

Consultation Response

Accelerating home-building in Scotland

April 2026



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Tax Law and Property and Land Law Reform sub-committees welcome the opportunity to consider and respond to the Scottish Government consultation: *Accelerating home-building in Scotland*.¹ The sub-committees have the following comments to put forward for consideration.

¹ [Accelerating home-building in Scotland - Scottish Government consultations - Citizen Space](#)



Questions

Option 1: Introduce fiscal measures to tackle inactivity or slow build-out.

Summary

Applying a relief or supplement to taxes such as the Scottish Building Safety Levy (SBSL) or Land and Buildings Transaction Tax (LBTT) where development is, or is not, built out to an agreed timeframe.

Applying a tax on land which is allocated in LDPs, but which has not been brought forward in a planning application as per the programming submitted when the LDP and its Delivery Programme were being prepared. Consideration will need to be given to sites where there is no clear route to delivery or commitment to programming.

Applying a tax on sites which have planning permission, but where there is no activity on site or progress is evidenced to be unreasonably slow.

Questions

- 1) Could fiscal incentives offering relief to other charges help to accelerate build-out rates? Yes/No/Unsure. Please explain your answer

We have no specific comments on the utility of fiscal incentives offering relief against other charges in helping to accelerate build-out rates. However, if adopted, we stress that any proposed reliefs should be well-designed, clear and have clear definitions as to the scope of their application.

Given the potential complexity of any such fiscal incentives, we reiterate again our comments in our election priorities document concerning the need for an annual Scottish Parliament Finance Bill to deal with any “care and maintenance” of taxes issues that arise in relation to this area.² Tax law is a fast-moving area of the law and changes are frequently needed to resolve unintended consequences or respond to tax and non-tax changes which impact Scotland and Scottish taxpayers. We consider an annual finance bill the most efficient means of achieving that and do not consider that the repeated use of single-issue primary

² [law-society-of-scotland-election-priorities-2026-justice-matters.pdf](#)



legislation by the Scottish Government is an efficient way of dealing with the changes that are required to maintain the taxation system.

(a) Which charges / taxes / levies could the incentives be applied to? Please explain your answer

We have no comments.

(b) Should relief be in the form of full exemptions or variable rates? Full exemptions / variable rates. Please explain your answer.

We have no comments.

(c) Could a tax impact differently on different types of land owners? Please explain your answer.

We have no comments.

(d) Please provide any evidence of how fiscal measures linked to other charges would impact development finance to influence built out rates.

We have no comments.

2) Should we introduce a tax on sites which have been allocated for residential development and/or have permission for homes, but are not being built out as expected, as set out in option 1? Yes/No/Unsure. Please explain your answer.

We have no specific comments on the intent of this policy however we consider that any such proposal would face practical difficulties. We consider that any proposals would require a clear definition of both “residential development” and “built out”; where necessary, clear exemptions for certain developments if so desired; and, if such exemptions were based on size, a clear understanding of the impacts of any “cliff edges” in relation to qualifying thresholds for reliefs on the part of both Ministers and stakeholders.

We consider that there is a risk that any tax on allocated/consented sites which are not being “built out as expected” could become a point of friction in the negotiation and conclusion of sale/purchase agreements and options between landowners and housebuilders.

We understand, from our members’ work in their professional practice in the property sector, that typically housebuilders contract with the landowner, then undergo the process of promoting the site through the planning process, then purchase the land once all consents are in place. As such, we consider that any



tax as proposed could become a risk for both the landowner and the housebuilder. If consents are obtained but then the housebuilder does not buy the site for any reason, the tax would fall to the landowner. This is a burden which the landowner would need to cover off in the contract, but it is not immediately clear how the burden should be covered off (especially in the context of an option to purchase). Any such points of friction in the legal and planning processes risk slowing the process further, which in turn risks the speedy delivery of housing, contrary to the aims of the proposals within this consultation.

Given the practical difficulties inherent in designing a new tax, we would suggest serious consideration should be given to whether a tax is the best method to achieve the policy intent of accelerating home building.

Whilst we have no comments as regards to policy differentiation or alignment with the rest of the United Kingdom, we highlight the previously proposed Delayed Home Penalties framework in England³ and consider the Scottish Government should fully consider the costs and benefits of aligning with these proposals, in the event of introducing any tax on such sites.

(a) Should this apply to allocated sites, sites with permission, or both?

Allocated sites/ Sites with permission/Both. Please explain your answer.

We have no comments.

(b) How should the charge be calculated? Please explain your answer.

We have no comments.

(c) Who should be required to pay the tax? Please explain your answer.

We have no comments.

(e) Should the charge operate as a local or a national tax? Local tax/national tax. Please explain your answer.

We highlight that it may be useful for the Scottish Government to retain at least some policy control over this tax, particularly if it aligns with the framework in England for penalties on delayed home development and the Scottish Government wishes to present a consistent and uniform level of taxation. We highlight our previous comments in response to the Scottish Government consultation on a

³ [Planning Reform Working Paper: Speeding Up Build Out - GOV.UK](#)



Cruise Ship Levy.⁴ We consider it appropriate for the Scottish Government to retain control of the overall rate of this tax but devolve the administration of the proposed tax and the decision on whether to introduce it to local authorities, ensuring a balance between local autonomy and policy consistency.

