to assess the case for these and address calls for clarity as quickly as possible, a further consultation will be brought forward in early Spring 2025. In what aspects exemptions would be considered was not clear but the Minister's statement made reference to possible exemptions

where property is offered for social good or where purpose-built accommodation for rent is being provided at scale.

The proposed amendments have been, for the most part, positively received and viewed as a step in the right direction by the investor and developer communities. Concern remains over the potential impact the application of rent control measures to both current tenancies and in-between tenancies will have on investment decisions and some have renewed their call for any legislation to be easily understood and include a mechanism for regular review to ensure rent control measures are positively affecting outcomes.

The principal concern though remains the impact of continued uncertainty. The dramatic reduction we have seen in new investment into the private rented sector since rent control measures were first introduced in late 2022 has now translated into a significant reduction in the supply of new housing into both the private and public sector and many put this down to the uncertainty in the regulatory framework. This issue was referred on a number of occasions in the recently published Stage 1 Report on the general principles of the Housing Bill by the Local Government, Housing

and Planning Committee, which noted that the uncertainty risks deterring investment and improvements being made to housing stock as well as increasing the risk of landlords leaving the sector which in turn impacts on the choice and affordability for tenants.

At a time when a national housing emergency has been declared and

..... “ .....  
Concern remains over the potential impact the application of rent control measures to both current tenancies and in-between tenancies will have on investment decisions  
.....

the government itself has decided to cut back on its own house building targets, removing barriers to the flow of investment into Scotland's private rented sector is becoming a priority the government must address to avoid further reduction in supply of new housing stock.





**Jacqueline Cook**

Director, Head of Planning at Davidson Chalmers Stewart

## Industry Insight

### Ministerial Statement November 2024: Scotland's Planning System - Supporting Investment and economic growth and delivering quality homes

"Efficiency". "Capacity".

"Proportionality". Terms like these peppered the statement on 12 November, in which the Scottish Government announced its aim to use the planning system to accelerate house-building over the next 12 months. Warm words are welcome but they must be backed by meaningful action to address the "housing emergency".

For example, news that the proposed new infrastructure levy would not be pursued elicited a collective sigh of relief. It is positive that stakeholder concerns about timescales for secondary legislation, complications experienced with the English/Welsh Community Infrastructure Levy, potential for administrative burden on authorities and increasing financial strain on developers have been heeded.

However, it is unclear how cancelling the levy sits with the Ministers' simultaneous demand for developments to be supported by infrastructure. How will this infrastructure be funded and who will provide it? These questions may well be answered once the new Regional Spatial Strategies under NPF4 are in place and updated guidance on developer contributions under Section

75 agreements emerges.

In addition to build-out costs, more money is needed to keep the planning system itself afloat - recently published statistics show that applications are taking far too long to determine. Again, where the money will come from is unclear. Developers will be one source and are due to pay higher application fees from next month. While helpful, this is likely insufficient. Only ~65% of planning department costs are met by application fees and increases will only partly plug the financial hole. Crucially, planning application fees are not ring-fenced and councils are not required to spend them on planning matters. There is no guarantee applicants will see benefits from paying increased fees.

Government funding has been earmarked for training the next generation of planners to make policy and decide applications, and for a new Planning Hub to facilitate planning permissions and the construction of consented schemes. These are constructive steps - in theory. In practice, educational grants will fund 30 planners where 700 are necessary. The aim of the Planning Hub has yet to be finessed and we do not understand how it will differ from work already being done by the new Planning Improvement Champion, Chief Planner and various working groups operating in the housing sector.

“  
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”

In terms of policy, NPF4 remains in relative infancy. Only one of the 32 new local development plans it requires has been adopted to date and NPF4 policies continue to be tested in the courts. Pressure is growing for immediate action on biodiversity, climate change, flooding provisions and other aspects of NPF4. Despite a renewed focus on housing delivery, pre-existing tensions in the system still need to be addressed.

With promises to work more closely with developers and regulators, reform to the Compulsory Purchase regime (to push through development in the public interest) and expanded statutory permitted development rights (to remove certain requirements for planning permission), the Scottish Government must carefully balance competing policy priorities and public engagement with urgent housing delivery.

