

11 August 2017

PLACES, PEOPLE & PLANNING – POSITION STATEMENT JUNE 2017: COMMENTS BY THE SCOTTISH PROPERTY FEDERATION

Introduction

The Scottish Property Federation (SPF) is a voice for the property industry in Scotland. We include among our members: property investors including major institutional funds, developers, landlords of commercial and residential property, and professional property consultants and advisers. We are happy for our comments to be published and shared within the public sector.

Key Factor

The planning system has a major role to play in assuring investors that Scotland is open for business and competitive. We can ill afford any perception that the planning system in Scotland is more difficult to engage and work with. The planning system therefore should deliver the framework for investment by the private sector, the public sector and joint ventures. The real estate sector is a key catalyst for jobs, investment and creating places for people to live, work and enjoy and we need to work together if we are to sustain the economy and investment in Scotland. The focus must remain on growing the Scottish economy in order to expand its tax base and to provide jobs, built environment infrastructure and create great places to work, live and enjoy.

Key Issues

- The SPF welcomes Scottish Ministers' commitment to ensure that the proposed changes to fees will not reduce their focus on a high performing system.
- Our members have strong reservations about further discretionary fees on the back of a six-fold increase in the planning fees cap in Scotland.
- Any increase in fees paid by the private sector needs to result directly in an injection of additional resources for planning services, delivering stronger leadership that supports appropriate development and encourages new investment in our built environment. We have yet to see full commitment by planning authorities to tie fees to better outcomes in the way that's needed.
- While our members understand that s.75 is not in itself sufficient to fund the level of essential infrastructure investment to adopt an Infrastructure First approach and unlock development, it is vital that the viability of projects is not compromised.

Consultation

Our members broadly welcome the moves proposed by Scottish Ministers. The recommendations in the Position Statement contain some promising suggestions on streamlining and simplifying the planned system, including the use of simplified planning zones, bolstering the National Planning Framework and Scottish Planning Policy. However, there are some areas that still require clarification before our

members can offer more detailed comments. For example, what local place plans will mean in practice and whether LDPS will direct them or vice versa; Development Land Tax and Infrastructure Levies, which are still to be investigated; the arrangements around the removal of SDPs; and the potential process for reviewing plans during the proposed 10 year timescale.

Making Plans for the Future

1. Our members welcome the proposal to streamline and simplify the process. The SPF fully supports the enhancement of the National Planning Framework they are of the view that the NPF should be enhanced with the status of a development plan under s25 of the Act. Members are also firmly of the view that the strictures of SPP should 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. There should be no need for each individual Local Development Plan to repeat policies that can be set out at national level.
2. Our members also are of the view that the removal of SDPs from the system should be more definitive and clearly defined as there is currently no tangible direction set out. The Position Statement suggests that SDPs will be removed and replaced by partnership working/planning by committee and there is a risk that this could potentially cause delay and be less efficient. 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.

People Make the System Work

3. The SPF fully supports a front-loaded engagement in the planning process, with procedures for strategic and local development plans designed to facilitate meaningful participation at the earliest stages. We therefore strongly welcome that the Scottish Government is not considering introducing equal or third-party rights of appeal (TPRA). We believe that TPRA would be a disincentive to our communities and authorities to engage positively at the start of the planning process and in this respect, we see it as a distraction from this package of reforms. There is little doubt that the introduction of TPRA would introduce new and substantial delays into the planning system, and place further strain on local authority resources. There would also be an impact on the delivery of new housing, infrastructure and the risk of placing Scotland at a competitive disadvantage to the rest of the UK.
4. Community engagement is a key part of major development and should be meaningful, timely and efficient. Communities could benefit from a greater understanding of the planning process so their engagement could be constructive and effective. They first need to be accepting of a need for change impacting on their community, e.g. Development coming forward within their locality, and embrace this in the creation of their local place plans. They need to understand the strategy of current long-term development plans, the factors impacting on viability of developments and that profit is vital for developers.