(f) How should any income be used? Please explain your answer.

We have no comments.

(g) Please provide any evidence of how a tax connected to sites allocated or permitted not being built out would influence build-out rates.

We have no comments.

Option 2: Monitor build-out rates and intervene where these are unreasonably slow.

Summary

Extend existing reporting requirements, to require a build-out statement/schedule and annual reporting of development progress (a “development progress report”) to planning authorities. This could support preparation, or review of housing land audits and LDP delivery programmes.

Link these powers to cease planning permissions after an agreed or national fixed deadline, or where the planning authority considers progress to be unreasonable.

Questions

3) Should we bring forward powers for reporting on development progress and powers to intervene where it is considered to be unreasonably slow, as set out in option 2? Yes/No/Unsure. Please explain your answer.

We highlight that what is considered “unreasonable” and “reasonable” delivery progress will be crucial in providing clarity to stakeholders. We would query whether a reasonableness test would take account of commercial or viability considerations. In the event of external economic circumstances - such as a fall in

⁴ [25-05-30-tax-potential-local-authority-cruise-ship-levy-in-scotland.pdf](#)



the price of housing- it is unclear from the proposals whether the landowner/developer would be expected to build out a site at a loss. We would welcome clarity on what precisely will be considered in assessing what will be classed as “reasonable” progress or “unreasonably” slow.

(a) Should this include creating a legal framework for reporting on development progress? Yes/No/Unsure. Please explain your answer.

We have no comments.

(b) Should there be a power for planning permission to be revoked, without compensation being payable, where reporting demonstrates that progress is unreasonably slow? Yes/No/Unsure. Please explain your answer.

We have no comments.

(c) How would the pace of development be set and agreed – for example how would reasonable-ness be measured? Please explain your answer.

We have no comments.

(d) Please can you share any evidence of how reporting on development progress would influence build-out rates.

We have no comments.



Option 3: Reduce procedural time and costs for SME developers.

Summary

Enable application of a clearer proportionality framework, and reduce procedural time and costs for SME developers. This would involve increasing the granularity of the development hierarchy in order to draw out the specific circumstances in which the planning process for smaller sites could be varied.

On smaller sites a range of measures could be deployed. For example:

Building a process, through legislation, for fast-tracking applications on smaller sites.

Reviewing and rationalising requirements in policy for smaller sites to allow developers to bring forward applications more quickly and at a lower cost. A rules based policy could sit alongside NPF4, setting out a simplified set of policy tests for very small and small sites to meet.

Advice could be provided on planning application information requirements, setting clearer and more streamlined expectations nationally.

Questions

4) Should we bring forward legislation to amend the development hierarchy, to enable us to introduce more streamlined planning processes on planning applications for smaller sites, as outlined in option 3? Yes/No/Unsure. Please explain your answer.

We have no comments.

(a) How many categories should be defined by the development hierarchy, and what size of development should these cover? For example, four categories, that define major, medium, small and very small developments.

We have no comments.



(b) What are your views on, and do you have any evidence relevant to whether creating more categories in the development hierarchy might have an overall effect of speeding up or slowing down build-out of housing?

We have no comments.

(c) What are your views on whether we should review and rationalise policy requirements for smaller housing sites, or introduce a new rules based policy for smaller housing sites?

We have no comments.

(d) Do you think that further advice on planning application information requirements would support faster delivery of housing on smaller sites? Yes/ No/Unsure. Please explain your answer.

We have no comments.

(e) Do you think there are any further options that creating more categories in the development hierarchy might open up, further to those outlined in option 3? Yes / No / Unsure. Please explain your answer.

We have no comments.

(f) Do you think that this measure would have any particular benefits for SME housebuilders? Yes/No/Unsure. Please explain your answer.

We have no comments.



Option 4: Diversify the housing outputs from deliverable land.

Summary

Develop existing policy requirements to shape how sites are appraised and selected for allocation in LDPs, and how delivery expectations regarding diversity of housing type and tenure are then specified.

Require a diversity of housing types and tenures on sites above a fixed size threshold.

Questions

5) Do you think that encouraging more diverse housing outputs across the pipeline of deliverable housing land would increase the pace of build-out? Yes/No/Unsure. Please explain your answer.

We have no comments.

(a) Should we use legislation to require a diversity of housing types and tenures on sites above a certain threshold? Yes/No/Unsure. Please explain your answer.

We have no comments.

(b) Do you think that this measure would have any particular benefits for SME housebuilders? Yes/No/Unsure. Please explain your answer.

We have no comments.

(c) Please provide any evidence of how increasing diversity would influence build-out rates.

We have no comments.

Further options



6) Do you have any other suggestions for measures which could use levers available, or which could be put in place through the planning system, to deliver more homes at pace?

We have no comments.

(a) Please provide any evidence of how these potential measures could influence build-out rates.

We have no comments.



For further information, please contact:

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