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Independent Review of Planning

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## INDEPENDENT REVIEW OF PLANNING CALL FOR EVIDENCE: SCOTTISH PROPERTY FEDERATION COMMENTS

### Key Issue

**The planning system has a major role to play in assuring investors that Scotland is open for business and competitive and what we can ill afford is any perception that the planning system in Scotland is more difficult to engage and work with.**

### 1. Streamlining Development Planning

- 1.1. The public and private sectors must work together in Scotland to achieve large scale planning delivery in support of local and national economic growth. Engagement is a fundamental tenet of an efficient and effective planning system and must be meaningful, timely and proportionate.
- 1.2. Decisions on development are now keenly assessed by investors who exercise considerable choice over where or whether they locate. It is critical that the planning and wider regulatory systems in Scotland are able to facilitate and encourage investment activity as far as possible in order to sustain investment from global institutions.
- 1.3. There should be five yearly reviews but we should aim for a rolling 30 year settlement strategy that will give housing at least a strategic and predictable direction agreed by the Scottish Parliament via the NPF. The NPF should be enhanced with the status of a development plan under s25 of the Act. Consideration should be given to a statutory requirement upon Councils to deliver at least the planning for housing aspect of development plans and this should be consistently reviewed in terms of effective housing land supply via the action programme process – we accept employment land use delivery might be much more uncertain. Currently there is a statutory requirement to produce plans but no requirement to deliver. An ultimate arbiter is required to hand out sanctions to non-conforming Planning Authorities.
- 1.4. A strategic planning tier without the teeth required to enforce individual authorities to deliver land (as with current SDPA's) is not providing enough added value to justify the delays in producing LDPs in certain locations. Scotland is small enough in population to allow regional planning to be addressed in the NPF e.g. housing targets, key strategic infrastructure and importantly location of employment. We would, however, support the need for Regional Council groups to co-ordinate in order to contribute to an improved regional dimension to the NPF. Indeed we believe it is imperative that we have Regional Infrastructure Plans which would be an alternative role for SDPs.
- 1.5. The main issues relating to site allocation should be dealt with robustly and absorbed into a better proposed plan stage, including with reference to any regional infrastructure issues. The extended LDP process means that they are usually out-of-date when eventually approved. Our members have suggested that the consultation process should be wrapped up into the

proposed LDP stage, which would be more efficient and would reduce plan production timescales without compromising the democratic process. Also, once a site has been identified through the development planning stage then it should arguably have greater weight in the decision-making process and possibly be considered by officers under delegated powers, who would consider merits of the development rather than the site itself. This would potentially tie in with the Simplified Planning Zone concept we refer to later.

- 1.6. Legal agreements remain a major problem in the planning system taking an average of around 90 weeks to agree, which is a major obstacle to growth, investment and jobs. The delays may be for a variety of reasons including project management and resource priorities. It may be that better partnership arrangements with private sector applicants may overcome some of these challenges, for example by the private sector resourcing draft legal agreements so that the execution of the legal agreement does not become bogged down in process and delay.
- 1.7. Interpretation of policy is a fundamental issue and standardisation of development plan policy is key as well as standard s75s. There are some examples of standardisation e.g. zoning for education, transport (the trams) and transport corridors. However this can also cause issues where areas are incomparable e.g. Fife replicating the approach taken in Edinburgh. On this point, we believe that there should be some redress where costly reports demanded by planning authorities clearly are not taken into account by statutory consultees and authorities when making their decisions.
- 1.8. Our members have suggested that there should be a fundamental review of Green Belts around Scotland's key cities including their aims/effectiveness, either on a 30 year basis, to fit in with the rolling 30 year settlement strategies, or linked to growth numbers. The original purpose of Greenbelts has become distorted over time and the net effect has been distended travel patterns as a consequence of land use controls that are not delivering the sort of city region environment that is desirable, or indeed sustainable, long-term. Greenbelt land policy should be used as a tool to shape the growth and development of urban centres and therefore the boundaries should continue to be subject to regular review at appropriate stages consistent with the NPF/SPP.

