

# Scotland planning news

JANUARY 2018



## Headline news

### Scottish Planning Bill aims to ensure 'planners move from regulating development to making things happen'

The Planning (Scotland) Bill was introduced to the Scottish Parliament by the Cabinet Secretary for Communities, Social Security and Equalities, Angela Constance MSP, on 4 December 2017.

Minister for Local Government and Housing Kevin Stewart spoke on the Bill the following day, on how it would 'change how planning operates in Scotland' and how the legislation 'is supported by a wider programme to promote changes in approach and changes in attitude in planning'. He referred to the Bill being 'about inclusive growth' and it setting out 'a strong legislative structure for a much more proactive and enabling planning system'.

He noted that on plan-making:

'It will bring us clearer development plans that will be produced through collaboration without being stuck in process [...] We should be focused on delivery rather than a continuous cycle of plan making...'

On development management, he made reference to the scope in future for a higher fee to be paid for faster decision making, stating:

'We will also consult on further increases to planning fees once the shape of the new planning system is clear.'

A call for evidence on the Bill (closing on 2 February) has already been announced by the Scottish Parliament's Local Government and Communities Committee,

to help inform its scrutiny. The questions posed cover all six Parts of the Bill; these are helpfully summarised in a factual overview provided by the Explanatory Notes accompanying the Bill. They are principally concerned with changing development planning and management processes, as follows:

- Part 1: development planning - reorganises the development plan-making system, in particular by removing the requirement to prepare strategic development plans, and otherwise amending procedures for producing local development plans. It also introduces 'local place plans', to be prepared by community bodies;
- Part 2: Simplified development zones - provisions and a new Schedule 5A to the Town and Country Planning (Scotland) Act 1997 are introduced, to replace its simplified planning zones that grant planning permission for specified types of development within such zones;
- Part 3: development management - various amendments are made to provisions relating to planning applications, planning permission and planning obligations;
- Part 4: other matters - these include the scope of regulation-making powers on planning fees being widened, amendments to enforcement fines and for the recovery of expenses, a requirement for member training before undertaking planning functions, and new measures for monitoring and assessing planning authorities' performance.
- Part 5: Infrastructure levy - Scottish Ministers are being given a power to make regulations to introduce a levy on development to fund infrastructure (a schedule gives more detail on such regulations). The levy would be spent locally.
- Part 6: final provisions - for regulations made under the Bill, the Bill's commencement, and its short title (the Planning (Scotland) Act 2018. ►►

#### 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 2018. All rights reserved.

## QUOTE OF THE MONTH



Scotland's economy needs a world-class planning system. We need long-term planning to lay the foundations for inclusive growth and future infrastructure investment across Scotland [...] Planning needs a rethink if we are to realise its full potential as a driver for sustainable growth.

**Minister for Local Government and Housing Kevin Stewart, speaking to Parliament on 5 December, the day after the introduction of the Planning (Scotland) Bill**

## THE LICHFIELDS PERSPECTIVE

The big question regarding the new Planning Bill is whether its redesign of the system will succeed in simplifying and speeding up development planning and management processes on the ground. As always, much of the detail is yet to follow. Ultimately, regime change will have to be properly resourced, if performance standards are to improve, and housebuilding rates and the Scottish economy are to be boosted.

**Nicola Woodward, Planning 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

LICHFIELDS

Once again, the new Bill does not contain a third party right of appeal – as recommended by the independent panel. The Local Government and Housing Minister explained why on 5 December:

‘Our bill does not include a third-party right of appeal. That would run entirely counter to the thrust of the reforms to support inclusive growth, and would introduce significant and unwarranted risks to our economy, but I am equally certain of the need to retain the existing rights for applicants to appeal against decisions to refuse planning permission. As an illustration of why those rights should be retained, it is the case that, since 2014, around 5,500 housing units have been approved on appeal, following refusals by planning authorities.’

A non-technical summary of the strategic environmental assessment (SEA) of the proposals contained within the Planning Bill has also been published. The summary states that the Bill ‘is unlikely to have significant direct environmental effects’ but adds a comment on indirect/ secondary effects and reiterates SEA recommendations particularly for local place plans as follows:

‘There may however be some positive and negative indirect/ secondary effects where legislative change leads to increased development and infrastructure delivery. Further positive indirect effects may also arise linked to increased resources, skills, and capacity within planning authorities, and from increased community engagement.’

