

# Scotland planning news

NOVEMBER 2017



## Headline news

### Strategic Development Authority policy on planning obligations confirmed as unlawful

The Supreme Court has issued its decision on Aberdeen City and Shire Strategic Development Planning Authority's (SDPA) 'Strategic Transport Fund' for delivering infrastructure, upholding the earlier decision of the Court of Session that the SDPA's pooled infrastructure funding approach for planning obligations is unlawful.

The ruling will have implications for all local authorities preparing new policies and guidance on planning obligations and may well trigger revisions to those that are already adopted or in place.

### Planning review: analysis of Position Statement responses published

On 6 October, the Scottish Government published a report recording the analysis of responses submitted to their June 2017 Position Statement, following the consultation at the start of the year on 'Places, People and Planning' and the proposed Planning Bill.

The report summarises key areas of support, as expressed in consultation responses, for the proposed changes to the Scottish planning system – here are the most important supported elements:

LICHFIELDS

#### 'Key Theme 1: Making Plans for the Future'

- creation of a statutory link between community and spatial planning, including a sign-off process
- stronger partnership working 'that provides a robust platform at the regional scale'
- enhancement of the status of both the National Planning Framework and Scottish Planning Policy
- endorsement of the 'gatecheck' process and the resolution of issues at an early stage
- enhancement of engagement for unallocated sites

#### 'Key Theme 2: People make the system work'

- 'Local Place Plans', informed by local development plans
- early engagement, and in particular, engagement with young people
- mandatory training for elected members

#### 'Key Theme 3: Building more homes and delivering infrastructure'

- 'moves' giving greater certainty to housing numbers and reducing debate
- closure of the gap between planning permission and the delivery of homes
- Simplified Planning Zones and their rebranding (with some assurances for e.g. heritage protection)
- the 'infrastructure first' approach (but there was only 'mixed support' for the proposed infrastructure levy)
- retention of the ability to modify or discharge s75A obligations
- removal of the Climate Change (Scotland) Act 2009 requirement for greenhouse gas emissions policies (from development industry respondents, but contrary to the Position Statement's approach)

#### 'Key Theme 4: Stronger leadership and smarter resourcing – Areas of Agreement'

- skills and service sharing, where making 'for a more able planning service ▶▶

#### Disclaimer

This publication has been written in general terms and cannot be relied on to cover specific situations. We recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Lichfields accepts no duty of care or liability for any loss occasioned to any person acting or refraining from acting as a result of any material in this publication. Lichfields is the trading name of Nathaniel Lichfield & Partners Limited. Registered in England, no.2778116. Registered office: 14 Regent's Wharf, All Saints Street, London N1 9RL © Nathaniel Lichfield & Partners Ltd 2017. All rights reserved.

## QUOTE OF THE MONTH



The Planning Bill is only one part of the process, and much more can be done outwith legislation to support the planning review. Whilst our current priority is to ensure we are prepared for the Bill, there are a range of other projects being progressed which are all aimed at realising the aims and aspirations of the review.

Chief Planner John McNairney, giving a planning update on 4 October

## THE LICHFIELDS PERSPECTIVE

The final countdown to the new Planning Bill has begun, with the Chief Planner confirming that it will be introduced by the end of the year. It will be some time before it is in play, with secondary legislation after enactment providing the detail. Meanwhile, the industry can't lose sight of needing to identify all the possible means for addressing the deepening housing crisis – delivery rates need to be boosted and planning policy needs to be better at bringing forward viable sites in the right locations.

Gordon Thomson, Associate Director

## CONTACT US

Nicola Woodward  
nicola.woodward@lichfields.uk  
T: 0131 285 0670

Margaret Baddeley  
margaret.baddeley@lichfields.uk  
T: 020 7837 4477

Jennie Baker  
jennie.baker@lichfields.uk  
T: 020 7837 4477

Giorgio Wetzl  
giorgio.wetzl@lichfields.uk  
T: 020 7837 4477

- Increased application fees (supported by business and the development industry, if there were 'a demonstrable improvement in service')
- monitoring outcomes rather than performance, and seeking ways to improve under-performing planning departments through support systems rather than penalisation
- expansion of permitted development rights, for small scale developments and with the benefit of freeing up resources in planning departments

Also of interest is how community organisations were still calling for 'some form of equal rights of appeal' – even if that was 'just an exploration of options'.