## **2. Supporting Housing Delivery**

- 2.1. Viability analysis and a consistent basis for calculating housing land supply is important. The low level of production within the house-building sector is not just a result of a lack of available funding but a direct result of an inadequate land supply. Land prices are reduced as a result of increased land supply and housing land needs to be where people want to live. Economic value is important for location of new houses.
- 2.2. There is a disconnect between salaries and house prices but affordable housing should not be used to address rising costs due to lack of supply. The increase in the cost of land effectively puts the brakes on provision of affordable homes and infrastructure becomes unaffordable.
- 2.3. We are concerned that the Housing Needs and Demand Assessments (HNDA) process is not transparent and does not generate an adequate, or effective land supply, which can respond to the market place. In the short term a minimum requirement of ten years effective land supply should be adopted for housing. We are also concerned that there is frequently no robust analysis of employment land needs and demand.

- 2.4. Housing land supply must take into account the annual production capacity of sites to avoid large releases meeting political requirements, but not actually delivering annual output. Housing land audits should be more robust and provide improved evidence of effectiveness.
- 2.5. Some LDPs are minimising identified housing requirement by separating out 'affordable' and 'private' housing requirements. Then using lack of funding for affordable housing to justify not allocating sufficient housing land to meet the total requirement. This approach is sometimes adopted in areas that are highly attractive to house-buyers and Councils that have historically suppressed housing release, and consequently have greater affordability issues, are now seeking to under-allocate on this basis. Guidance, which addresses this issue would be helpful.
- 2.6. The Private Rented Sector (PRS) can provide the opportunity to deliver the required volume and supply of new housing quickly. The multiplier effect of new investment would bring enormous economic benefits and should, be actively encouraged and incentivised. As the growing PRS sector matures and investors are attracted to a stable and sustainable sector there may be benefit in considering PRS as a distinct planning use. The guidance from the Scottish Government to Planning Authorities via Heads of Planning Scotland is welcomed.
- 2.7. There should be greater onus, in planning legislation, on Local Authorities to carry out more detailed assessment of the full range of housing tenure that can collectively meet Housing Need and Demand, and to co-ordinate such housing tenure assessment with its wider obligations to provide council housing, schools, libraries, roads, offices and other facilities.

### **3. Planning for Infrastructure**

- 3.1. Infrastructure constraints are a major challenge for developers in an environment that remains fiscally risk averse. Better coordination of planning and infrastructure plans would address this issue. It is crucial that the key agencies are engaged positively at the regional infrastructure and local development planning stages.
- 3.2. Attracting outside investment is going to be key to sustaining the property sector going forward. We advocate the closer alignment of private capital and government to deliver infrastructure although this will require a culture change in planning authorities in order to succeed. The recent emergence of City Deals is welcomed by the SPF and may pave the way for a much needed greater scale of investment, but it will have to be targeted carefully throughout the regions to ensure that it is invested in areas where people want to live and work, and developers want to do business.
- 3.3. There are costly delays to infrastructure projects because of relatively few (but well resourced) objections, not least in the public sector and not always related to high profile infrastructure projects. Policy that could preserve the integrity of the system, while speeding up decision-making would be welcome.

### **4. Improving Development Management**

- 4.1. There is a good deal of inconsistency across planning authorities and evidence of planning reform and culture change is at best patchy. An approach to delivering planning comprising adjoining planning authorities and key agencies via the action programme could address this and provide stronger leadership. The status of planning departments in the Local Authority

hierarchy should be addressed with stronger and clearer leadership and a closer alignment to economic development.