# SPF Policy Bites

## What’s next for the Housing (Scotland) Bill?

On 31 October, the Housing Minister announced major amendments to the Housing (Scotland) Bill which included a potential exemption for BTR and MMR subject to a consultation in the early Spring and a rent cap that is index related (CPI +1% up to a maximum of 6%).

Since this announcement, there have been several new developments with the Stage 1 committee report published on 14 November and a date announced for the Stage 1 debate in Parliament which is scheduled for 28 November.

The Committee report outlines detailed concerns brought by both landlords and tenants on the measures proposed in the Bill. The report notes calls from many stakeholders for clarity and certainty and the fact the Bill’s provisions will not help to increase the supply of housing.

The debate, which is due to take place on 28 November, will be a key milestone in the Bill’s progression as MSPs will consider and decide on its general principles.

In the new year, we await to see the publication of the consultation on the exemptions to BTR and MMR. At this stage, MSPs can also suggest further amendments. In May, it is anticipated for the Bill to progress to Stage 3 where there will be a further debate in Parliament.



## Q3 2024 BTR STATISTICS

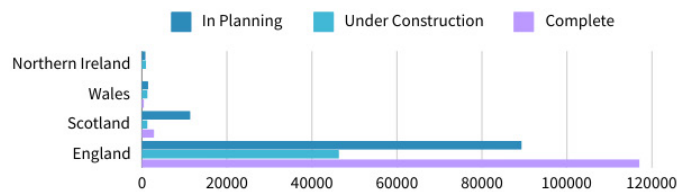
The BPF in partnership with Savills recently published it’s [2024 Q3 BtR statistics report](#). The report provides a detailed picture of the UK’s total sector pipeline including units completed, those in planning and under construction.

Some key statistics include:

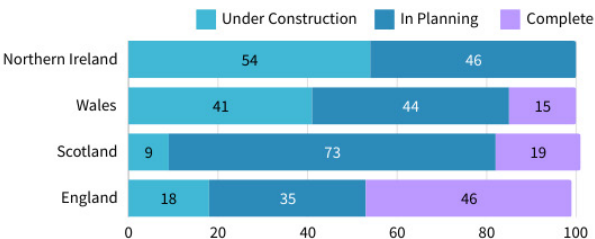
- The number of completed units in UK has now surpassed 120,000, a growth of 23% in completed stock over the past 12 months.
- The number of BTR units under construction compared to Q3 last year in Scotland has dropped disproportionately by 45%, compared to decreases of 19% in England and 21% in Wales.
- Scotland has a total of 2916 completed BtR units.
- In Scotland, there was a 1% increase in the number of units in planning in Q3 2024 compared to Q3 2023.

### BPF Q3 2024 Build-to-rent Report in partnership with Savills

Number of Build to Rent homes



Proportion of BtR Homes







## Update on Policy 22: Flooding

The Scottish Government has recently commissioned Climate x Change to work in their Climate Change & Adaptation team on a research project named 'Future Climate in Today's Decisions.' The research aims to support the use of future climate scenarios and hazards in today's decision-making. The Scottish Government and SEPA will review and update relevant guidance, as appropriate, in light of the findings.

In a recent meeting discussing the research, Climate X Change updated us on the projections used by them to model the climate data which is being used by The MET and UK Government's Department for Environment, Food & Rural Affairs. They presented projections using the 2-degree increase scenario according to the Paris agreement and worst-case scenario of 4 degrees until 2100. After 2050, each scenario diverges drastically, indicating different levels of risk. Most policies account for the 2-degree scenario however SEPA currently use the 4 degree or RCP 8.5 scenario.

Members have raised concerns about SEPA's

reliance on worst-case future scenarios for flood risk assessment, highlighting significant challenges for current development. With 80% of the built environment on a flood plain, the use of the over precautionary modelling means some developments are struggling to qualify for flooding insurance and there's a real risk there will be an artificial deflation in property values and a reduction of investment appeal in certain areas. Alongside Homes for Scotland, we have relayed this issue and hope to have more clarity on future policy guidance for regulators soon.

### Next Steps:

- This research report will be published on 28 November
- These results will feed into a consultation that will be published early next year that will inform Scottish Government and SEPA
- The results of this consultation will be fed into NPF4 and Policy 22
- There will be a flood resilience strategy set out soon

## Scottish Building Safety Levy Consultation

This month, we submitted our response on the Scottish Building Safety levy consultation. The consultation sought views on proposals of a new developer tax which will fund the Government's Cladding Remediation Programme and will apply to all new build residential developments.

