

Planning Bill: Information for Business and Regulatory Impact Assessment

We appreciate your help in assessing the potential impact of the measures proposed to be included in the Planning Bill.

We realise that it may not be possible to answer all these questions in detail. However, any data that you can provide will be very helpful, including estimates, upper and lower ranges or examples of particular cases, or any general information that could help us to compare the impact of the current and proposed approaches.

If you would like to discuss the questionnaire please contact Jean Waddie, Planning Bill Co-ordinator, on 0131 244 0688.

Organisation name: Scottish Property Federation

Contact name and email: Mandy Catterall – mcatterall@bpf.org.uk

Number of employees: N/A

Sector / Type of business: Trade Association

Baseline

Under the current system, how much does it cost your organisation to undertake a planning application, including for example staff time, EIA and other assessments? Please exclude the planning application fee and work that is needed for the development itself.

As developments vary widely in complexity and particular site circumstances this is a difficult question to answer.

By way of example SPF member companies vary in size and business operation. From a single purpose company committed to one project under one PPIp that does not build any houses in-house, and only apply for Planning Permission for Matters Specified in Conditions (MSC) forming part of the PPIp. These MSC Applications are invariably for the works involved in servicing land for other developers to make applications for housing or retail/commercial buildings. The cost of MSC Applications is therefore quite low circa £10,000 to £20,000, as it's for a limited amount of ground engineering works, not for houses or other buildings.

For a medium scale and complexity to illustrate the significance of upfront costs work required to prepare an application for submission can amount to circa £600,000 not including an EIA.

Staff time is difficult to quantify, as staff will be working on a range of projects at any one time, however a typical planning application could have input from in house planning, in house design, in house technical (water, drainage, ground conditions, services), in house sales, in house commercial teams, and in-house health and

safety teams. Some sites will be worked on over one to two years before planning permission is granted and the staff involved's input will vary over time and as some companies use in house teams, they do not record time against each site as a consultant would, as there is no billing for time.

On some larger sites, external architects and external planning consultants may be appointed, depending on site size, complexity and workload. Ground investigations undertaken externally – to be able to assess how foundation design will affect layout and types of buildings that can be accommodated on different areas of a site. A full EIA, which will be undertaken externally may also be required. Even if full EIA is not required ecological investigations may be needed – for example where there may be newts or badgers. Many sites require tree surveys prior to submitting an application, undertaken externally. Landscape architecture will be instructed for each site externally. Other matters such as archaeological investigations, noise investigations, air quality investigations and construction environmental management plans, residential travel packs and green travel plans may also be required at a pre-planning stage. External Solicitors to undertake procedures in relation to S75 and other agreements. The minimum cost of all necessary inputs, internal and external, even on a small site of c. 20 homes would be in the region of £100,000 and circa £250k for a strategic residential site of c 200+ units with costs rising to £1m or more for larger sites.

Businesses have said that delays and uncertainty in the current system are costly, and higher fees may be acceptable if they result in greater certainty over timescales. Can you quantify the costs of this uncertainty (for example in a typical application)? To what extent do you think the proposed reforms (including those to be implemented outwith the Bill) will reduce those costs?

To answer this question, it is necessary to set the application for and receipt of planning permissions within the context of running a business. For example, the formation of a business plan, linked to cashflow, banking arrangements etc to ensure that as planning permission is obtained and land purchase contracts are exercised funding available to complete the purchases. Business profit targets are in turn driven by obligations to shareholders or private funding institutions.

Site teams are planned to implement developments, so where there is a delay there can be costs associated with holding staff on delay on a project. Sites can be bought unconditionally with PPIp, so when AMSC applications are delayed, interest must be paid on the site purchase even although development cannot be started, which affects the overall cashflow and profitability of the development as the raised interest cost has to be met from the profit.

Where a site is unable to start as planning was not achieved when expected, the business still must produce the projected level of profit, so may have to accelerate the development of other sites, potentially increasing costs on that site in order to replace the profit lost from the delayed site.

In summary, the costs that a business experiences when there are planning delays are widespread and can be significant. If planning were more reliable and predictable

it would make overall business management more efficient and this is why developers say that they will pay additional planning fees in exchange for certainty. The use of NPF and SPP to drive both national and regional planning policy for housing numbers and delivery has the potential to make planning more efficient, as does the replacement of large amounts of repetitive policy in local development plans with standard national policies in SPP. This would free up local development planning to focus on area-specific matters and direct site allocations.

