



Independent Review of Build Out

Final Report

Rt Hon Sir Oliver Letwin MP



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Presented to Parliament
by the Secretary of State for
Housing, Communities and Local Government
by Command of Her Majesty

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Executive summary

- This is the Final Report of the Independent Review of Build Out Rates. The Review was commissioned by the Chancellor of the Exchequer at the time of the Budget in Autumn 2017.
- I have worked with the help of a group of independent experts and the support of a dedicated team of officials. My [Draft Analysis](#) was published in June. The Analysis focused on the issue of the build out rate of fully permitted new homes on the largest sites in areas of high housing demand.
- I concluded that the homogeneity of the types and tenures of the homes on offer on these sites, and the limits on the rate at which the market will absorb such homogenous products, are the fundamental drivers of the slow rate of build out.
- This, my Final Report, presents recommendations about ways in which the Government could increase the variety and differentiation of what is offered on these large sites, raise the proportion of affordable housing, and raise the rate of build out.
- I have concluded that the Government should:
 - adopt a new set of planning rules specifically designed to apply to all future large sites (initially those over 1,500 units) in areas of high housing demand, requiring those developing such sites to provide a diversity of offerings, in line with diversification principles in a new planning policy document; and
 - establish a National Expert Committee to advise local authorities on the interpretation of diversity requirements for large sites and to arbitrate where the diversity requirements cause an appeal as a result of disagreement between the local authority and the developer.
- To give the greatest possible chance that the new planning rules for large sites will have an effect in the near-term I recommend that the Government should:
 - provide incentives to diversify existing sites of over 1,500 units in areas of high housing demand, by making any future government funding for house builders or potential purchasers on such sites conditional upon the builder accepting a Section 106 agreement which conforms with the new planning policy for such sites; and
 - consider allocating a small amount of funding to a large sites viability fund to prevent any interruption of development on existing large sites that could otherwise become non-viable for the existing builder as a result of accepting the new diversity provisions.
- To give the greatest possible chance of significant change in the build out rates and quality of large scale development in the longer-term I recommend that the Government should:
 - introduce a power for local planning authorities in places with high housing demand to designate particular areas within their local plans as land which can be developed only as single large sites, and to create master plans and design codes for these sites which will ensure both a high degree of diversity and good design to promote rapid market absorption and rapid build out rates;
 - give local authorities clear statutory powers to purchase the land designated for such large sites compulsorily at prices which reflect the value of those sites once they have

planning permission and a master plan that reflect the new diversity requirements (with guidance for local authorities to press the diversity requirements to the point where they generate a maximum residual development value for the land on these sites of around ten times existing use value rather than the huge multiples of existing use value which currently apply); and

- also give local authorities clear statutory powers to control the development of such designated large sites through either of two structures (outlined in Annex C):
 - a. the local authority could use a Local Development Company (LDC) to carry out this development role by establishing a master plan and design code for the site, and then bringing in private capital through a non-recourse special purpose vehicle to pay for the land and to invest in the infrastructure, before “parcelling up” the site and selling individual parcels to particular types of builders/providers offering housing of different types and different tenures; or
 - b. the local authority could establish a Local Authority Master Planner (LAMP) to develop a master plan and full design code for the site, and then enable a privately financed Infrastructure Development Company (IDC) to purchase the land from the local authority, develop the infrastructure of the site, and promote the same variety of housing as in the LDC model.

1 Summary of Draft Analysis

Aims of the Review

- 1.1 My [terms of reference](#) require me, by the time of the Budget in the Autumn, to “explain the significant gap between housing completions and the amount of land allocated or permitted in areas of high housing demand, and make recommendations for closing it”.
- 1.2 I published, in June, a Draft Analysis. This focused on the issue of the build out rate on the largest sites in areas of high housing demand for two reasons:
- the ‘build out rate’ on small sites is intrinsically likely to be quicker than on large sites; (to take the limiting case, a site with just one house will take only as long as required to build one unit); and
 - the largest sites are dominated by the major house builders and other major participants in the residential property market, and it is in relation to these major firms that concern has been expressed in some quarters about “land banking” and “intentional delay”.
- 1.3 My aim in the Draft Analysis was to determine:
- what the build out rate on large sites in areas of high housing demand actually is;
 - why the rate of build out on these sites is as it is; and
 - which factors would be most likely to increase the rate of build out on these sites without having other, untoward effects.

Build out rates on large sites

- 1.4 The quantitative results of my investigation are set out in Chapter 3 of the Draft Analysis, and full data are provided in Annex A of the Draft Analysis.
- 1.5 I found that the median build out period on the large sites I investigated was 15.5 years. To put this another way, the median percentage of the site built out each year on average through the build out period on these 15 large sites was 6.5%. By cross-checking against a Molior data-set for other large sites in London kindly provided by the Mayor, I confirmed that the sites in my sample were not atypical and that, if anything, they were being built out at a faster rate than other large sites. The median percentage annual build out rate for London sites of over 1,000 homes in the Molior data-set was 3.2%.
- 1.6 It is worth restating this point: very large sites will almost always deliver a higher absolute number of homes per year than sites with only a few hundred homes in total; but the proportion of the site built out each year is likely to be small.

Fundamental explanations

- 1.7 I concluded in the Draft Analysis that the homogeneity of the types and tenures of the homes on offer on these sites, and the limits on the rate at which the market will absorb such homogenous products, are the fundamental drivers of the slow rate of build out.
- 1.8 I also concluded that:
- a. it would not be sensible to attempt to solve the problem of market absorption rates by forcing the major house builders to reduce the prices at which they sell their current,

relatively homogenous products. This would, in my view, create very serious problems not only for the major house builders but also, potentially, for prices and financing in the housing market, and hence for the economy as a whole;

- b. we cannot rely solely on small individual sites. This cannot be a question of “either / or”. We will continue to need more new housing both on smaller sites and on large sites; and
- c. if either the major house builders themselves, or others, were to offer much more housing of varying types, designs and tenures including a high proportion of affordable housing, and if more distinctive settings, landscapes and streetscapes were provided on the large sites, and if the resulting variety matched appropriately the differing desires and financial capacities of the people wanting to live in each particular area of high housing demand, then the overall absorption rates – and hence the overall build out rates – could be substantially accelerated.

Other potential constraints

1.9 Finally, I assessed the extent to which the rate of build out on very large sites might be held back by constraints other than the market absorption rate, if that binding constraint were removed. I looked in particular at the extent to which both start up on site and later build out rates could be affected by:

- lack of transport infrastructure,
- difficulties of land remediation,
- delayed installations by utility companies,
- constrained site logistics,
- limited availability of capital,
- limited supplies of building materials, and
- limited availability of skilled labour.