The government is looking to raise £30m per year with the levy expected to be in place for the next 10-15 years in order to remediate unsafe cladding found in around 6000 buildings. Whilst we understand the urgent need to fix unsafe cladding, we highlighted this new levy places an unfair burden on developers, many of whom were not in operation or were building to the correct building standards at the time.

We urged the government to acknowledge that the financial implication of the levy is expected to create viability challenges for developers at a time when the industry is also facing increased construction costs, inflation and other regulatory interventions such as rent controls and higher regulatory requirements such as carbon net zero initiatives. In the context of a national housing emergency, we are particularly concerned that this levy could add further delays to the delivery of housing and indeed fuel affordability issues.

We welcomed the likely exemption on affordable housing and a possible reduced rate for brownfield development. However, we urged the government to give special consideration for MMR, later living, PBSA and BtR developments as they are not built for immediate onward sale. As these developments rely on long-term rental income or occasional whole asset sales, a levy issued upon project completion could trigger disproportionate cashflow issues compared



with traditional build for sale.

The levy is expected to come into force by April 2026 and we urged the government to ensure there is a suitable grace period or transitional arrangements in place for projects that have already received planning or appraisal to lessen the disruption. We look forward to hearing more details as this levy develops.

# Non-Domestic Rates and Property Improvements

SPF has for some time argued that the rates regime surrounding bringing older properties back to life is inconsistent and acts to deter potential investors. This issue has been further fuelled by the devolution of empty property rates relief to local authorities which have largely decided to abolish relief for vacant properties, including for vacant listed buildings. This has led to a situation where there is arguably a reduced incentive for private sector investors to invest in, retain and revitalise older buildings (often located in our major city centres). This hardly seems to fit with either the place or cities growth agenda.

There now appears to be serious interest on

addressing this anomaly within the Scottish Government.

Rather than encourage developers to take on complex buildings which will often require a rethink in their use and operation, the regulations often act as a disincentive. We have cited evidence of redevelopments with demolition where rates are still charged and of where very small proportions of former buildings are maintained for heritage reasons but sometimes at the cost of significant rates bills.

The Minister for Public Finance (Ivan McKee MSP) is interested in hearing further evidence on this point, which we have argued could support investment commercial development

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There now appears to be serious interest on addressing this anomaly within the Scottish Government.

available under the Business Growth Accelerator. We would welcome any insights you have on this issue.



## Policy Win for SPF - Infrastructure Levy Scotland Halted

In our September edition we featured the Scottish Government's discussion paper on a proposed Infrastructure Levy Scotland, which closed for comments in that month. This has also followed two delegations led by our Chair Stuart Oag first to Victoria Quay to meet relevant government officials and second, kindly hosted by Brodies, with Deputy First Minister Kate Forbes.

In this second meeting, Stuart and our Vice Chair Jonathan Guthrie

highlighted to the DFM, the cumulative impact of proposals such as ILS, which was proposed to be in addition to s75 planning agreements and the proposed Building Safety Levy.

We had also focused in our formal written submission on the complexity involved with designing an ILS. We were therefore pleased to see these comments had been listened to and that work on an ILS has been halted. With a sunset clause of July 2026 and a very tight parliamentary timetable between now and the end

of this Scottish parliament, which will effectively close for business in March 2026, it is difficult to see the measure coming forward before the sunset clause is triggered.



# 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!**

### Glasgow Lunch

On 25 November, we held a lunch with members, Glasgow City Council planning and regeneration officials and representatives from the University of Glasgow and Strathclyde. The meeting was kindly hosted by JLL.

### Edinburgh Lunch

On 26 November, our lunch was kindly hosted by Montagu Evans in Edinburgh. We met with members and the City of Edinburgh Council to discuss development and investment issues for the city.

## Featured Events

### SPF Parliamentary Reception

This month we held a Parliamentary Reception which was kindly sponsored once again by Michelle Thomson MSP.

The event brought together over 70 members and guests, including MSPs from across the Chamber to celebrate and acknowledge the role of our industry in driving sustainable economic growth for Scotland.