In addition to the sums noted above during the course of an extended application determination an additional £100,000 to £150,000 can be incurred in consultant's fees however every delay of a month on determination of an application can add up to a further £70,000 to £80,000 depending on the particular financing structure of that development and activity required by the consultant team. Improvements in time frames for determination would clearly be beneficial although there is no clear link as to how the additional planning fees will result in a more streamlined process for applications. Further certainty in timeframes would also benefit from a wider pool of potential investors which could result in more activity in the development sectors.

In general certainty could reduce top-line cost by 25% to 30% and a further possible 10% of external team's fees; if the process is not protracted.

Key proposals for reform

2. Regional Partnership Working replacing Strategic Development Plans

- What experience do you have of involvement with Strategic Development Planning? How many SDPs are you involved in?

Amongst our members this can be reactive and can vary from no involvement to multiple different authorities.

- How much time does your organisation spend on this over the 5-year cycle of an SDP – can you outline the cost of this time?

Again, this is difficult to quantify – team members could be involved in the review of the documents, feeding in to submissions made by industry bodies such as ourselves, making representations on individual sites and making representations on broader policy points as they affect development of new homes, then meeting plan preparation teams. Consultants may also be engaged to prepare representations depending on staff time, complexity of matters etc.

Some members have tried to provide an estimate for example 25 hours per stage for Main Issues Report and Proposed Plan and 40 hours for examination at a cost of circa £10,000 to £25,000 plus external consultancy costs of roughly the same amount again.

- How much do you expect it will cost to be involved with new regional planning partnerships under our proposals? (More or less than at present? Why?)

The scope and purpose of the regional partnerships is not clearly defined and is an area of current proposals that gives significant cause for concern. It is difficult to compare participation in something that exists with something that neither exists nor has a clearly defined purpose. This is a key concern for our members as the Bill will potentially contain a number of enabling powers with much of the detail in the proposals developed in secondary legislation. For example, a proposed infrastructure levy will have a major financial impact but the detail will not be clear until the secondary legislation is developed. During the passage of the Bill there will clearly be more scrutiny of the costs by the Scottish Parliament's Finance Committee as part of the Bill process but there will be less robust scrutiny of the secondary legislation costs.

It is likely that costs involved will increase because of the transition to the new way of working and a concern over the nature and function / structure of regional planning partnerships making responses to plans more difficult. Until more details are known as to how this process is aligned with local development planning this is a difficult question to answer.

- Do you expect this proposal to have any non-financial impacts (positive or negative) for your organisation?

There could be additional delay in the planning system if there is a regional body without a clear remit but that seeks to influence the plan preparation process. As already stated it is not clear at this stage what a regional partnership is for and what its responsibilities will be. There is a risk that it is a halfway house that will be worse than the existing delays caused by the preparation of regional plans that have very little day-to-day impact on planning decision-making.

3. Improving national spatial planning and policy

- The National Planning Framework and Scottish Planning Policy were last reviewed in 2014. Roughly how much time did you spend on engaging in the preparation of these documents? Can you estimate the cost of that time?

As with other policy documents we will review these and prepare industry comments taking into account the views of our members. The secretariat and members will also attend regional workshops for the NPF etc. Again, it is difficult to assess cost or time across businesses, but it is a significant commitment. Members report approximately 25 hours per stage per document to cumulatively 10 days at a cost of circa £10,000 for their own individual contribution.

4. Stronger local development plans (including 10-year period and removal of supplementary guidance)

- What experience do you have of engagement with the production of local development plans? How many local authority areas are you involved in?

Again, this depends on members size and business operation with anything from 1, 4 to 5 or 16 to 20 depending on the location of developments. This could be in depth or more of a peripheral nature

- How much time does your organisation spend on this over the 5-year cycle of a plan – can you outline the cost of this time?

This is extensive on the part on the part of SPF as we collate our members views into an industry response. Members report individually in relation to their own contribution anything from approximately 25 hours per stage for call for sites, Main Issues Report and Proposed Plan and 40 hours for Examination at a cost of £11,500 to regular review and formal representations estimated at c £50,000 per annum plus external consultancy costs of roughly the same amount again. Another member reports circa £150,000 - £200,000 of external fees and work; plus internal staff resources circa £30,000; in creating development framework and responding to consultations to various levels of plans.