## Timeline and programme for 'Places, people and planning'

The Scottish Government has also now released update information on the background, progress to date and next steps relating to the proposals from the 'Places, People and Planning' consultation and the subsequent Position Statement.

## Planning system changes: how they could work in practice

As part of their planning reform programme, the Scottish Government has published material that looks at how some of the key changes to the planning system that are being considered could work in practice, and progress in Government thinking to date.

Included is a draft technical working paper on how key changes to the planning system in the following six areas could work in practice:

1. Strategic planning and regional partnership working;
2. Preparation of local development plans;
3. 'Local Place Plans';
4. Calculating housing figures;
5. A new infrastructure levy; and
6. Development management.

The draft Paper explains: 'We believe these changes would ensure that the Scottish planning system is better equipped to operate within its changing context. Whilst the changes are carefully targeted, together with wider reforms which lie beyond the scope of the Planning Bill, they have the

potential to reposition planning to act as a positive enabler of development which is better co-ordinated with infrastructure investment, inclusive growth, community empowerment and place making across Scotland.'

Otherwise, short factsheets specifically provide information on the background, progress to date and next steps in relation to the following proposals in 'Places, People and Planning':

- proposal 4 (stronger local development plans);
- proposal 10 (being clear about how much housing land is required); and
- proposal 13 (embedding an 'Infrastructure First' approach).

## Update from Chief Planner

Scotland's Chief Planner John McNairney has published his latest planning update (dated 4 October), covering such issues as: the timetable for the new Planning Bill (it is due to be introduced 'around the end' of 2017 and passed by the end of June 2018) and other reforms under the 'Places, People and Planning' review; housing delivery advice; compulsory purchase regime reforms; information on research projects; and the work of the digital taskforce.

Importantly on housing delivery, the Chief Planner explains how a 2016 consultation on draft advice on housing delivery led to much stakeholder agreement on its content but disagreement 'on key elements around the provision of an effective housing land supply'. He therefore states:

'Given the advanced stage of the planning review we want to avoid any conflict between established planning policy and guidance contained in SPP and supporting documents and the draft advice note. Accordingly we are minded to withdraw the draft advice.'

Otherwise on housing, he refers to how a new advice note has been issued that encourages Build to Rent and explains why 'a flexible approach to relevant elements of design may be justified'.

New guidance on the CPO process for acquiring authorities is currently being drafted and 'will be shared widely for comment shortly'.

Lastly and with reference to Government research projects, stage 3 research ('process and delivery' – stages 1 and 2 have already been published) for the proposed infrastructure levy is to be published 'shortly'. In the coming months, the Scottish Government is to commission new research on permitted development rights, information to support site allocations in development plans, and aligning consents.

## New rural tourism infrastructure fund

The Scottish Government has announced that a fund is to be established, to provide investment in infrastructure to support sustainable growth in rural tourism across Scotland.

The Rural Tourism Infrastructure Fund – £6 million will be invested over two years (2018/19 and 2019/20) – is intended to help ensure that the services and facilities that tourists and communities need are provided.

## Beyond city deals: regional economic partnerships

Economy Secretary Keith Brown has confirmed that the Scottish Government will support the creation of regional economic partnerships across Scotland as vehicles to drive inclusive economic growth.

As outlined in the Enterprise and Skills Review, the expansion of the regional economic policy beyond city deals will 'pave the way for regional economic partnerships for every part of Scotland'.

The Scottish Government has stated that it is committed to securing 'Heads of Terms' agreements for Stirling and Clackmannanshire and the Tay Cities Regions (Angus, Dundee, Fife, and Perth & Kinross) and to work to secure the first regional deal in Scotland for the South, East and North Ayrshire Councils. ■