1.10 I found that more effective coordination between government departments, agencies and private sector operators was urgently required to improve and speed up the delivery of transport and utility infrastructure before the build out could start (and sometimes during the construction period) on large brownfield sites; but I concluded that neither this issue nor any of the other potential constraints were likely to impede the build out rate itself, even if the constraint of the absorption rate was removed – with one exception – namely, the availability of skilled labour.

1.11 On the availability of skilled labour, my conclusion was that an insufficient supply of bricklayers would be a binding constraint in the immediate future if there was not either a substantial move away from brick-built homes, or a significant import of more skilled bricklayers from abroad, or an implausibly rapid move to modular construction techniques. I concluded that the only realistic method of filling the gap in the number of bricklayers required to raise annual production of new homes from about 220,000 to about 300,000 in the near-term, was for the Government and major house builders to work together on a five year “flash” programme of on-the-job training. During the course of preparing this Final Report I have had the opportunity to discuss this further with various stakeholders, including the TUC, and have come to the conclusion that there is an opportunity here to convene tripartite

discussions between (a) the relevant government departments (i.e. the Ministry of Housing, Communities and Local Government (MHCLG), the Department for Business, Energy and Industrial Strategy, the Department for Education and HM Treasury), (b) the major house builders as well as the Construction Industry Training Board, and (c) the trade unions, in order to construct both new models of employment and a new training programme for bricklayers¹. I recommend that the Secretary of State for Housing, Communities and Local Government should convene such tripartite discussions.

2 Setting out the intention

2.1 On the basis of the [Draft Analysis](#), as well as urging Ministers to consider more coordinated provision of infrastructure for large brownfield sites and an urgent programme of training and employment for bricklayers, I concluded that:

...if either the major house builders themselves, or others, were to offer much more housing of varying types, designs and tenures (and, indeed, more distinct settings, landscapes and street-scapes) on the large sites and if the resulting variety matched appropriately the desires of the people wanting to live in each particular part of the country, then the overall absorption rates – and hence the overall build out rates – could be substantially accelerated; the outcome at which we should aim...is more variety within those sites.

2.2 Following publication of the Draft Analysis in June, I have received and have reviewed a number of comments from experts and stakeholders. Whilst there were, inevitably, some questions raised about some specific aspects of the Analysis, there appears to have been a broad consensus that the principal conclusions set out in paragraphs 1.4-1.11 are roughly correct. I have consequently relied upon these conclusions about the nature of the problem when devising solutions for the slow build out rates on large sites in areas of high housing demand.

2.3 I have, accordingly, in the second phase of my work sought to find policy levers that will positively increase the variety and differentiation of what is offered on these sites. I have also looked at methods of bringing forward diversified large sites on a sustained basis, to ensure that faster build out rates on such sites provide a long-term, substantial increase in house building rather than just a one-off gain.

2.4 In constructing policy options for achieving these aims, I have been mindful of the need to ensure that new policies:

- a. should not jam up the housing market or impair the capacity of the major house builders to continue large-scale construction;
- b. should not impose undue pressure on local authorities whose planning departments are already under considerable strain;
- c. should help to widen opportunities for people seeking homes;
- d. should also widen opportunities for those capable of supplying new homes on large sites;
and

¹ Such a programme could build on and extend the £24m Construction Skills Fund programme currently being run by the Department for Education, which has received bids from industry consortia to establish 20 on-site training hubs and is oversubscribed

- e. should yield the greatest possible likelihood that such sites, as well as being built out more quickly, will in future be places that are beautiful and ecologically sustainable, so that succeeding generations can be proud of them.

2.5 As I indicated in my Draft Analysis, I have been:

open to the possibility that the policies designed to achieve immediate, short-term improvement in build out rates (while avoiding all of the pitfalls) may be somewhat different in character from those designed to optimise the use of large sites that come forward in future and thereby increase the overall velocity of house building in the long-term.

2.6 I have concluded in the second phase of my work that increasing diversity (and hence improving build out rates) on large sites in areas of high housing demand will require a new planning framework for such sites (which can apply both to the further development of large sites already under construction and to new large sites that have yet to be allocated or permitted). I have also concluded that, in the future, new large sites that come forward for allocation in areas of high housing demand should be developed through new structures that draw on international experience.

3 Increasing diversity: a new planning framework for large sites

3.1 The new National Planning Policy Framework (NPPF) encourages residential developments to have a mix of tenures, types and sizes which reflect local housing demand (as well as emphasising the importance of good design). The NPPF requires that:

- “the size, type and tenure of housing needed for different groups in the community should be assessed and reflected [by local planning authorities] in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.” (para 61)
- “where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site...” (para 62)
- “planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.” (para 64)
- to promote a good mix of sites, local planning authorities should, among other things, “work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.” (para 68)

3.2 Clearly, these requirements – and, in particular, the requirement for local authorities to encourage the sub-division of large sites to speed up the delivery of new homes – are likely to promote increasing diversity on the large sites and are therefore to be welcomed. However, most of these requirements were present in the previous version of the NPPF; the addition of a reference to sub-division does not, in itself, provide a sufficient guarantee that the large sites will be significantly more diverse than they have been over recent years, and therefore does not, in my judgement, offer the prospect of significant increases in the rapidity of build out on such sites.

3.3 I therefore recommend that the Government should adopt a new set of planning rules specifically designed to apply to large sites. The purpose of these rules should be to ensure that all sites in areas of high housing demand whose size exceeds a certain threshold are subject to an additional form of planning control that requires those owning such sites to provide a diversity of offerings on the site which are able to address the various categories of demand within the local housing market. This, in turn, should ensure that houses can be built at a greater rate than at present on such sites, because the absorption rate for each category of housing will be complementary, yielding, overall, a greater absorption of housing by the local market as a whole in any given period.

3.4 I envisage that these new rules will in the long-term include:

- certain, limited amendments to primary legislation;
- a small amount of new secondary legislation; and
- a new planning policy document that could be annexed to the NPPF and would deal exclusively with planning policy in relation to large sites in areas of high housing demand.

However, I believe that it may be possible for the Government initially to bring in the new rules through a combination of a Written Ministerial Statement, new secondary legislation and the issuing of the new planning policy document. This could be done well before primary legislation could be taken through the two Houses of Parliament – and I recommend that Ministers should consider using these methods to ensure that the new rules begin to have an effect on the planning system even before they are given full statutory backing.

3.5 In order to ensure that those already in possession of large sites are able properly to plan their way through the transition to the new set of rules without creating any disruption of the process of building homes on such sites, I recommend that an adequate notice period should be given by the Government for the implementation of the new rules. If, for example, the Government decides to adopt my recommendations at the end of 2018, I suggest that it should be made clear to the owners of existing large sites in areas of high housing demand, and to those who are taking such large sites through the current planning system before commencing works, that the new rules governing planning permission for large sites will come into force at the start of 2021, and will therefore govern any permissions granted for large sites on or after that date.