- How much do you expect it will cost to engage with local development planning under our proposed new procedures? (More or less? Why?) Do you expect this proposal to have any non-financial impacts (positive or negative) for your organisation?

Little change is expected. It is anticipated that plans may be produced more quickly and flexibly if housing land numbers are set on national basis and policy is contained within SPP, which will be a benefit. There are proposals to increase the local plan period to 10 years from 5 and the process of engagement is likely to be similar and the site-specific allocations will need to look further ahead, which may mean additional work in ensuring that sites that may be required to come forward in the longer term are also represented. There are also likely to be more reviews of plans as projecting housing supply over a 10-year period is likely to lead to more debates about the effectiveness of sites over time etc.

During engagement with the LDP preparation period, some of our members adopted a robust development framework in support of a site and would not expect to be doing in future. Members would not expect to have to do more should steps be taken to ensure consistency and status of NPF implementation at local level.

8. Improving public trust

- Do you have experience of carrying out pre-application consultation (PAC)?

Yes, our members carry out consultation for all sites.

- How many public events would you normally include as part of the process?

One or two full public consultation events would usually be held sometimes one formal and a number of informal. For major developments, at least two public events plus presentations to stakeholders, community councils and local members as appropriate. Our members also spend a significant amount of time meeting local stakeholders such as community councils and local interest groups, local ward members etc which may involve small meetings with representatives

as well as presentations and discussions at their wider public meetings – particularly appearances at community council meetings. Some members report typically holding 5 events for both the general public and relevant interested community groups for one application.

- How much does a PAC process cost your organisation (on average, or give a range) including time spent and expenditure on materials, venues etc?

In addition to the normal design and development process circa £10,000 would be required to prepare for an event including printing, visuals, video, brochures, models, press advertisements and report preparation. The event itself can amount to a further £10,000 depending on the duration, location, facilities offered and number of consultants required to attend. For land use planning this is likely to be £2,500. For more sensitive sites, additional engagement of a PR team could cost c £25,000 - £30,000 from PAN to PPP determination.

- What would you generally expect the cost of hosting an event to be?

As noted above

- If we were to set a maximum time limit for a planning application to be made after the Planning Application Notice is submitted (possibly 18 months) to ensure community views are current, would you expect this to have any impact on your organisation?

Members have stated that there could be an impact as market factors have a significant impact on the mix, scale and type of development appropriate for a site. Therefore, in an ever-changing environment linked to recent significant events such as referendums and Brexit time barring an application could result in an inappropriate or underdeveloped application being submitted. They have suggested that a better way forward could be to request that public consultations are timeous with a submission, and therefore if required further public events would be more appropriate. Some members have suggested 18 months would be sufficient, but not less than this period. After 18 months, there could be a requirement to hold an additional public event and refresh the report on consultation, but it should not be necessary to have a further full 3-month period.

Some members have indicated that this could be welcomed to improve efficiency in obtaining a planning approval; however, the quality and timescale of pre-application consultation feedback from statutory consultees are critical in allowing preparation of appropriate plans and technical materials for an application to be made. The source of delay to submission of a planning application often lies outwith developers' control.

9. Keeping decisions local – rights of appeal

- What are the costs to your organisation of bringing an appeal?

This depends on the nature of the appeal and work involved and could be as little as £5,000. A slightly modified new application rather than full appeal process

could be in the region of circa £100,000. In general appeals can vary from £20,000 to £500,000 depending on the nature and scale of the application and the complexity of the appeal process from written submissions on a small site to a full public inquiry.

- What are the costs of undergoing a local review of a planning decision?

Some of our members have limited experience of review, with the majority of planning applications being approved at committee. Others report £750 - £1,000 with others reporting circa £5,000 to £10,000

- If more decisions go to local review rather than appeal, what financial impact (positive or negative) would this have on your organisation?

The overall cost of the review process may be lower than the cost of preparing for an appeal. However, there is a question of what effect that this change would have on the decision-making process, the overall 'costs' are much higher if the review body approves less applications than the Reporters would have done.

- Would more decisions going to local review rather than appeal have any non-financial impacts (positive or negative) for your organisation?

If this facilitates faster decision at appeal stage for larger developments given the reduced volume of reviews required then this could be perceived as a benefit. However, there remains concern about the independence of the review body process and therefore the risk that is associated with removing the possibility to seek genuine independent scrutiny of a decision. Applications where there is significant objection and particularly those that are refused when an officer recommended approval should have an automatic right to appeal to the Scottish Ministers not the review body.