- 4.2. Members would like to see the strictures of SPP followed more consistently by local authorities, particularly in relation to the presumption in favour of development that contributes to sustainable development. The SPP should be put on a statutory basis which would improve the consistency and status of its implementation at local level.
- 4.3. There should be a dedicated delivery team for major applications under an experienced planner. Where this cannot be supported by the local authority then a dedicated planning resource funded by the developer (chosen of course by the local authority) should be an option.
- 4.4. Where an application will be considered as a major application within a city authority it should be mandatory that a development brief is drawn up by the local authority planning / economic / and estates departments, where the objectives of the local authority are clearly stated in terms of mix of uses and volume of development acceptable. It would be helpful if the development brief was sanctioned by the local authority planning and economic development committees. Within this agreement the scope for Simplified Planning Zones should be considered, particularly as part of masterplan sites.
- 4.5. With the continuing challenges of bringing brownfield/derelict/polluted land forward for development Scottish Enterprise should be empowered/funded to resume the “land” functions that were once vested in the Scottish Development Agency. This is an issue that should be looked at in considering the challenges facing town centres in finding new viable uses for land and premises.
- 4.6. We support the use of processing agreements but not if they are used as a means of drawing out already long lead in times for development. There are reports of agreements being reissued to suit the prolonged discussions on design, community empowerment agreements, S75 etc. and then a lack of engagement by Planning Authorities. While this helps to meet targets set by the government for application determination timescales it leads to extensive pre-application periods of up to 2 years in some cases. Guidance on processing agreements that would address these time-scale issues would be helpful.
- 4.7. Planning Authorities must have the ability to be flexible and responsive to changing demands for land use. Our members report pressures on industrial land intended for SMEs in several parts of Scotland. Where such demands for jobs exist it will be important to be able to respond effectively and positively. The government may wish to consider the case for enhanced Permitted Development Rights.

## **5. Skills and Resourcing**

- 5.1. Planning resource and performance is key and members are firmly of the view that fee increases must be related to improved performance and used demonstrably to support their local planning service. Members are willing to pay a higher planning fee for a tangible improvement in performance. Planning Authorities have some way to go in improving performance if the increases in fees are to prove to be value for money, particularly in relation to major applications. There is little guarantee that additional resources raised via fees will be put towards the planning service. Developers often face very considerable costs covering a

variety of up-front appraisals and consents and these costs must be weighed in the balance when higher application fees are considered.

- 5.2. Key agencies of government also perform an important role. SPF has welcomed a refreshed approach to development by senior figures within these key agencies of government over a number of years. However, this refreshed approach to development has not always been experienced by members when dealing with individual case officers. There is also sometimes a further system failure as evidenced by a divergence between the perspectives of key agency staff and those of planning authorities. It is important to instil a culture of 'can-do' throughout the planning system.
- 5.3. Strong concerns with the level of obligations required by Planning Authorities and members believe that they undermine the financial viability of development. There is a growing sense of reality from planning authorities that assumptions made about the extent of planning contributions made in previous economic times are no longer viable. However, this is not uniform and there is a concern that demands may be made for contributions equivalent to the full expectation of infrastructure being delivered and required even if is highly unlikely that the infrastructure will actually be operating in the near or medium term. Our members have also questioned whether full developer contribution to cost is acceptable in principle and consistent with good planning law. They have suggested that there could be a test on wider community benefit that is gained outwith direct development consent.
- 5.4. Members welcome examples of phasing of contributions to assist with the viability of development and the flexibility to forgo or commute contributions from developers towards the provision of affordable housing. They would also welcome clear guidance that developer contributions will only be necessary where clearly required to enable development to be acceptable in planning terms and will be proportionate and relevant to the scale and nature of development proposed. Some members have suggested that private rented sector build to rent projects should also be exempt from most developer contributions to support their viability and to enhance 'affordable' housing supply.

## **6. Community Engagement**

- 6.1. Community engagement is a key part of major development and should be meaningful, timely and efficient. We are aware that frustrations are raised by community bodies or those representing community bodies from time to time. Equally from the developer perspective, there can be contradictory and unconstructive input from community groups leading to a sense of delay and uncertainty. The potential award of wider permitted development rights when there is clear community support would encourage developers to implement robust and meaningful community engagement measures.

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