3.6 I recommend that the amendment to primary legislation should:

- define large sites both in terms of a size threshold (which might, for example, be set initially at 1,500 units²) and in terms of boundaries (to ensure that a site which is allocated as a single entity in a local development plan qualifies, even if it benefits from a number of different outline planning permissions);
- require local planning authorities, when granting allocations, outline permissions or final planning permissions for any large site or any part of a large site in areas of high housing demand, to comply with the new secondary legislation and the new planning policy relating to large sites – and, in particular, to include within all outline planning permissions for large sites in areas of high housing demand a requirement that ‘housing diversification’ on such sites should be a ‘reserved matter’; and
- establish the principle that all permissions for reserved matters granted in relation to

such large sites should contain diversification requirements in accordance with the new secondary legislation and the new planning policy for large sites.

3.7 I recommend that the new secondary legislation should:

- amend the Town and Country Planning (Development Management Procedure)(England) Order 2015 to include type, size and tenure mix (alongside the current provision for prescription of access, appearance, landscaping, layout and scale) as characteristics that can be prescribed as reserved matters for large sites in areas of high housing demand; and
- require any applicant making an outline planning application for a large site or an application for final permission for a phase of a large site in an area of high housing demand to prepare a diversification strategy, specifying the types of diversity that will be exhibited on that site or in the part of the site to which the application refers.

3.8 I recommend that the new planning policy document should set out the diversification principles that are to apply to all planning decisions relating to such large sites in areas of high housing demand in future. The precise drafting of these principles will of course require considerable thought and detailed consultation with all interested parties. However, as a starting point for such consideration and consultation, I suggest that these principles might be roughly as follows:

- “All large housing sites above 1,500 units must strive to achieve sufficient housing diversity to support the timely build out of the site and high quality development. Housing diversity includes housing of differing type, size and style, design and tenure mix. It also includes housing sold or let to specific groups, such as older people’s housing and student accommodation, and plots sold for custom or self-build.
- “To achieve diversification of the site, the applicant should ensure each phase has regard to diversification requirements. Good design both of housing itself and of streetscape and landscape should be a feature of all new development on large sites. To diversify the site offer, large sites should deliver varying design styles, in accordance with local design codes.
- “As a minimum, each phase should draw housing from each of the following categories:
 - differing tenures: The NPPF requires a minimum 10% housing for affordable home ownership. On large sites in areas of high housing demand (i.e. areas with high ratios of median house prices to median earnings) the expectation should be that the proportion of affordable housing as a whole will be high. Affordable rented housing should be provided alongside affordable home ownership on each phase. Offsite contributions to affordable housing on large sites should not be sought. Build to rent developments should also be considered as part of the tenure diversity of the phase;
 - house type and size: house types and sizes across a phase must contain a meaningful range of types, sizes and styles. It is not acceptable for each phase to deliver only one or two housing types; and
 - housing for specified groups and custom build: these housing types can contribute significantly to housing diversity. Each phase should deliver housing of this type to serve local needs.

- “As part of achieving diversification, the applicant should consider the extent to which it is viable for the applicant themselves to commission and take market risk on differing types of housing within the diversity of the site’s offerings. To the extent that the applicant finds that it is not viable or is not desirable to take such market risk in relation to different types of housing within the site, the applicant should set out the methods by which the relevant parts of the site will be sold to other parties more able to take such market risk.”
- 3.9 I am conscious that the principles set out in paragraph 3.8 involve judgements rather than being simple matters of fact. There will consequently be scope for disagreement about whether a particular applicant has made a genuine effort to provide sufficient diversity to address multiple markets simultaneously and hence to increase the overall absorption rate and build out rate. Accordingly, in order to minimise recourse to appeal or litigation, I recommend that the Government should establish a National Expert Committee.
- 3.10 The primary purpose of this Committee should be to arbitrate on whether any application that causes a disagreement between the local planning authority and the applicant (and consequently comes to appeal) satisfies the diversification requirement, and is therefore likely to cause high build out rates.
- 3.11 The secondary purpose of the Committee would be to offer informal advice to any developer or local planning authority that was considering a large site application. I recommend that the Housing Secretary should guide local planning authorities to consult the National Expert Committee before approving any such large site application in an area of high housing demand.
- 3.12 I envisage that the Committee might be modelled on the Quality Review Panel established by the London Legacy Development Corporation in respect of new development in the Olympic Park – and I would expect to see nominations to this Committee coming from bodies such as the Royal Institute of British Architects (RIBA), the Royal Institution of Chartered Surveyors (RICS), the Royal Town Planning Institute (RTPI), the Chartered Institute of Housing (CIH), the National Housing Federation (NHF), the British Property Federation (BPF), the large house builders, the small house builders (through the Federation of Master Builders (FMB)), the estate agents, the mortgage lenders, the institutional investors in the private rented market, and those involved in custom-build, self-build and specialised housing provision (e.g. for students, keyworkers, and the elderly) as well as representatives of local government.
- 3.13 I provide in Annex B further details on the intended operation, costing and financing of this National Expert Committee, and on the criteria I would expect the Committee to apply when judging diversification strategies proposed by applicants for planning permission on large sites. As indicated in Annex B, I recommend that the Committee should have access to experts with detailed local knowledge in relation to the consideration of specific large sites.
- 3.14 I am conscious also that, even if the new planning framework for large sites is introduced fairly rapidly through a Written Ministerial Statement as well as secondary legislation and changes to planning policy, it will apply only to large sites receiving outline permissions from 2021 onwards – and will not, therefore, have any effect on the dozens of large sites in areas of high housing demand that have or will have received an outline permission before 2021 and that will be in the course of construction for many years after 2021.
- 3.15 In order to maximise the chance of the new framework having a productive effect on these existing sites from 2021 onwards, I recommend that Ministers should seek to provide

incentives for the house builders to accept changes to their existing site plans. I believe that this can be done through Ministers introducing – as part of the forthcoming public spending review – conditions to any government funding available either to house builders or to potential purchasers on large sites, which would make the receipt of such funding dependent upon the site being developed in conformity with the new planning policy and new secondary legislation for large sites. This would involve builders on large sites signing new Section 106 agreements under which, in return for continued receipt of government funding for themselves or their purchasers, they would undertake to develop the remainder of the site in accordance with the new diversity rules. In some cases, this might require local authorities also to change the final permissions given for later phases of site development; in other cases, it might require the grant of new outline permission.