19. Making better use of resources – efficient decision making

- If we were to remove the requirement for some planning decisions to go to full Council, so that cases that involve pre-determination hearings would be decided by the planning committee that held the hearing, would you expect this to have any financial impact (positive or negative) on your organisation?

No

- We no longer propose to remove the ability to modify or discharge planning obligations under section 75A, but are considering amending the section so that there can be more negotiation over any modification requested. Would you expect this to have any financial impact (positive or negative) on your organisation?

Members are of the view that there would be a positive impact through increased flexibility providing that Local Authorities are equally flexible. The proposed infrastructure levy will have a major financial impact but the detail will not be clear until the secondary legislation is developed. There is a reluctance on members

part to comment fully at this stage as the proposal still lacks sufficient detail and further clarity on the negotiation parameters is required and more negotiation will involve greater time commitment. The SPF is happy to participate in discussions to shape the proposal.

- We intend to clarify the provisions on the duration of planning permission and planning permission in principle (PPiP). For example, the duration (the time within which development must be begun or permission lapses) would normally be set in a condition, following discussion between the authority and the developer, but the default would be 3 years for full planning permission and 5 years for PPiP. Any necessary approval of matters specified in conditions (AMSCs) needed to start development would therefore need to be obtained within the 5 years for PPiP. Once development was commenced there would be no default timescale for any further AMSC applications (a planning authority may be able to use conditions to set their own time limits in this regard). Would you expect this to have any financial impact (positive or negative) on your organisation?

More flexibility is welcomed but shouldn't have a financial impact. Our members have no particular concerns about the proposed time limits and would expect a planning authority to negotiate a sensible time frame for the approval of MSCs – on a large multiphase site, this could be significantly longer than 5 years and it is questionable whether there should be any time limitation once development of a site has commenced. However, whilst these timescales are acceptable, in cases of major development, it is helpful to have some extra flexibility and a 7-years duration is known to have been granted on PPiP. The additional time can be helpful to developers working on major development with significant and sensitive issues to manage.

- Duration of permission could be changed using a Section 42 application to apply for a new permission for the same development but with different conditions. The fee for such applications will be subject to further consideration. Aside from any difference in fees, would this change have any financial or non-financial impact on your organisation?

The increased flexibility arising from this proposal is welcomed by our members but experience indicates a strong reluctance by Local Planning Authorities to support this. A section 42 variation to an application is a positive means of addresses the need for change to an application, as a result of market factors that have occurred during the time it has taken to determine an application which can be up to 2 years. Significant costs can be expended in getting to a point where planning permission is granted and delays can occur for many reasons, for example declining market conditions, protracted negotiations over land price, the resolution of land ownership issues etc. Where there remains a will to develop a site, it should be possible to extend the timescale of a planning permission.

General

Are there any other proposals set out in the Position Statement that you consider would have financial or resource implications (positive or negative) on your organisation, when compared to the current operation of the planning system?

Please find below a range of comments received from members highlighting continued financial uncertainty about infrastructure funding:

The proposed changes to introduce an 'infrastructure levy' could have significant impact on any development as it is unclear what the criteria will be for establishing a contribution. This amount if significant could impact on the viability of a development at a juncture when moneys have already been expended that could not be recouped.

The Position Statement falls some way short of setting out proposals to alleviate the delays caused to housing delivery by the lack of available infrastructure. Whilst it is understood that some elements of infrastructure delivery are beyond the scope of a Planning Bill there is more that is needed in terms of ensuring that infrastructure deficiencies are addressed to prevent delays to the delivery of essential new housing.

The great majority of planning applications for new homes are delayed by negotiations around viability and the ability of a development to support the multitude of requests for developer contributions which often go well beyond any impact of the development concerned – for example contributions towards the construction of new transport systems, new school buildings, enhanced public realm which can be some distance from the site etc. Greater efficiency in the planning system is unlikely to be delivered where there is no wider commitment to the delivery and funding of essential infrastructure. Delays in the delivery of new homes have financial implications in the housebuilding industry as set out earlier, but there is also a wider cost to Scotland in general.

The lack of a national infrastructure co-ordination agency is a real missed opportunity especially given experience of some members for example in schools funding. This causes unnecessary and long-term delays to projects that will bring major economic benefit to Scotland.