The SEA makes a number of important recommendations, including that consideration be given to the future alignment between SEA and Habitats Regulations Appraisal procedures and a revised development plan preparation process to ensure that their full benefits continue to be realised. It is also recommended that specific guidance be prepared on the application of SEA and Habitats Regulations Appraisal to local place plans, and that community groups are given sufficient guidance and information to support this.’

## ‘Places, people and planning’ update: development planning

In relation to the Places, People and Planning Consultation and Position Statement, and the Planning (Scotland) Bill, the Scottish Local Government and Communities Directorate on 7 December published a flowchart showing how proposed changes to development planning in the Bill would operate in practice. Current and future structures are illustrated.

## Withdrawal of housing and infrastructure draft planning delivery advice

Chief Planner John McNairney has written to all local authority heads of planning, explaining the withdrawal of the Scottish Government’s 78-page Draft Planning Delivery Advice on Housing and Infrastructure from 1 December 2017.

The draft advice had previously been criticised for its style, for taking insufficient account of marketability issues, of not providing sufficient guidance on the funding of infrastructure and on developer contributions, and of being inadequately researched in relation to the role of new settlements in housing delivery.

The following, simply-worded reason for the withdrawal of the draft delivery advice is given in the Chief Planner’s letter:

‘In preparing the draft planning advice, our aspiration was to build consensus and provide clarity on a number of important housing policy and delivery issues. Despite our best efforts to develop the guidance in an open, inclusive and collaborative way there remain a number of areas of continuing disagreement and some concerns over the weight to be attached to the draft advice.’

Nonetheless, his letter concludes with a clear statement on current policy remaining relevant:

‘Despite the withdrawal of the advice, there remains a strong policy position on planning for housing which is set out in Scottish Planning Policy (SPP) and supported by PAN 2/2010.’

## Draft Budget promises affordable housing and infrastructure spending

On 14 December 2017, Scotland’s Finance Secretary Derek Mackay announced the Draft Budget 2018-19; a number of key infrastructure funding proposals are intended to accelerate Scotland’s economic growth.

The Finance Secretary highlighted a programme of infrastructure spending totalling more than £4 billion, which would include:

- £1.2 billion to be spent on transport infrastructure, including improvements to the A9, the electrification of the Stirling, Dunblane and Alloa line, improvements to the rail route between Aberdeen and Inverness, and on the Highland Main Line;
- almost £40 million capital investment in the regeneration of disadvantaged communities;
- completing the £100 million Shieldhall Tunnel project, providing environmental improvements to the River Clyde and reducing sewer flooding risk in South Glasgow;
- delivering the Ayrshire water supply resilience scheme (over £120 million);
- doubling investment in City Region Deals and further developing the deals agreed with Glasgow, Inverness, Aberdeen and Edinburgh and seeking to secure deals for Stirling and Clackmannanshire, the Tay Cities, and deliver a regional deal for Ayrshire; and
- Making £7.5 million in capital funding available for an ‘ultra-deep water port in Scotland’.

Also proposed is a £756 million contribution towards investment of more than £3 billion by 2021, to deliver 50,000 affordable homes.

In addition, the draft Budget Statement includes details of a new Building Scotland Fund, with the first £70 million of a total of £150 million primarily being for unlocking new housebuilding, and research and innovation. ■

## 70,000 affordable homes delivered since 2007 – but what about new homes total?

National statistics released on 12 December show that more than 70,000 affordable homes have been delivered since 2007; this includes a total of 48,813 homes for social rent (8,819 of which are council homes), plus 4,936 for affordable rent and 17,112 for affordable home ownership.

In total, there were 19,598 new build homes started across all sectors over the year ending June 2017, an increase of 13%, or 2,188 homes, on the previous year, according to the accompanying statement.

Local Government and Housing Minister Kevin Steward said:

'I am confident that we will continue to increase affordable housing across Scotland with our ambitious target to deliver 50,000 homes during the lifetime of this Parliament, backed by £3 billion of investment.'

The tone of discussion in the House of Commons on housebuilding in Scotland was somewhat different during a 4 December debate on home building. According to Alison Thewliss SNP:

'The Scottish Parliament has delivered more than 69,500 affordable homes since 2007, during the period of SNP government, and the new-build social sector completion rate is at 72 per 100,000 population, compared with just 49 in England. Why exactly was there no commitment to increase social rented housing in the Budget?'

Communities Secretary Sajid Javid retorted:

'We will take no lectures from the SNP when it comes to housing. In Scotland, under the SNP's leadership, the number of housing starts has declined by 40%, the number of housing completions has fallen, the rate of housing ownership has fallen, and all affordable housing targets are being missed.' ■