- 3.16 I am aware that there may, in some exceptional circumstances, be existing large sites which will not be viable under the new arrangements that I am recommending. This could occur if they either fail to benefit from the existing suite of government funding as a result of the conditionality that I have suggested in paragraph 3.15, or if they accept requirements for diversification in a new Section 106 agreement that conforms with the new planning policy. For example, the viability of a particular large site might already be in question due to heavy infrastructure or remediation costs unanticipated at the time when the original outline permission was granted and when land purchase values were set. To guard against any interruption of development on such sites (which would obviously be counterproductive from the point of view of the overall rate of house building), I recommend that Ministers should also consider (as part of the spending review) allocating a fraction of whatever would otherwise be the total funding made available by government in support of house building to a new large sites viability fund administered by Homes England.
- 3.17 Naturally, if and when large builders in possession of large sites had accepted a Section 106 agreement for a particular site in return for continued eligibility to receive government funding in relation to that site, the new Section 106 agreement – including the diversity requirements contained in it – would be binding and enforceable. I have taken legal advice on whether any legal issues are likely to arise in relation to this process, and I am, as a result, confident that the voluntary transaction that I am proposing will prove to be lawful.

4 Increasing diversity: a new development structure for large sites in the future

- 4.1 The new planning rules that I have recommended in section 3 are intended to apply to the granting of new outline permissions for all sites of over 1,500 units in areas of high housing demand, regardless of where in the country they lie and regardless of whether they have or have not yet been allocated in a particular local authority's local plan. In all such sites, increased diversity can – for the reasons set out in my analytical report – help to increase the speed of build out. Planning rules that encourage diversity will accordingly also encourage more rapid development.
- 4.2 However, in relation to large sites that have yet to be allocated within a local authority's local plan, I believe that it is possible and desirable to go one step further. I recommend that the Government should, as part of the new primary legislation, introduce a power for local planning authorities to designate particular sites within their local plans as sites which can be developed only as single large sites and which therefore automatically become

subject to the new planning rules for large sites³. In addition, I believe that the local planning authority should be empowered to specify, at the time of designation, strong master-planning requirements including a strict design code as well as landscaping and full and specific infrastructure requirements.

- 4.3 I recognise, of course, that designation at the time of allocation of such sites as being land that can be developed only under the new large site rules (and hence new master plans and design codes) will mean that the land value of those sites is not raised as far above the alternative use value as would be the case if a site were allocated in a local plan and subsequently obtained outline permission under our current rules. (Above all, the requirement for a high level of affordable housing within the diversified portfolio will tend to ensure that land values on these sites are significantly lower than they would be if these sites were given outline permission without such high requirement for affordable housing.)
- 4.4 To ensure that a reasonable balance is struck between promoting the public interest through increased diversity and faster build out rates on the one hand, and proper recognition of the value of the land on the other hand, I recommend that the Housing Secretary (when issuing updated viability guidance alongside the new planning framework) should guide local planning authorities towards insisting on levels of diversity that will tend to cap residual land values for these large sites at around ten times their existing use value. In the case of agricultural land, for example, this might result in values of around £100,000 per acre – perhaps as little as 5% of the current residual development value of a straightforward site with unconstrained development permission and no major infrastructure requirements in an area of high housing demand.
- 4.5 I believe that these steps will increase the power of local planning authorities to ensure that large sites within their areas are properly diversified, and will therefore tend to increase rates of development on those sites. Moreover, I believe that there would be scope for Homes England to provide substantial support for those local authorities which have allocated large sites (of over 1,500 homes). This could involve Homes England providing both funding and expertise that enables the local authority to build the capacity required for the establishment of suitable master plans, design codes and Section 106 agreements. This, in turn, would maximise the chances of such sites being developed in the spirit of diversification, fine design and commensurately rapid build out. However, planning rules are by their nature passive and reactive. They can prevent things from happening (if they are properly enforced); but they can only do a very limited amount to encourage applicants to follow the spirit of the rules and hence to achieve fully the outcomes the rules have been created to achieve. A system for large sites which depends exclusively on new planning rules (even when reinforced by new rules on designation and allocation and by the building of new capacity in relevant local authorities through support from Homes England) is therefore unlikely to provide the full extent of the diversity (and hence the full gain in build out rates) that we seek. The developers of the sites in question will still have significant commercial incentives to optimise their own profits by “arguing down” the level of diversity at one stage or another of the planning and development process.
- 4.6 To enable local authorities to move beyond the use of planning rules and to play a more active role in ensuring the diverse and rapid development of large sites that have yet to be allocated in areas of high housing demand, I recommend that the new primary legislation should also give local authorities explicit statutory powers to draw on precedents in England and on

³ The purpose of designating sites in this way will be to ensure that landowners cannot reduce the planning applications for such sites to just below 1,500 units and thereby avoid having to comply with the diversity requirements in the new planning rules for large sites.

models of development which are entirely familiar in much of continental Europe.

- 4.7 It is a feature of Mayoral Development Corporations (MDCs), New Town Development Corporations (NTDCs) and Urban Development Corporations (UDCs) that these bodies can develop major new brownfield and greenfield sites in ways calculated to produce liveable new towns and city neighbourhoods that benefit from a wide diversity of housing to match the particular circumstances of local markets.
- 4.8 These bodies are able to buy land on the basis of the value which such land would have in the absence of the development scheme. They are fully staffed and have the resources to commission proper masterplans that respond appropriately to the characteristics of the site and can be accompanied by detailed and enforceable design codes; in this way they can make the architecture of the site and the landscape and infrastructure of the site internally consistent, congenial and convenient for the inhabitants. Finally, they have the capacity to raise finance, to invest in appropriate infrastructure (including major infrastructure) and thereby to provide well-prepared terrain (or even serviced plots) which major builders, small and medium-sized builders, private rental institutional investors, housing associations, providers of student accommodation, providers of accommodation for the elderly, custom-builders, and self-builders can all use to enter the housing market on the site.
- 4.9 Accordingly, MDCs, NTDCs and UDCs constitute suitable vehicles for demonstrating the benefits that properly planned and coordinated diversity on large sites can bring in terms of accelerated build out rates. I recommend that the Government, working with Homes England, should encourage the creation of further MDCs, NTDCs and UDCs, and should in future use the considerable leverage that Homes England has over these bodies to ensure that all such development corporations not only comply with the new planning rules that I have recommended in section 3 but also go beyond this to create, proactively, models of well-planned diversity on the large sites that they own and control. At the same time, I recommend that Homes England should itself go beyond mere compliance with the new planning laws and proactively create models of well-planned diversity on the large public sector sites that it is developing on behalf of the taxpayer.
- 4.10 However, unlike their counterparts in most continental European countries, non-mayoral local authorities in England do not (without obtaining special permission from the Housing Secretary) currently have statutory vehicles capable of governing the development of large sites in areas of high housing demand. Clearly, if we are to see in future the greatest possible well-planned diversity on these sites, it would make abundant sense to empower local authorities to establish a new form of development vehicle which could perform this role in England as their counterparts so often do elsewhere in Europe.
- 4.11 I therefore recommend that, in addition to the changes in planning rules identified in section 3, and in addition to the allocation rules suggested in section 4.2-4.4, one further amendment to primary legislation should make it possible in future for a local planning authority (or a group of local planning authorities) in an area of high housing demand to establish a new form of development vehicle to develop the site through a masterplan and design code which increases the diversity and attractiveness of the offerings on site and hence its build out rate.
- 4.12 I can envisage two possible structures for such a development vehicle:
- a. the local authority could use a Local Development Company (LDC) to carry out this development role by establishing a master plan and design code for the site, and then bringing in private capital through a non-recourse special purpose vehicle to pay for the

land and to invest in the infrastructure, before “parcelling up” the site and selling individual parcels to particular types of builders/providers offering housing of different types and different tenures; or