5. There is a risk that groups become defined as community bodies that are focused on a single issue, which is not necessarily representative of their wider community. There is also a risk of groups possessing different objectives at odds with each other and there needs to be a robust process to deal with any such conflict of views. It is also important to consider that well intentioned policies can run the risk of being misused. It will be important to ensure a proper system of checks and balances that reduce the significant processes that are already built in to the development process in particular. The clear focus should be on the Local Development Plan as the key local process for implementing private and public development.
6. The SPF is 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 who wish to prevent development at any cost leading to a sense of delay and uncertainty. The potential award of wider permitted development rights and Simplified Planning Zones when there is clear community support would encourage developers to implement robust and meaningful community engagement measures and await the Scottish government's research in this area.
7. Our members would be pleased to take part in any working group and support better, early engagement by appropriate and representative community groups at the development planning stage, supported by improved community engagement by applicants at the point of major applications.

Building Homes and Delivering Infrastructure

8. The SPF continues to hold reservations over the prospect of a Scottish Infrastructure Levy. While infrastructure delivery is a key challenge under the current system, its reform will be a key test of success for the proposals in the original consultation paper, bearing in mind the experience of members with the Community Infrastructure Levy in England. Our members are firmly of the view that section 75A obligations must be considered alongside any future decisions on the role of a levy. While our members understand that s.75 is not in itself sufficient to fund the level of essential infrastructure investment to adopt an Infrastructure First approach and unlock development, it is vital that the viability of projects is not compromised.
9. Our members would like to see a greater understanding by the public sector of the upfront costs the private sector already pays towards delivering the planning service and the risks involved. If we are to drive local economic growth, jobs and investment we must have strong public leadership and an efficient, aspirational and delivery-focused planning service.
10. The SPF is also firmly of the view that the aspirations in the Position Statement's proposal for the co-ordination of investment programmes and working with existing agencies does not go far enough and fully supports the recommendation in the independent Planning Review Report that a new infrastructure Agency should be introduced. Our members are of the view that a National Infrastructure Agency is important to ensure that there is a structure in place for (i) the full co-ordination of diverse funding sources across key agencies, utility providers, local authorities and other public bodies (ii) arrangements for match funding where appropriate between public and

private sectors and (iii) potential for distribution of planning gain funds towards disadvantaged development & regeneration areas.

11. Our members are concerned about the proposal to remove the free second application submission. There is a very real risk that increased appeals would be an unintended consequence. For example, applicants are unlikely to resubmit an application at a cost of circa £100K to deal with the minor points of refusal that elected Members put forward where officers have recommended approval. In this case the applicant would be more likely to appeal.

Stronger Leadership and Smarter Resourcing

12. Our members have strong reservations that about further discretionary fees on the back of a six-fold increase in the planning fees cap in Scotland. Any increase in fees paid by the private sector needs to result directly in an injection of additional resources for planning services, delivering stronger leadership that supports appropriate development and encourages new investment in our built environment. Unfortunately, we have yet to see full commitment by planning authorities to tie fees to better outcomes in the way that's needed. As already stated our members would like to see a greater understanding by the public sector of the upfront costs the private sector already pays towards delivering the planning service and the risks involved.
13. Our members also note Scottish Ministers' commitment to ensure that the proposed changes to fees will not reduce their focus on a high performing system. SPF members have previously indicated a willingness to pay a higher planning fee, for a tangible improvement in performance by planning authorities. However, it is important that Scotland continues to remain competitive and these significantly increased planning fees must be used to deliver the critical improvements required in the planning service, such as an improvement in the speed and manner that major applications are dealt with. However, the SPF has concerns about any penalties placed on poorly performing authorities as there is a risk that this could place further strain on resource strapped local authorities. They are of the view that a better mean of addressing poor performance is by imposing statutory improvements via government or peer intervention.
14. As already stated developers are already required to pay substantial sums far in excess of the planning fee for a range of technical reports and assessments. For a major development, these costs may easily run into hundreds of thousands of pounds all prepared at risk to the private sector applicant, without any guarantee of a development being approved. We are therefore firmly of the view that the High-Level Group currently looking at performance improvement should contain a private sector voice with experience of major applications.

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