It was a great opportunity to hear from our Chair, Stuart Oag, Michelle Thomson MSP, the Minister for Housing, Paul McLennan MSP and BPF CEO, Melanie Leech and reflect on our sector's role in delivering investment and growth in Scotland.



### SPF Roundtable with Scottish Labour

This month we held a dinner with members and Daniel Johnson MSP (Labour Spokesperson for (Labour Party Spokesperson on Business, Fair Work and the Economy)). The evening provided an excellent opportunity to discuss key issues from the real estate sector with the Scottish Labour Party, focusing on how the sector can contribute to further investment and economic growth in Scotland. This dialogue is especially relevant as Scottish Labour engages with the Scottish Government on the Housing (Scotland) Bill and works towards finalising its policy manifesto ahead of the 2026 Scottish elections.

# Committee Round-up

This month we held three committee meetings

## Residential and Investment Management Committee

Our Residential and Investment Management Committee met following the Minister's announcement to amend the Housing (Scotland) Bill. It was an important opportunity to update the committee on the Bill's progress and gauge sentiment on the potential changes.

## Commercial Real Estate Committee

Our Commercial Real Estate Committee met this month where we had a market overview presentation by JLL's Head of Scotland, Cameron Stott. It was a valuable opportunity for the committee to engage in a detailed discussion of key market insights and trends on the residential, office, hospitality and industrial and logistics market.

## Planning and Development Committee

Our Planning and Development Committee met this month on the same day as the new planning announcements were made. It was a good opportunity to discuss recent meeting on Policy 22 related to flooding and other planning related concerns for the industry.

## SPF Open Call 2024

Join one of our committees today!

Apply Now

Deadline: 16 December 2024



## Key Engagements

Key topics we discussed with Scottish Government and local authority officials on your behalf this month

### 1 Roundtable with Public Finance Minister

We attended a roundtable discussion at the Parliament with the Public Finance Minister Ivan McKee MSP and a number of trade bodies to discuss collective concerns for the business community.

### 2 Roundtable with Mark Griffin MSP

We attended a roundtable organised by Pentland Communications which focused on house building with Labour's Party Spokesperson on Housing and Local Government, Mark Griffin MSP. Mr Griffin also sits on the Housing, Planning and Local Government committee that is scrutinising the Housing (Scotland) Bill.

### 3 Land Reform: Good Practice Advisory Group

This meeting is hosted twice a year by the Scottish Land Commission. It featured an update on the progress of the Land Reform Bill and on updates to the SLC's Good Practice Guide for landowners.

### 4 Building Standards Stakeholder Group

This is a quarterly meeting which hears from key government groups such as the Scottish Building Standards Hub, Local Authority Building Standards Scotland and the Scottish Government's Building Standards Division. The meeting heard initial feedback on the Passivhaus consultation which closed in October as well as on updates to the Building Standards technical handbook.

### 5 Housing - Short Life Working Group

Our Vice Chair, Jonathan Guthrie of Robertson Group, represented us at the Government's short life working group to discuss solutions to unblocking sites with planning permission in a bid to accelerate the pace of residential delivery.

### 6 DPEA Stakeholder Group

This biannual meeting hears feedback from the Reporters on the progress and performance of Planning Appeals including an update on the Examinations and Gate check process for Local development Plans.

### 7 Non-Domestic Rates

This working group of the Scottish Government's New Deal for Business Rates considers the impact and benefits of relief policies. The Small Business Bonus Scheme was the key issue for this meeting with some 96,000 of Scotland's 247,940 ratepayers being entirely exempt from contributing to rates.

### 8 Major Planning Applicants Stakeholder Group

SPF joined other stakeholders in the wake of the Scottish Government's most recent Planning performance statistics which reported a severe increase in the length of time taken to consider major housing applications without processing agreements. The group also heard an outline from Planning Aid Scotland on the intended mandatory planning training for Councillors. Private sector stakeholders were alarmed to understand the implementation of this mandatory requirement will not now be achieved until May 2027 at the earliest.

### 9 Passivhaus Standard

Michael McGuirk of MLA represented us at a meeting regarding an update to developing a Passivhaus Standard for Scotland. The meeting heard that enabling regulations to complement existing energy standards and will be laid on 12 December.





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