- b. the local authority could establish a Local Authority Master Planner (LAMP) to develop a master plan and full design code for the site, and then enable a privately financed Infrastructure Development Company (IDC) to purchase the land from the local authority, develop the infrastructure of the site, and promote a variety of housing similar to that provided by the LDC model described above.

I provide a more detailed description of both of these structures in Annex C.

- 4.13 Under either of these variants, the development vehicle will of course be subject to the jurisdiction of the local planning authority (or authorities) in relation to all planning matters. I recommend that, in areas of the country where there are both primary and secondary authorities, local planning authorities seeking to establish LDCs or LAMPs should be strongly encouraged by MHCLG to involve both levels of local government in order to ensure that critical public interests in relation to large sites (such as the provision of transport infrastructure, schools and health and social care) are built in to the master planning of such sites from the beginning.
- 4.14 I recommend that, under either structure, the LDC or LAMP should be enabled to apply for a small amount of seed funding to enable it to hire dedicated and qualified staff. I believe that the relatively small amount of funding required to cover the costs for the master planning of diversified large sites can conveniently be top-sliced out of the existing MHCLG Land Assembly Fund (following a change in the Government’s remit for this fund). Amounts disbursed to successful LDCs or LAMPs would be repaid once development finance had been raised for the site in question so that only one initial injection from the Land Assembly Fund would be required. I recommend that applications to the fund should be judged and disbursements from the fund should be made by Homes England.
- 4.15 I note that Homes England is establishing a new team that would be well suited to providing advice to LDCs or LAMPs as they begin their work; this is an immensely welcome development. Further support from Homes England can take a range of forms including capacity building, brokering relationships, help with hiring the management of the LDC or LAMP, provision of technical expertise on planning, master planning, land assembly, infrastructure, viability and commercial arrangements including procurement frameworks. In some cases, Homes England might also be able to provide access for the LDC or IDC to the various funds it administers in relation to housing. I note, also, that RIBA has provided a powerful illustration of the way in which such LDCs or LAMPs can ensure rapid development while creating beautiful and ecologically sustainable places; I strongly welcome the fact that their report is being published simultaneously with my own report.
- 4.16 As with MDCs, NTDCs and UDCs, I believe that local authorities using either of these vehicles should – through the primary legislation – obtain clear Compulsory Purchase Order (CPO) powers over large sites that they have designated in the way described in section 4.2. I believe that it would also make sense to consider the possibility of giving local authorities such CPO powers in relation to large sites that have been allocated in their local plan in the past but which have not obtained outline permission after a long period has elapsed. I have received representations suggesting that this could be a good way of unlocking such sites – as well as providing a way to ensure that they are developed in a diverse, rapid and well-designed manner.

- 4.17 Because the residual open market value for land with development permission subject to the stringent large site diversity planning rules will be significantly lower than present values for land with development permission that does not contain such stringent diversity requirements, the full difference between this residual land value and the unconstrained gross development value of the land will be available to contribute towards the cost of infrastructure, the cost of affordable housing and the opportunity cost associated with other forms of diversification.
- 4.18 The LDC or LAMP may well wish, as part of its master plan, to require the establishment of a community land trust to provide and manage some or all of the shared ownership properties and affordable rented properties on the site in a way that keeps properties with these tenures available in perpetuity – for example through provisions ensuring that owners of shared ownership properties would sell to the community land trust whatever proportion of the freehold they held when leaving the property at its then open-market price so that the property could then be resold by the community land trust on a shared ownership basis to the next occupier. Such mechanisms might also be used to protect particular parts of the landscape within the site.
- 4.19 In determining the proportion of the site to be sold to differing types of housing provider under the master plan, the LDC or LAMP will need to be guided by the characteristics and absorption rates of the various markets in its local area. The overall aim of the LDC or LAMP will be to foster the building of the greatest possible number of new homes at the fastest possible rate consistent with financial viability and fulfilment of its master plan and design code, as well as with the fostering of a successful community. The LDC or LAMP will therefore wish the master plan to provide as much land for open market sale and private rented use as those particular markets can absorb in any given period; and it will also need to assess the local demand for other forms of housing (such as custom-build, self-build, student accommodation, keyworker accommodation and various forms of accommodation for the elderly). It will, in addition, need to come to a view about the maximum proportion of the site that can be sold or given to housing associations and / or to community land trusts in order to provide as much affordable accommodation on the site as is consistent with the viability of private financing for development of the site infrastructure. In other words, the LDC or LAMP will become a vehicle for assessing and seeking to meet market demand in the particular locality across a wide range of types and tenures.

Annex A: Size threshold

The number of large sites in England

I have investigated the number of sites over different size thresholds.

England (excluding London)

The best available evidence from a national study of large sites suggests that there are 92 sites in England (excluding London) that have an outline planning permission at present for more than 1,500 homes.

The following table breaks these down by site size:

Lower limit	Upper limit	Site count
1,500	2,999	50
3,000	4,999	27
5,000	7,499	9
7,500	9,999	3
	10,000+	3

These sites have an average (mean) size of 3,327 units and a median size of 2,500. In total, these 92 sites cover 306,084 units.

London

5 sites in London of over 1,500 units were used as case studies in the Draft Analysis. The Molior database used in the Draft Analysis shows a further 10 sites of above 1,500 units with permission building out in London as of May 2018.

This suggests a total of 15 sites currently developing above the 1,500 unit threshold in London. In total, these sites account for around 87,000 units.

Conclusion

We can as a result estimate that there are approximately 107 sites of above 1,500 units in England with permission for approximately 393,000 units.

A threshold of 1,500 units for large sites accordingly seems sensible as a way of ensuring that the changes have a noticeable effect on building rates as a whole, while also ensuring that the National Expert Committee is not overwhelmed in the early years of its work. The sample in my Draft Analysis suggests the current average build out rate is equivalent to at least 15.5 years. If there are 107 sites, this implies that approximately 7 such sites are brought forward each year, accounting for approximately 25,000 units on these sites. Even if build out rates doubled from the current rate suggested by the sample in my Draft Analysis, this implies that around 14 sites above the threshold would be brought forward each year.

Annex B: Operation of National Expert Committee

This Annex sets out in greater detail how I envisage the National Expert Committee (referenced in paragraph 3.9 of my Final Report) to work in practice.

In my Report, I propose that the Committee should provide impartial and independent expert advice on the diversification proposals for new residential development as part of the appeals process. I recommend, in particular, that the expertise of the Committee should be sought in situations where that right of appeal has been exercised as a result of a disagreement between the applicant and the local planning authority about whether the diversity proposed as part of the site master plan will facilitate the maximum rate of build out consistent with the viability, beauty and liveability of the development. In the event of such an appeal, the Planning Inspectorate (PINS) should be expected to use the views of the Committee to help inform its decision, and this should be reflected within the Inspector's Report.

Structure

- a. I recommend that the new body should be established as an Expert Committee – a non-statutory body of independent specialists, which would be administered and resourced by MHCLG and would be a non-classified government entity; Ministers would make appointments to the Committee. There are a number of benefits to this structure:
- b. the Expert Committee will not require a new statutory framework under which to operate. This is proportionate to the frequency with which I anticipate this Committee will meet (c. 5 times a year);
- c. the Expert Committee and its advice will be transparent. It will be established with clear terms of reference and a framework which will protect its independence, set out the length of terms for panellists and put in place robust reporting arrangements. The panellists will be supported by a secretariat. The chair of the Committee will be responsible for reporting to Ministers and to the Department's executive team;
- d. the Expert Committee will fit within the existing appeals process. The Expert Committee will not have the authority to make decisions; instead its advice will inform the decision of Ministers – in this case the Housing Secretary as the ultimate authority on planning appeals. I propose that PINS, acting on behalf of the Housing Secretary, should be required to consult the Expert Committee on receipt of an appeal where an applicant and local planning authority disagree on the extent of the diversity proposed for an application; and
- e. Ministers will appoint the core group of panellists as standing members, acting on nominations from bodies such as RIBA, RICS, RTPI, CIH, the NHF, the BPF, the large house builders, the small house builders (through the FMB), the estate agents, the mortgage lenders, the institutional investors in the private rented market, and those involved in custom-build, self-build and specialised housing provision (eg for students, keyworkers, and the elderly), as well as representatives of local government. The Expert Committee may, in addition, draw on ad-hoc members to provide additional insight – in particular, it may draw on local expertise, such as that of an estate agent or planning consultancy.

Fees

Given the frequency with which the Committee would meet, I would expect the panellists to be willing to provide their expertise on a voluntary basis, as many of those involved with design review panels currently do.

Financing

The administrative costs of the Committee would be financed from within the Department's budget. This would include a small amount of reimbursement of travel and subsistence costs for Committee members, and a small secretariat function (1-2 FTE), which can likely be absorbed within existing Departmental capacity.

Criteria

In terms of assessing diversification, I envisage that the Committee will consider the impact that different tenures, housing types and sizes, designs, and specialised housing can have on the build out rates of a large site in a particular locality by catering to the specific market demands of that area.

The Committee should consider three questions:

- a. will the masterplan's diversification strategy lead to building homes of suitably varied tenure, type, size, design and specialisation?
- b. do the diversified homes address the different local housing demands?
- c. if correctly implemented, will the diversified plan and the accompanying master plan and design code cause the rate of build out to be as great as possible, consistently with the viability, beauty and liveability of the development?

Annex C: Alternative development structures for large sites

I recommend in sections 3 and 4 of this report that all sites over a certain size threshold (1,500 units) should be subject to a new planning regime which ensures far greater diversity than we typically see on such sites at present.

Some local authorities may wish simply to apply the new planning regime for large sites without taking any further proactive steps to control the development of such sites. (In such cases, I strongly recommend that local authorities should be compelled by the new planning regime to develop and promulgate a full master plan and design code for each such large site before granting outline planning permission, and to ensure that the master plan is consistent with the principles of the new planning regime.)

However, for reasons outlined in section 4 of this report, I believe it would be wise also to give local authorities clear statutory powers to go beyond this and to play a more active role in the control of such large sites.

As described in paragraph 4.12, I envisage that such a role could be played through either of two structures:

- a. the local authority could use a Local Development Company (LDC) to carry out this development role by establishing a master plan and design code for the site, and then bringing in private capital through a non-recourse special purpose vehicle to pay for the land and to invest in the infrastructure, before “parcelling up” the site and selling individual parcels to particular types of builders/providers offering housing of different types and different tenures; or
- b. the local authority could establish a Local Authority Master Planner (LAMP) to develop a master plan and full design code for the site, and then enable a privately financed Infrastructure Development Company (IDC) to purchase the land from the local authority, develop the infrastructure of the site, and promote a variety of housing similar to that provided by the LDC model described above.

If a local planning authority opts for the LDC model (model A), I envisage that the process would be as follows:

1. A local authority designates an area within its local plan as suitable only for development as a large site. Hence, the new planning regime for large site diversity applies to it, and the open market residual value of the land within it is reduced accordingly.
2. The local authority establishes a LDC, whose first task is to develop a master plan and full design code for the site.
3. The LDC applies for planning permission for the designated site, under the large site diversity planning regime, using its master plan and design code as the basis for the application.
4. The local authority either agrees voluntarily with the landowner(s) of the site to purchase the designated land at its (reduced) open market residual value or decides to exercise CPO powers to purchase at this value.
5. The LDC establishes a competitive process in which private sector providers of debt, mezzanine and equity bid to provide finance for purchase of the land from the local

authority and for investment in the site infrastructure required under the master plan and design code. Under the new primary legislation, such finance would need to be provided through a non-recourse special purpose vehicle: in other words, the providers of debt and equity would be taking the full financial risk associated with investment of the land purchase and in the development of the infrastructure, and would have no recourse whatsoever to taxpayer support of any kind in the event that the special purpose vehicle becomes insolvent, whether due to changes in market circumstances or otherwise. Manifestly, the pricing of the investment in terms of the expected return will reflect this absence of recourse to taxpayer support.

6. The structure of the competition is that the winning bidder is the bidder willing to accept the lowest cost of capital (i.e. lowest profit margin) on the amounts invested in the non-recourse special purpose vehicle.
7. The LDC covenants to pay the investors – through the special purpose vehicle – all amounts raised from sale of parcels of land on the site up to the point at which the investors have received the return on capital specified in their winning bid. In addition, the local development company covenants to pay the investors a share of amounts above this level (to give the private financiers of the special purpose vehicle an incentive to develop the infrastructure in a financially efficient manner subject to the constraints imposed by the master plan). Any surplus revenue remaining in the local development company after the investors have been remunerated may be used by the local development company either for improvement or maintenance of the site itself or for other community purposes as directed by the local authority.
8. The closing of (a) the land-purchase by the local authority from the original land owner(s) and (b) the back-to-back purchase of the land from the local authority by the local development company through its privately financed non-recourse special purpose vehicle is simultaneous, to avoid any financial exposure for the local authority. At the simultaneous closing, the contractual covenant in 7 above is also simultaneously executed.

The local development company continues in existence for the duration of the development of the site, to monitor both fulfilment by the special purpose vehicle and its contractors of the infrastructural requirements of the design code and master plan, and fulfilment by the builders/providers of particular plots of the plot-specific elements of the design code and master plan.

If a local authority opts for the LAMP/IDC model (model B), I envisage that process would be as follows:

1. A local authority designates an area within its local plan as suitable only for development as a large site. Hence, the new planning regime for large site diversity applies to it, and the open market residual value of the land within it is reduced accordingly.
2. The local authority establishes a Local Authority Master Planner (a LAMP) to develop a master plan and full design code for the site.
3. The LAMP applies for planning permission for the designated site, under the large site diversity planning regime, using its master plan and design code as the basis for the application.
4. The local authority either agrees voluntarily with the landowner(s) of the site to purchase the designated land at its (reduced) open market residual value or decides to exercise CPO powers to purchase at this value.

5. The local authority establishes a competitive process in which wholly privately financed Infrastructure Development Companies are eligible to bid to buy the land from the local authority. The structure of the competition is that the initial purchase price for the land is pre-determined to be the price set in step (4) above plus a stipulated amount representing the local authority's costs in establishing and running the LAMP. The winning bidder is the bidder whose Infrastructure Development Company is willing to accept the lowest capped cost of capital (i.e. lowest profit margin) on the amounts invested in purchasing the site and developing the infrastructure of the site. All bidders must agree (as a contractual covenant) to:
 - a. develop the infrastructure of the site in a way that fully implements the LAMP master-plan in full, and to extract only the capped cost of capital for such infrastructure specified in the winning bid;
 - b. sell plots of land within the site to types of builder/owner specified in the master plan; and
 - c. in each such sale of each such plot, covenant with the acquiring builder/owner to build out that plot in accordance with the requirements of the master plan and of the design code.
6. The winning bidder also covenants to pay the local authority a set proportion of any net revenue that remains following (a) completion of the work on the infrastructure of the site, (b) sale of the plots on the site to the builders/owners, and (c) extraction of the capped cost of capital. (This is to ensure that the local authority and the local community benefit from any surplus value in the land that arises from market circumstances during the development of the site, while also giving the private financiers of the Infrastructure Development Company an incentive to develop the infrastructure in a financially efficient manner subject to the constraints imposed by the master plan.)
7. The closing of (a) the land-purchase by the local authority from the original land owner(s) and (b) the back-to-back purchase of the land from the local authority by the Infrastructure Development Company is simultaneous, to avoid any financial exposure for the local authority. At the simultaneous closing, the contractual covenant in (5) and (6) above is also simultaneously executed. Thereafter, the contractual covenant remains attached to the land, and is therefore inherited as an obligation by anybody that purchases either the Infrastructure Development Company or the land that it holds.
8. The LAMP continues in existence for the duration of the development of the site, to monitor both fulfilment by the IDC of the infrastructural requirements of the design code and master plan, and fulfilment by the builders/providers of particular plots of the plot-specific elements of the design code and master plan.

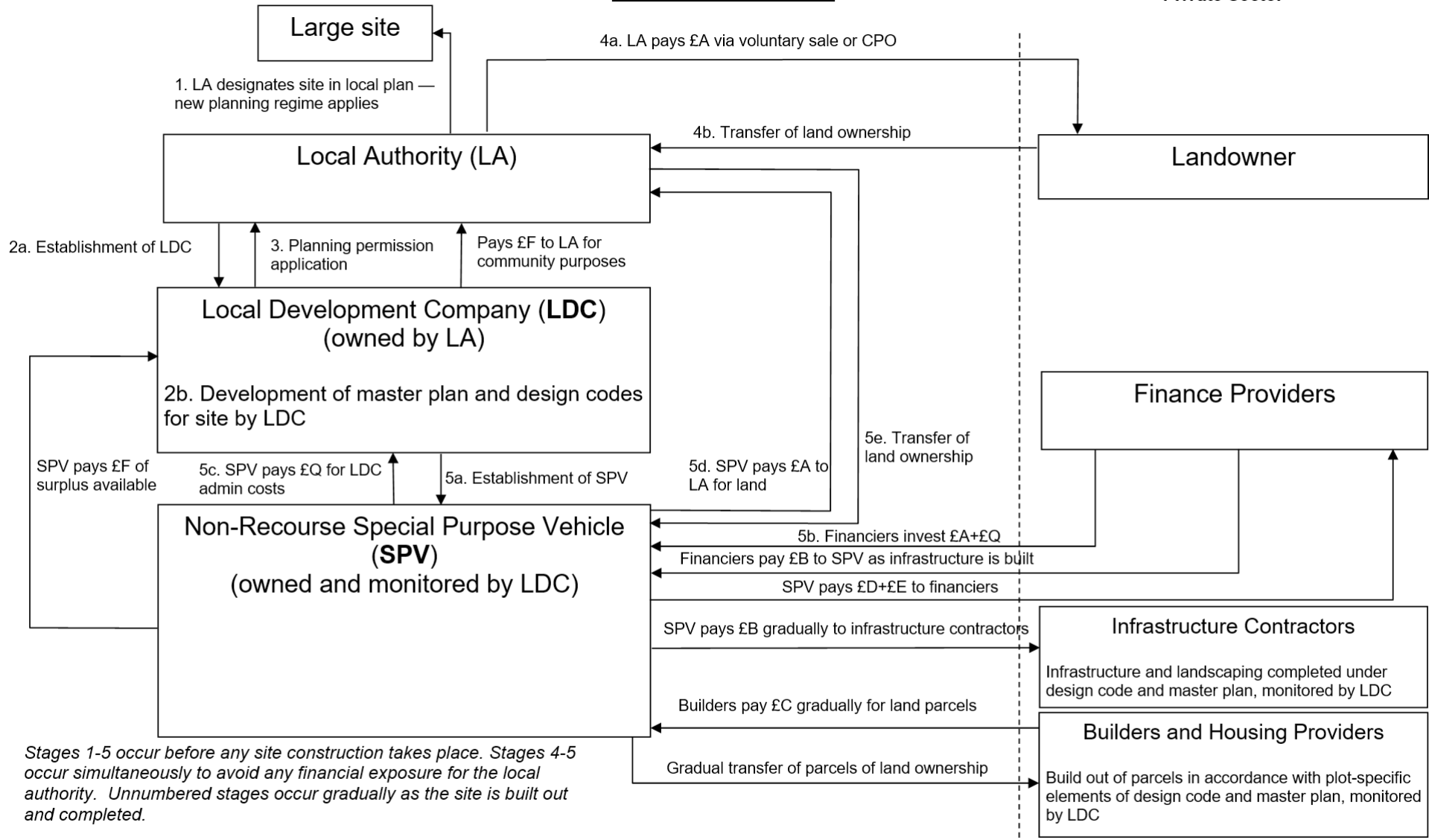
I am advised by HMT Classification experts that, principally due to the level of control exercised by the local authority in the public interest in either of these models, the development bodies concerned (i.e. in model A, the Local Development Company, or, in model B, the Infrastructure Development Company) will or may be classified as public sector entities and hence be on public sector balance sheets. Whilst it will obviously be for Ministers to decide whether this constitutes an obstacle, I do not myself regard this as in any way material, since – in both models – the entire financial risk of the infrastructure development will be taken by private financiers without any recourse whatsoever for the taxpayer under any circumstances whatsoever, and the entire financial risk associated with the building of all the housing will be taken by the private sector

builders and by the other housing providers on the site, also without any recourse whatsoever to the taxpayer under any circumstances whatsoever. Neither model need or should involve any form of implicit or explicit guarantee or letter of comfort which will in any way diminish the absolute liability of the private finance vehicles, regardless of market circumstance – and it is my proposal that private finance, under either model, should be raised (and should be permitted by the statutory framework to be raised) only on the basis of such explicit lack of recourse under any circumstances to taxpayer support of any kind.

Public Sector

Model A: Schematic

Private Sector



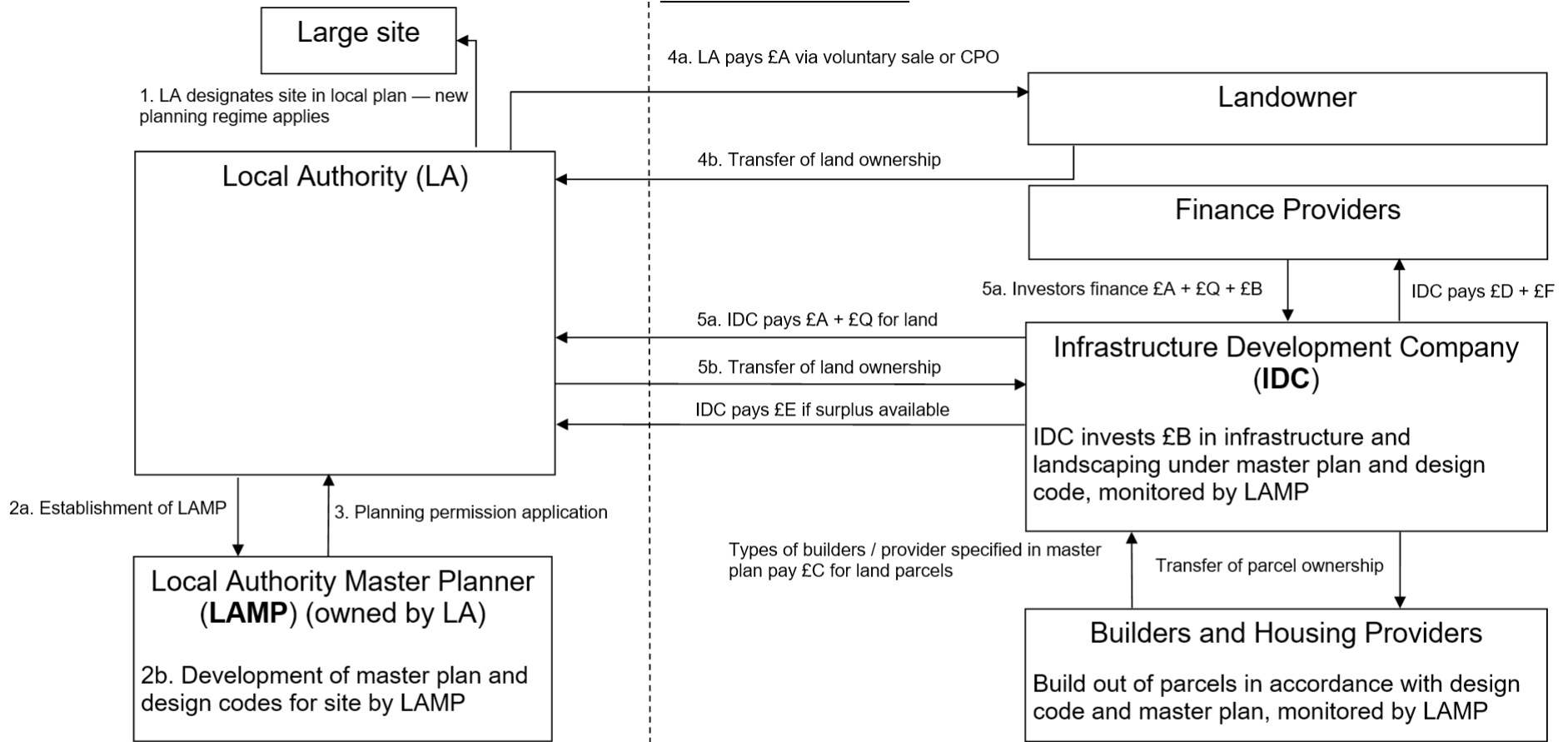
Key:

- £A: Price of land at open market residual value under new planning regime.
- £Q: Administrative costs of LDC.
- £B: Cost of adding infrastructure to site.
- £C: Revenue from sale of land parcels.
- £D: £A + £B + £Q + interest/profit margin specified in private investor bids.
- £E: Investor share of any additional surplus revenue available [i.e. investor share of (£C-£D)].
- £F: Remaining public sector share of any additional surplus revenue [i.e. public sector share of (£C-£D)].

Public Sector

Model B: Schematic

Private Sector



Stages 1-5 occur before any construction starts. Stages 4 and 5 occur simultaneously to avoid any financial exposure for the local authority. Remaining stages occur gradually as site is built out.

Key:

£A: Price of land at open market residual value.
 £Q: Administrative cost of running LAMP.
 £B: Cost of adding infrastructure to site.
 £C: Revenue from sale of land parcels.

£D: £A + £Q + £B + interest/profit margin specified in private investor bids.
 £E: Public sector share of any additional surplus revenue available [i.e. Public sector share of (£C-£D)].
 £F: Investor share of any additional surplus revenue available. [i.e. Investor share of (£C-£D)].

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